



# **REPORT**

**OF THE**

**SCHEDULED AREAS AND  
SCHEDULED TRIBES COMMISSION  
GOVERNMENT OF INDIA**

**VOLUME-I**

**2002-2004**



Drokpa Tribe of Darchik, Ladakh

दिलीप सिंह भूरिया  
अध्यक्ष  
DILEEP SINGH BHURIA  
CHAIRMAN



भारत सरकार  
GOVERNMENT OF INDIA  
SEHEDULED AREAS &  
SCHEDULED TRIBES  
COMMISSION  
अनुसूचित क्षेत्र एवं  
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To

The President of India,  
NEW DELHI

16 July 2004

Sir,

In 1960, you appointed the Scheduled Areas and Scheduled Tribes Commission under Article 339 of the Constitution under the chairmanship of Shri U.N. Dhebar and assigned the task of investigating and reporting on the problems of the Scheduled Tribes. Forty-two years later, on 18 July 2002 you were pleased to appoint the Scheduled Areas and Scheduled Tribes Commission under Article 339(1) under my chairmanship with a charter which hardly leaves out anything pertaining to the Scheduled Tribes under the sun. My colleagues and I are happy to submit a unanimous Report herewith in three volumes – volume I dealing with the national scene in chapters, volume II relating to individual States and volume III containing copies of relevant documents, papers etc. In preparing it, we have kept in view that the Scheduled Tribes people, Adivasis, have been the original inhabitants and have made no mean contribution to this great land. Our northern borders from west to east are guarded by them. Yet, today, regrettably they form the bottom socio-economic deciles of the Indian society.

2. We have carefully gone through the Dhebar Commission Report and made use of the recommendations wherever possible and necessary. Volumes of water have flown through the Indian rivers since then. The tribal scenario in the country has become complicated manifold. It is not unexpected being in tandem with the Republic's larger polity. We believe that our voluminous Report reflects the tangled web. We would like to mention, however, that in our approach we have

striven not only to explore a balance between the tribal segment and the larger society, but in the process also to cement and buttress the larger society as a whole.

3. The Dhebar Commission observed four different layers among scheduled tribes, at the base of which they found a group of tribals "in an extremely underdeveloped stage and at the topmost level amongst the tribals .... a layer that can very well afford to forgo any further help. We feel that this lowest layer needs the utmost consideration at the hands of the Government". During our perambulations through the length and breadth of the country, we came across a number of the former groups which have come to be known as "primitive tribal groups". The Government of India has identified their number as 75. A pressing basic requirement is a deeply thought-out strategy and dedicated care for them. At its extreme, the group is exemplified by the five Bay Islanders, the outstanding being the Jarawa, Sentinelese and Shompen. We feel that they should be regarded as "heritage groups" and have argued in this Report that the policy to be formulated for them should be such as enables them to move in the direction that they decide, on the terms which are their own and at the pace they wish to advance. The policy and action should allow them to progress, resonating with the values of our civilization and culture. Incidentally, we have advocated in this report that they should be earmarked a distinct share in entitlements overall available to scheduled tribes in the concerned states.

4. In this context, we cannot help referring to the dictum, aired not unoften, that the objective of the tribal policy should be to ensure the scheduled tribe people join the mainstream. In our interactions, we have found that the tribespeople have reservations about it, as being not only paternalistic and patronizing but also prejudicial to the indigenous and tribal peoples' ethnic identity and mores, and violative of their rights. They are averse to attempts, overt or covert, that aim at their assimilation. They wish to preserve the integrity of their culture and personality, say through the first of the five principles of the Panch Sheel of Tribal Development which exhorts that the tribal people should be allowed to develop along the lines of their own genius.

5. We have mentioned above the "heritage groups". They need and deserve special care and treatment. But we hasten to add that the bulk of the ST population calls for focused thought, priority attention and exclusive ministration. Their human development indices (having economic and social components) are the lowest as compared to any other section of the people. The nation's dream of India becoming a super-power, can be realized only if this most backward section is pulled out of the morass, on the economic front through better agriculture, irrigation, horticulture, animal husbandry etc. and on the social front through higher levels of health, education, safe drinking water, shelter etc. Apparently, the inputs of planning strategy, the plans and their implementation this half a century have been inadequate to the task. We have made suggestions in our Report in this regard and we advert briefly to these matters here in the paragraphs following.

6. Land and forests are the two basic resources of the tribal life-support system. There have been assaults on both. We have devoted considerable space in our report to measures which enable retention with them of land which tribals possess, but which unfortunately, continues to be under constant attempts at expropriation. We have also suggested ways in which optimal benefits can be derived by tribals as well as forests through tribal-forest equilibrist symbiosis. States laws for minimizing alienation of tribal land need to be reformed to plug loopholes and stringise them. With the accelerated urbanization and industrialization, tribal land-holdings in urban areas experience great pressure for transfer. We suggest application of anti-land alienation laws in urban areas and, at the same time, applicability of such laws to non-agricultural lands in addition to agricultural holdings.

7. The Supreme Court has interpreted the right to life and liberty guaranteed by Article 21 of the Constitution as including the right to livelihood. Article 48A calls upon the State to endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. The Supreme Court has further held that the Fundamental Rights (Article 21 here) and Directive Principles of the State Policy (Article 48A here) are to be harmoniously construed. Tribals have been living in forests since ages. Yet, an erroneous view has been held that such

tribals should be regarded as "encroachers". Nevertheless, State Governments took steps after Independence to make allotment of the forest lands to the tribals, some generations-long in occupation. The process was continuing when the Forest (Conservation) Act, coming into force in October 1980, halted it abruptly. Entirely laudatory in its objective to check further depletion of forest cover, those tribal families whose occupation had not been regularized, were left in the lurch. The uncertainty lasted for a decade. Fortunately, the Ministry of Environment and Forest issued comprehensive orders in 1990 to regularize the cases of eligible occupants, settle disputed claims over forest land arising out of forest settlement, settle disputes regarding Pattas/leases/grants involving forest land, eliminate intermediaries and payment of fair wages, convert forest villages into revenue villages etc. In 1995, the Supreme Court directed the State Governments to decide the peoples' claims in the light of these instructions of the Government. Before any significant action could commence, in a case relating to encroachments on extensive forest lands by avaricious planters for quick gains, the Supreme Court passed orders for clearing the forests forthwith of all encroachments. Unwittingly, the axe fell on the simple artless, voiceless and defenceless tribals, most of whom had genuine claims. Evictions started and notwithstanding the swings in the pendulum of various orders passed thereafter, the position presently is that little action has been taken either to regularize long-standing occupations by tribals or in respect of other subjects afore-mentioned. That the uncertainty and suspense over the life and liberty of millions of forest-dwelling or forest-fringe citizens should continue for decades is clearly unacceptable in a democratic set-up. All measures that tend to be anti-thetical to tribal-forest symbiosis should be forsworn and matters should be brought to a satisfactory solution.

8. The Tribal sub-Plan strategy was devised during the Fifth Plan period to ensure adequate funds-flow to the Scheduled Areas and tribal areas throughout the country. But adequate implementation by translation of funds into better quality of life of tribals through socio-economic improvement has, conspicuously, hardly concretized, notwithstanding constitutional provisions and safeguards. This has been a worrying aspect for the Commission. We have attempted to unravel the

causes and prescribe remedies in the report. In parenthesis, we would like to emphasise is the fear that the tribal people all over the country, consciously and sub-consciously, entertain of the exploitative squeeze over their natural resources and invasion of their cultural practices, driving them into unchartered courses.

9. The concept of Tribal sub-Plan, operative since the seventies, implies Central and State funds-flow to tribal areas (including Scheduled Areas) and ST people, of a quantum not less than their proportion in population-percentage. This direction has been given by successive Prime Ministers and Planning Commission to the Central Ministries, State Governments and UT Administrations. Doubtlessly, the Centre's responsibility and lead play a vital part in the matter. Certain wings of the Union Government entrusted with the task of rural and urban development gave us the impression of inadequate appreciation of the three-decades old guidelines for practices of apportionment and utilization of finances for tribal development. Similar has been our experience with many State Governments. This state of affairs needs to be mended.

10. Historic importance should be attached to the insertion of Parts IX relating to Panchayats and IXA relating to Municipalities in the Constitution in the nineties. Even more momentous has been empowerment of tribals through the passage of the Provisions of the Panchayat (Extension to the Scheduled Areas) Act [PESA Act] in 1996. A corresponding measure applicable to municipalities in Scheduled Areas has been pending to be legislated in the Parliament. But, still after so many years, all these need to be implemented fully. Some other interacting laws which have bearing on tribals and tribal areas need to be oriented in accordance with the PESA Act, as mandated by it.

11. Decentralisation has been held to be the key for transformation of rural India. So is the case with traditionally-democratic tribal India. We envisage the Panchayat bodies and people's councils, both traditional and elected, to play a crucial, paramount role in the all-round development of tribespeople and tribal areas. In our Report, we have sketched a paradigm shift, placing the Panchayats centre-stage for formulation and implementation of plans for economic development and social justice, as envisaged in the Constitution. The units of

planning and implementation, in this scheme of things, have to be the Gram Sabha, the Gram Panchayat and the vibrant village councils. We have also defined the interface between the Panchayat system i.e. the peoples' deliberative and decision-making bodies on the one hand, and the delivery system i.e. the techno-administrative supportive executing agencies on the other. We feel this has been the virtually missing keystone of the arch in the edifice constructed. Our suggestions aim at integrating the binary (deliberative and delivery) systems with each other. The institutions conceived in the PESA Act can become powerful vehicle of tribal expression and development. We have forcefully recommended implementation of the Tribal sub-Plan strategy through such institutions. Our central theme and the USP of our Report is People's Progress through people power.

12. The Commission feels that, as a nation, we need to introspect how, during the past few decades, our changing legislations and policies have disrupted the lives of voiceless and helpless tribal people. Life-support systems constituted of elements like air, water and production-assets like land, forest, used and inherited by them through aeons, have been encroached upon and even wrested from them. Generations of tribal families have been ousted, from time to time, from their homes and habitat. Claims that seek credit for massive tribal development and promotion of ecology do not carry enough credence. As a nation, cherishing values of humanitarianism and justice, we need to ponder whether economic advancement is worth striving for, if the cost is shattering of centuries-long intricately-woven life-fabric of dumb millions. Further, whether even such actions on the part of the non-state and state actors stand the test of Article 21 of the Constitution guaranteeing life and liberty to every citizen in the country. Human rights are now enforceable. That the violations persist beyond a point, is signaled by the unseemly ways adopted by some people in tribal areas, a wake-up call for us to take note

13. The levers provided by the Constitution and statutes should be exercised by that authority at the Centre as has been entrusted the responsibility of their care and development. We mean the Ministry of Tribal Affairs. The Ministry was



created in 1999. According to the Rules of Business, it is said to be the nodal Ministry for all aspects of tribal affairs. This implies that, in addition to dealing directly with some subjects impacting on tribal life and areas, it has to liaise with other Ministries like Human Resource Development, Health, Agriculture, Environment & Forests, Rural Development etc., further implying that it should have long, effective out-reach since our impression has been that, presently, it is hamstrung by its short mandate and weak numerical strength. It should be the administrative ministry for the PESA Act 1996 and anti-land-alienation laws. Further, we propose that the present executive orders on reservations may be converted into a legislative piece. These aspects require consideration.

14. Through the ages, the tribal societies have derived social cohesion and strength from the practice of communitarianism permeating their internal dynamic. Of late, the winds of change blowing from outside have been impacting tribespeople. Particularly among the young segments, individualism is seen to be emerging as the more preferred choice. The question arising is: is individualism inexorably set to get the better of the traditional relations mode? If so, it is likely to transform the innate characteristics of a tribe, its "tribal-ness", which might also dent tribal identity. In spelling out the various themes in our report, consciously and sub-consciously, this trend has constituted an undercurrent. We feel, nevertheless, that in the long run, tribal identity is likely to assert itself with concomitant reappearance of some of the basic tribal traditional values and ethos, communitarianism being one among them. One manifestation, among others, for this thought is that, as an individual, individualism may be practised by a tribal when he is at large and may be abroad, but even in facing the larger world his psyche looks backwards to lean on the support of his own tribal community, thereby revealing the profundity of bonds with his tribe.

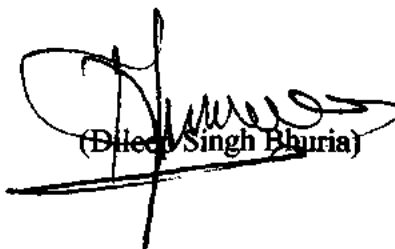
15. In relation to tribals, the Dhebar Commission's recommendations have been of great import these 45 years. We ourselves have attempted to leave no stone unturned to roll out the blue-print for the next half a century or so. It placed an onerous responsibility on us and we have, therefore, strained every nerve to

raise ourselves equal to the task. Regretfully, for want of time, we could not traverse the entire gamut of topics we would have liked to deal with. We are deeply conscious of the omissions and inadequacies in the Report, occasioned by abrupt termination of the tenure of the Commission. Nevertheless, we have tried to peer into the past, comprehend the present and visualize the future. It has been a daunting task. To what extent we have succeeded, it will be for others to judge. Nonetheless, we do hope that our sincere effort will be of some avail for progress of the tribespeople of the country.

16. I would like to thank you for giving the Members of the Commission and myself the opportunity of meeting the tribal people and renewing our acquaintance with the conditions in which they live and the aspirations that they nurture. On account of several constraints, the time factor being the chief, it has not been possible for us to reach out to every nook and corner where they live. But, on the whole, we have been able to make contact with many areas, far and near, some very remote, through your good offices. We would like to offer our sincere thanks to the Government of India and the State Governments who extended their cooperation. As President of the Republic, you stand for the millions of the country and it is, therefore, proper that in thanking you, we express our gratitude to the countless tribespeople whom we have been privileged to meet and to converse.

With kind regards,

Yours sincerely,



(Dilip Singh Bhuria)

Shri A.P.J. Abdul Kalam,  
President of India.  
NEW DELHI

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# Introductory

In pursuance of the provisions of the Article 339 (1) of the Constitution, this Commission, designated as the Scheduled Areas and Scheduled Tribes Commission, was appointed by the President by an Order published in the Government of India, Ministry of Tribal Affairs notification No. 17014/8/93-TD (R) dated 18<sup>th</sup> July, 2002 (**Annexure-I**). The Commission was set up with the following Members:-

(i)	Shri Dileep Singh Bhuria	Chairperson
(ii)	Smt. Chokila Iyer	Vice-Chairperson
(iii)	Prof. Mei jin Lung Kamson	Member
(iv)	Dr. Bhupinder Singh	Member
(v)	Shri Kuwarsingh Fulji Valvi	Member
(vi)	Dr. Babubhai Doljibhai Damore	Member
(vii)	Prof. Diwakar Minz	Member
(viii)	Shri S.K. Kaul	Member
(ix)	Dr.P.K. Patel	Member
(x)	Shri Ram Sewak Paikera	Member
(xi)	Shri P.S. Negi	Member Secretary

Smt. Chokila Iyer, was made Vice-Chairperson of the Commission vide Order dated 20<sup>th</sup> March, 2003. Shri Ram Sewak Paikera, Member resigned as Member of the Commission on 07.11.2003.

## Terms of Reference

The Terms of Reference of the Commission and the procedure to be followed by it were laid-down in the said Order dated 18<sup>th</sup> July, 2002 as under:-

"The following shall be the Terms of Reference of the Commission namely:-

- (1) Keeping in view the various provisions of the Constitution and taking an overview of the tribal scenario in the country, the Commission shall

adumbrate a perspective and a vision for the future and formulate an outline of a viable comprehensive tribal policy.

- (2) It shall examine the constitutional provisions in so far as they relate to the Scheduled Tribes, with a view to constitutional, legal, financial and administrative devices for promotion of tribal interests and recommend measures for adequate and appropriate operation of the Fifth and Sixth Schedule of the Constitution.
- (3) The Commission shall review the functioning of policies, programmes and schemes being followed as per the recommendations of the Dhebar Commission and/or being implemented otherwise and suggest formulations in this regard as may be called for.
- (4) It shall examine the development strategies followed so far and in particular, it shall scrutinize the tribal sub-plan integrated approach covering facets like –
  - (a) plan and non-plan sectors e.g. agriculture and allied sectors, forest, education, health, employment, role of financial and cooperative institutions, displacement of tribals,
  - (b) protective measures of a legal and administrative nature as in the fields of land alienation, money-lending, excise etc.,
  - (c) financial and budgetary arrangements and make such suggestions for modifications and innovations as it may consider necessary
- (5) It shall examine the socio-political and administrative set-up, particularly with reference to Part IX of the Constitution relating to Panchayats and the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, and suggest measures to make it effective for self-governance and socio-economic advancement of the tribal people.
- (6) Any other matter connected with the administration of the Scheduled Areas and/or the welfare of the Scheduled Tribes in the States and Union Territories.

**The Commission may –**

- (a) obtain such information as they may consider necessary or relevant for their purpose from the Central Government, the State Governments and such other authorities, organisations or individuals as may, in the opinion of the Commission, be of assistance to their work;**
- (b) appoint such sub-committees from amongst their members as the Commission may think fit for the purpose of exercising such powers and performing such duties as may be delegated to them by the Commission;**
- (c) visit or depute any sub-committee to visit such parts of India as the Commission may consider necessary or expedient;**
- (d) hold their sittings or the sittings of any sub-committee as such times and such places as may be determined by or under the authority of the Chairperson;**
- (e) act notwithstanding the temporary absence of any member of the Commission or the existence of any vacancy among the members; and**
- (f) regulate their own procedure in so far as no provision is made in this Order in that behalf.**

**The Commission shall submit its report to the President as soon as possible but not later than one year from the date of publication of this Order.”**

**As may be seen from the Terms of Reference, the task assigned to this Commission has been huge, it being a one-time exercise undertaken forty-two years after the first-exercise undertaken in 1960-61 by the Scheduled Areas and Scheduled Tribes Commission known as Dhebar Commission. Today, considering the increase in ST population and the complexities of the modern world, despite technological advances, on the one hand some human problems remain grounded in hard realities as of old like land alienation, money-lending, displacement, forest, and, on the other some other problems have magnified as in the field of education and health. Some tribal areas have become the breeding ground for tribal unrest. In sum, the work has not only multiplied manifold but has also acquired complicated dimensions.**

## **Office Accommodation**

The Commission had to face certain constraints. It was appointed without an office accommodation and without an essential staff in position. It took over two and a half months first to have an approval of the Cabinet to establish the Headquarters of the Commission in Delhi itself and thereafter the entire process of hiring office accommodation and staffing etc. was undertaken. In fact, the Commission received the decision of the Government of India to locate the Commission's Headquarters in Delhi on 4<sup>th</sup> Oct., 2002. The Commission's Office was set-up in the first half of November, 2002 at the Jawahar Lal Nehru Stadium complex. Furnishing, installation of the office equipments and networking were completed by the middle of December, 2002. Actually, the office of the Commission started functioning effectively from January, 2003 onwards.

## **Staffing**

The Commission received a budget allocation of Rs. 5.28 Crores and expenditure sanction and re-validation of 50 sanctioned posts against the original sanctions for 55 posts, in the middle of Sept., 2002. However, in anticipation of the expenditure sanction, the Commission circulated these posts to various Ministries for filling up on deputation basis. For a short-term tenure not many of the officers/employees were available on deputation. Most of the secretarial and research staff were appointed by direct recruitment through open competition and the work was accomplished by the first week of January, 2003. The staffing of the Commission considering the size of the task assigned was found to be inadequate which actually impeded the progress of the work. During the financial year 2002-03, the Commission had to surrender around 2/3<sup>rd</sup> of the total budget sanctioned owing to the constraints mentioned as above. Following posts were filled-up on deputation basis from the Central Ministries:-

- (1) Joint Secretary
- (2) Joint Director
- (3) Under Secretary
- (4) Section Officer
- (5) Private Secretary to the Member Secretary

The Commission engaged Experts and Consultants to assist the Commission during the field visits and prepare base material for the report development.

### **Plan of Work**

The Commission held 62 meetings during its tenure. The Commission decided to have Territorial Sub-Committees of the Members of the Commission to conduct the field visits and studies with a view to examine, scrutinize, review and submit the findings on the subject matters viz. administration of the Scheduled Areas; operationalisation of the provisions of the Fifth Schedule and the Sixth Schedule to the Constitution; socio-political set up with particular reference to the provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996; Tribal Sub-Plan; Integrated Tribal Development Projects; Welfare programmes for the Scheduled Tribes; basic services and the economic development strategies; adequacies of the Constitutional safeguards for the Scheduled Tribes; protection of the rights of the tribals in their land and forests and tribal habitat development etc. – in the States and Union Territories assigned to each Sub-Committee. The Territorial Sub-Committees set up for the States/UTs assigned to each Sub-Committee vide Order dated 1<sup>st</sup> Sept., 2002 are as under:-

**Territorial Sub-Committee** - Arunachal Pradesh, Assam, Meghalaya, Manipur, Tripura, Mizoram, Nagaland, Sikkim, Uttaranchal, Himachal Pradesh, Jammu and Kashmir

Shri P. S. Negi

Dr. Bhupinder Singh

Dr. Babubhai Doljibhai Damore

Prof. Mei Jin Lung Kamson                      Convener

**Territorial Sub-Committee** - Bihar, Jharkhand, Orissa, West Bengal, Uttar Pradesh, Andaman and Nicobar Islands

Prof. Diwakar Minz

Dr. P.K. Patel

Smt. Chokila Iyer

Dr. Bhupinder Singh                                      Convener



**Territorial Sub-Committee** - Madhya Pradesh, Chhattisgarh, Maharashtra, Gujarat, Rajasthan, Daman & Diu, Dadra & Nagar haveli, Delhi

Dr. Babubhai Doljibhai Damore

Shri Kuwarsingh Fulji Valvi

Shri Ram Sewak Paikera

Shri S.K. Kaul

Convener

**Territorial Sub-Committee** - Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, Goa, Ladshadweep

Dr. P.K. Patel

Prof. Diwakar Minz

Shri Kuwarsingh Fulji Valvi

Smt. Chokila Iyer

Convener

### **Questionnaires**

A Questionnaire Sub-Committee was set-up vide Order No. 26/TC/Admn /2002 dated 1<sup>st</sup> Sept., 2002 comprised of the following Members –

Dr. Bhupinder Singh

Shri S.K. Kaul

Prof Diwakar Minz

Dr. P.K. Patel

Convener.

The Commission issued questionnaires separately for the States/UTs and the Central Ministries for eliciting information on the terms of reference of the Commission. Responses from the States and the Central Ministries were delayed. The Chairperson of the Commission had written to the Chief Ministers of the States with a request to expedite the replies to all the sets of Questionnaires. The Commission has not received replies to the Questionnaires from some of the major States with tribal population. The replies received from many States were incomplete. They were requested time and again to send replies to all the questions pertaining to some of the vital sectors of tribal economy, tribal development and implementation of the

Constitutional safeguards which some of the States had not covered in their replies.

Additionally, the Chairperson of the Commission addressed letters to the leaders of the political parties MPs and the eminent-persons to elicit their views on matters concerning the tribals.

### **Field Visits**

The Commission decided to undertake field visits in all the 26 States and 4 Union Territories having tribal population mainly to assess the ground realities in respect of implementation of the tribal development, welfare of the Scheduled Tribes and the operationalisation of the Constitutional safeguards etc.

The Commission has taken care of the importance and the necessity of having interaction with the Governments in all the 26 States and 4 Union Territories with tribal population. There were persistent demands from various tribal communities in different regions in various States for a visit by the Commission. Due to time constraints, the Commission decided to have at least one visit to the States/UTs with tribal population. It visited 25 States and 4 Union Territories with tribal population and held consultation meetings with the Chief Secretaries, Secretaries and Heads of the Departments, development authorities and the field staff etc. In many States the Commission had interaction with the Governor, Chief Ministers, MLAs, MPs and other elected representatives, tribal leaders, social organisations, freedom fighters and a cross-section of the people in the tribal areas.

**All these efforts made were for eliciting tribal opinion which in fact has formed the basis of our recommendations in this report for formulating an out-line of a comprehensive National Tribal Policy.**

Field tours/visits of the Commission began with an homage paid to Martyr Birsa Munda at the Birsa Munda Memorial, Dombari in the State of Jharkhand on 14<sup>th</sup>

August, 2002. A public meeting was held at the memorial and Commission had interaction with the representatives of the social organisations and a cross-section of tribal people on various issues concerning tribal development programme and welfare of the Scheduled Tribes.

### **Consultations**

The Commission had decided to hold consultation meetings with Central Ministries and Departments of the Government of India, nationalized Banks and Public Sector Undertakings concerned with the Tribal Affairs and Tribal Welfare etc. and also with prominent NGOs working in the tribal areas. The Commission could during its tenure undertake consultations with the Ministries of – Tribal Affairs, Human Resource Development, Rural Development, Urban Development, Environment and Forest, Health and Family Welfare, AYUSH; Planning Commission; Department of North Eastern Region (DONER); Department of Personnel & Training; Registrar General of Census, Government of India and Government of National Capital Territory of Delhi. It had consultation meetings with NGOs like Bharatiya Adimjati Sewak Sangh, Rama Krishna Mission and Vanavasi Kalyan Ashram. The Commission also had interaction with Reserve Bank of India and NABARD.

### **Report Development**

As per the Terms of Reference, the main task assigned to this Commission is to adumbrate a perspective and a vision for the future of the Tribes of India and also to formulate an outline of a comprehensive National Tribal Policy. The Commission constituted a Report Drafting Committee vide Order dated 15.12.2003 and modified Order dated 05.01.2004 as under:-

Shri Dileep Singh Bhuria, Chairperson

Shri S.K. Kaul, Member

Shri P.S. Negi, Member Secretary

Dr. Bhupinder Singh, Member - Convener

The Commission's Report is comprised of three volumes.

**Volume-I** - consists of a Report on various subjects concerning tribal development, different sectors of tribal economy, and the Constitutional safeguards etc. The report is based on (a) the base material prepared from replies to the Questionnaires; (b) the observations and recommendations of the Commission made in the State-wise Reports in Volume-II of this Report; and (c) the consultation meetings of the Commission held with the Central Ministries, Planning Commission the State Governments, eminent persons and social organisations/NGOs working in the tribal areas.

**Volume-II** – contains State-wise Reports based on the field visits, interaction with the authorities responsible for the tribal development and also the views, petitions, proposals submitted by various social organizations, political parties, tribal organizations and a cross-section of the tribal people.

**Volume-III** – is comprised of Annexures pertaining to the base material built-up and State-wise list of the key development functionaries, Heads of various organisations, tribal leaders and eminent persons, social workers associated with the tribal development and tribal welfare with whom the Commission had held interaction/ consultations. It will be documented by the Office during the winding-up period.

Owing to paucity of time during its tenure, the Commission could present Report as contained in Volume-I only in respect of certain important sectors of tribal development and Constitutional safeguards provided for the tribals. While in respect of many other subjects, the Commission has prepared voluminous base material for building-up reports.

### **Tenure of the Commission**

The Commission was appointed with a tenure not exceeding one year under the Order dated 18<sup>th</sup> July, 2002. One year tenure given to the Commission was too short considering the magnitude of the task assigned as may be seen from the Terms of Reference. At the request of Commission, the tenure of the Commission was

extended in two stages upto 16<sup>th</sup> July, 2004. The Commission made a request to the Government of India for extending its tenure upto 31<sup>st</sup> March, 2005 or at least upto December, 2004 for submission of the Report.

**Grounds for extension were as under:-**

- ⇒ Considering the magnitude of the task assigned, the tenure given was too short.
- ⇒ Preparatory works took time – Commission was to have its Hqrs. near Delhi as per the Orders. Government of India decided to locate the Commission's Hqrs. in Delhi on 4<sup>th</sup> Oct., 2002.
- ⇒ The Commission was appointed without an office accommodation and without an essential staff in position. It took 6 months to fill-up the posts and to make Commission functional.
- ⇒ The Commission had to postpone/defer the field visits due to the Assembly elections in some States in Dec., 2003 followed by three-month long Lok Sabha elections in March – May, 2004. Tours could be undertaken only with the approval of the Election Commission of India. The Commission could not hold interaction with the States/UTs authorities during this period because of their engagement in the election process. The Commission also realized that it was not proper to have interaction with the tribal leaders and the cross-section of the tribal people during the period of these elections.

The request of the Commission for extension of its tenure sought as above was not acceded to by the Government of India. The Commission, therefore, decided to submit its report within the time assigned to it for submission of its Report i.e. by 16<sup>th</sup> July, 2004.

**Acknowledgments**

The Commission is grateful to the State Governments/UTs and the tribal development authorities for their responses to the Questionnaires sent to them and also for making elaborate arrangements for the Commission's tour in the States/UTs. The Commission

extended in two stages upto 16<sup>th</sup> July, 2004. The Commission made a request to the Government of India for extending its tenure upto 31<sup>st</sup> March, 2005 or at least upto December, 2004 for submission of the Report.

**Grounds for extension were as under:-**

- ⇒ Considering the magnitude of the task assigned, the tenure given was too short.
- ⇒ Preparatory works took time – Commission was to have its Hqrs. near Delhi as per the Orders. Government of India decided to locate the Commission's Hqrs. in Delhi on 4<sup>th</sup> Oct., 2002.
- ⇒ The Commission was appointed without an office accommodation and without an essential staff in position. It took 6 months to fill-up the posts and to make Commission functional.
- ⇒ The Commission had to postpone/defer the field visits due to the Assembly elections in some States in Dec., 2003 followed by three-month long Lok Sabha elections in March – May, 2004. Tours could be undertaken only with the approval of the Election Commission of India. The Commission could not hold interaction with the States/UTs authorities during this period because of their engagement in the election process. The Commission also realized that it was not proper to have interaction with the tribal leaders and the cross-section of the tribal people during the period of these elections.

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is also grateful to the Central Ministries, Planning Commission, Reserve Bank of India, NABARD, various NGOs/Voluntary Organisations and the media with whom the Commission had interaction. We wish to place on record our appreciation of the views expressed and valuable suggestions given to the Commission through consultations by eminent persons listed in the **Annexure-II**.

We would like to mention the effort put in by our officers, experts, research group and the staff of the Commission.

# **Annexure-I**

## **Ministry of Tribal Affairs**

**(R & P Unit)**

### **ORDER**

New Delhi, the 18<sup>th</sup> July, 2002

**S.O.1271 (E).**- In exercise of the powers conferred by clause (1) of article 339 of the Constitution, the President hereby appoints the Scheduled Areas and Scheduled Tribes Commission (hereinafter in this Order referred to as the Commission) consisting of the following persons with effect from the date of publication of this Order, namely:-

(xii)	Shri Dileep Singh Bhuria	Chairperson
(xiii)	Prof. Mei jin Lung Kamson	Member
(xiv)	Dr. Bhupinder Singh	Member
(xv)	Smt. Chokila Iyer	Member
(xvi)	Shri Kuwarsingh Fulji Valvi	Member
(xvii)	Dr. Babubhai Doljibhai Damore	Member
(xviii)	Prof. Diwakar Minz	Member
(xix)	Shri S.K. Kaul	Member
(xx)	Dr.P.K. Patel	Member
(xxi)	Shri Ram Sewak Paikera	Member
(xxii)	Shri P.S. Negi	Member Secretary

2. The following shall be the terms of reference of the Commission, namely:-

- (7) Keeping in view the various provisions of the Constitution and taking an overview of the tribal scenario in the country, the Commission shall adumbrate a perspective and a vision for the future and formulate an outline of a viable comprehensive tribal policy.
- (8) It shall examine the constitutional provisions in so far as they relate to the Scheduled Tribes, with a view to constitutional, legal, financial and administrative devices for promotion of tribal interests and recommend



measures for adequate and appropriate operation of the Fifth and Sixth Schedule of the Constitution.

- (9) The Commission shall review the functioning of policies, programmes and schemes being followed as per the recommendations of the Dhebar Commission and/or being implemented otherwise and suggest formulations in this regard as may be called for.
- (10) It shall examine the development strategies followed so far and in particular, it shall scrutinize the tribal sub-plan integrated approach covering facets like –
  - (a) plan and non-plan sectors e.g. agriculture and allied sectors, forest, education, health, employment, role of financial and cooperative institutions, displacement of tribals,
  - (b) protective measures of a legal and administrative nature as in the fields of land alienation, money-lending, excise etc.,
  - (c) financial and budgetary arrangements and make such suggestions for modifications and innovations as it may consider necessary
- (11) It shall examine the socio-political and administrative set-up, particularly with reference to Part IX of the Constitution relating to Panchayats and the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, and suggest measures to make it effective for self-governance and socio-economic advancement of the tribal people.
- (12) Any other matter connected with the administration of the Scheduled Areas and/or the welfare of the Scheduled Tribes in the States and Union Territories.

3. The Commission may –

- (a) obtain such information as they may consider necessary or relevant for their purpose from the Central Government, the State Governments and such other authorities, organisations or individuals as may, in the opinion of the Commission, be of assistance to their work;
- (b) appoint such sub-committees from amongst their members as the Commission may think fit for the purpose of exercising such powers and

performing such duties as may be delegated to them by the Commission;

- (c) visit or depute any sub-committee to visit such parts of India as the Commission may consider necessary or expedient;
- (d) hold their sittings or the sittings of any sub-committee as such times and such places as may be determined by or under the authority of the Chairperson;
- (e) act notwithstanding the temporary absence of any member of the Commission or the existence of any vacancy among the members; and
- (f) regulate their own procedure in so far as no provision is made in this Order in that behalf.

4. The Commission shall submit its report to the President as soon as possible but not later than one year from the date of publication of this Order.

[No. 17014/8/93-TD(R)]

By Order of the President

S.CHATTERJEE, Jt. Secy.

**List of Eminent Persons Consulted**

**S.No. Name**

1. Dr. B.D. Sharma  
Former Commissioner of SC/ST
2. Shri Naresh Chandra  
Former Governor of Gujarat
3. Shri S.R. Shankaran  
Former Secretary, Government of India
4. Shri Sundarlal Bahuguna  
Social Activist
5. Shri N.C. Saxena  
Former Secretary, Government of India
6. Shri B.C. Negi  
Former Chief Secretary, Himachal Pradesh
7. Shri Anadi Charan Das,  
Ex-MP Orissa
8. Shri J.K. Banthia  
Registrar General & Census Commissioner
9. Dr. R.K. Bhattacharya  
Former Director  
Anthropological Survey of India
10. Prof. B.K. Roy Burman  
Anthropologist
11. Shri P.K. Padhi  
MD, NSTFDC
12. Shri B.S. Parsheera  
Principal Secretary to the Government of Andhra Pradesh
13. Shri Bhagchand Meena  
Commissioner Income Tax
14. Shri Wilferd Lakra  
Joint Secretary, Government of India  
Ministry of Rural Development
15. Shri S.S. Pangtey, IAS Retd.
16. Prof. Shreedhar Sharma  
Former Additional Director General Health Services
17. Shri B.N. Sahay  
Former Advisor Planning Commission
18. Shri C. Targay  
Secretary, SC/ST, Delhi Administration
19. Shri R.S. Meena  
Executive Director, TRIFED
20. Shri Pradeep Prabhu  
Social Activist

## A HISTORICAL PERSPECTIVE

Notwithstanding the fact that formally the British power was established in 1858 and, ruling for the best part of a century, quit the country in 1947, it made its presence felt in varying degrees in different parts of the country even earlier.

2. The Permanent Settlement of 1793 introduced the concept of the intermediaries between tribal land-owners and the foreign power. Muttadars, Jagirdars, Thekadars and finally Zamindars were introduced in tribal areas extending the tentacles of the Company administration. The immediate implication was that the independent tribal land-owners were converted into land-tenants. The change was cataclysmic as till that time, for tribals, the central state was almost non-existent. the tribal communities were autonomous and tribal households enjoyed the status of land-owners. Now a revenue-collecting agency having formidable backing of force, was to bear on them. Secondly, they were being catapulted from an oral promise-based community-legitimated informal ownership economy into formal documentation-based authoritarian economy with which they were totally unfamiliar and in which they could hardly be expected to participate in view of their ignorance and illiteracy. Their communitarian socio-economic value system was now being overlaid through force by an imperialist-capitalist politico-economic degrading system. Without any preparation preceding the transition, it

wrought gross distortions in their life and economy. The implications were deep and the ramifications wide.

3. Apart from land, forest has been the other cardinal resource of tribal life-support system. It is difficult to aver that the alien conquerors did not understand its significance for tribal life and economy; the imperialist motivation of enrichment of mother-country was dominant. Even in the present times, there are numerous tribal communities whose member-families depend for their sustenance to the extent of 50 per cent on forest, the other 50 per cent being farm-derived. In the decades of eighteenth, nineteenth and early twentieth centuries, the number of tribal villages located in forests would have been many times what we see to-day. Perhaps, unmindful of or deliberately ignoring it, the new administrators drafted the first Forest Policy document in 1854 which conferred some rights on tribals. Their 1894 Forest Policy turned them into "rights and privileges". The post-Independence government would have been expected to undo the harm and endow tribals with appropriate rights. Surprisingly, however, the 12 May 1952 Forest Policy changed the "rights and privileges" to "rights and concessions". The First Scheduled Areas and Scheduled Tribes Commission 1960-61 (Dhebar Commission) made the following following comment on the 1894 Policy:

This conception of regulating the rights and restricting the privileges affected the tribal people very deeply and was the root cause of the delicate relations between them and the Forest Department which continue to the present time. [Chapter 12, para 6].

The Commission described the impact of 1952 Forest Policy promulgated in independent India in the following words:

Thus the tribal who formerly regarded himself as the lord of the forests was through a deliberate process turned into a subject and

placed under the Forest Department. Tribal villages were no longer an essential part of the forests but were merely on sufferance. The traditional rights of the tribals were no longer recognized as rights. In 1894, they became "rights and privileges" and in 1952 they became "rights and concessions" Now they are being regarded as "concessions"[Chapter 12, para 20].

On a consideration of all the aspects of the matter and grievances of the tribals as well as the difficulties of the Forest Department, inter alia, they recommended that "the policy of 1952 should be reconsidered, and in relation to the rights of the tribals, the government should accept at any rate the position that obtained before Independence" (Chapter 12, para 61). The National Forest Policy 1988 calls for protection of the rights and concessions enjoyed by tribals and other poor people living within and near forests. Notwithstanding the turn-around as per the latest Policy, most observers feel that the trend of erosion of rights and usages of tribals over forest has continued. One contributory factor has been eviction orders issued by the Forest Department from time to time.

4. The nineteenth century records repeated brushes by the tribal with the British might on account of the deep resentment and anger nursed by the indigenous people over gradual dispossession of their basic life-support system. Of course, they were no match, since the aliens were armed with the superior weaponry, including fire-power. The clashes betokened resistance against British interference, oppression and ham-handedness.

## **Fight for rights**

5. In their report (1961), the Dhebar Commission referred to the 1789, 1801, 1807 and 1808 disturbances in Chhota Nagpur which were put down with the help of armed forces. They spoke of the great Kol insurrection of 1831-32 caused by dis-content among the tribal people owing to settlement of their land on non-tribal immigrants from other parts of India, the Santhal rebellion of 1855 caused by the oppression of money-lenders and rapacious landlords, the Sardar agitation of 1887 and the Birsa movement of 1895-1900 directed against the Hindu landlords and money-lenders and Christian missionaries. They recorded Koya Fitureis in the Andhra Agency area of 1803, 1862 and 1879, the last of them in 1922 led by Alluri Sitaram Raju against oppression of Muttadars and petty officials. Although other uprisings i.e. Rampa rebellion 1803 in East Godavari, the Bastar rising of 1911 and the civil disobedience by the Kond Malliahs of Orissa and Tana Bhagats rebellion 1913-21 attracted their attention, it is worth noting that rebellions were fairly widespread across time and space in the country. For instance, the Koli disturbances in Maharashtra occurred as early as 1784-85, followed by Koli revolt in 1818. In Assam, Singhpos rebelled in 1825, Mishmis in 1827, Khasi in 1829; Terrut Singh massacred British generals and their Indian sepoy in 1829; in 1835, the Daflas raided British subjects; in 1842 Lushais raided the British territory of Arakan, Sylhet and defeated the British forces, in 1843 the Singhpos attacked British garrison. Orissa saw three revolts, of Chakra Bisoi, a Kond leader in 1850, of the Juang in 1861 and of Lakshman Naik in 1942. The Bhil tribe participated in

revolts of 1809-1828, 1846, 1857-58 in Gujarat. The Bastar tribals rose in 1842 and 1911. There were several other uprisings throughout the country which have been chronicled and others which have been not. Thus, it would not be too wide off the mark to say that when the rest of the country was still reeling under the impact of foreign domination, the tribals were fighting pioneering wars for freedom from the foreign yoke.

6. The British response was three-fold: to suppress the uprisings through military action, to strengthen the administration on the ground and to pacify the tribals through redressal of their grievances which were then mainly directed against Thekedars, Jagirdars, Mahajans, merchants etc. Most of their grievances centered round land and forests and against exploitation, particularly of their women. This phase can be deemed as the phase of confrontation and conflict.

7. The second phase registered a dramatic turn in the interrelationship. But this did not occur suddenly. The contact with tribal peoples, most of whom were tucked away in the interior (in a sense remoter than now on account of more difficult communications), was little. By the middle of the nineteenth century, the suzerainty was near complete and the adventurist-commercial conquerors numbering some mere thousands had settled down to the sedate business of administering a colony many times the size of home country. Peace during the latter half of the century was prone to shatter less and the frequency of tribal revolts declined.

8. All this while, the impact of the fluid dynamics of the changing scenario was being internalized by the new alien rulers as well as the indigenous tribal



subjects. Two features call for notice. One that the agitations had been nearly always "ethnic" in character, that is to say that each originated mostly in the womb of a single tribe. Second, that each agitation created a disturbance, deep down in the tribal psyche, which left an indelible impression on the temperament and character of tribesman shaping his future attitude and world-view. Post-independent events might have altered the situation somewhat but it seems to have persisted to an extent even to this day among the tribal mass.

### **The Chota Nagpur experience**

9. Early on, the colonial rulers realized that the operation of the normal rules for administration of civil and criminal justice and generally of the regulations of government, in the tracts of the country comprised in or bordering on the hills and jungles occupied by tribal people, would be inappropriate. Regulation XIII of 1833 was passed by them with the object of administration of justice of a kind adapted to the "peculiar customs and prejudices of local tribals in concert with the headman and diminishing their dependence on the Zamindar". The regulation laid the foundation for the administrative pattern of tribal areas in the north-east, known as non-regulatory system. Its essence was a centralized system with a powerful executive for running an administration through simple and personal procedures acceptable to the people. Yet, in Bihar, general acts passed after 1855 like the Rent Act, Civil Procedure Code, Stamp Act etc. led to enhancement of rent, eviction of headmen from their offices, increased exploitation by money-lenders and other ills.

The Santhal felt so racked by these laws and their ferocious application, that the events culminated in the Santhal Revolt of 1855-56 and 1871. Two regulations were passed: Act XXXIII of 1870 which provided regulations for peace and good government to Santhal Parganas and Regulation III of 1872 empowering the Lieutenant-Governor to remove the grievances of the Santhal regarding settlement of land, fixation of rent, application of customs and usages of the people and limitation of interest on debt. It is of interest to note that barring fixation of rent, the other three issues i.e. land and its alienation, money-lending and customary laws are still rife in tribal areas.

10. With the experience of the insurrections behind them, the area was administered as a non-regulation area as the colonial government felt that the complicated machinery and laws were not suitable for the backward tribals. The administrative arrangements were a precursor of the Scheduled Districts Act of 1874 whereby the local government was empowered to declare in respect of the tracts specified in the Act what enactments were to be and were not to be enforced and to notify the application, with modifications or restrictions, if necessary, of any enactment in force at the time in any part of British India. These tracts were known as scheduled tracts and they included areas in Assam, Rajasthan, Andaman & Nicobar Islands, Bengal, Santhal Parganas, Chhota Nagpur, some pockets in Maharashtra, Central Provinces, Madras and some areas in Punjab and United Provinces. The basic policy to be followed in the scheduled tracts was to protect the interests of the tribal people. In Santhal Parganas, the government forbade sale and transfer of land either privately or by orders of court. In some areas, hereditary

serfdom was abolished. Exploitation was to be curbed by preventing transfer of rights of tribals to non-tribals and protecting their rights in land and forest of tribals.

### **Govt. of India Acts of 1919 and 1935**

11. Subsequent to the Scheduled Districts Act of 1874, the Government of India Act of 1919 categorised tribal areas into “wholly excluded areas” and “areas with modified exclusion”. For the former, the State legislatures could not enact any law, but for the latter legislators might pass laws which could come into operation on a date and with such modifications as the Governor General or Governor might direct. The Government of India Act of 1935 retained the two categories under a slightly different nomenclature i.e. “excluded areas” and “partially excluded areas”.

Section 92(1) thereof reads:

“ The executive authority of a province extends to excluded and partially excluded areas therein, but notwithstanding everything in the Act, no Act of the Federal legislature or the Provincial legislature, shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs, and the Governor in giving such direction with respect to any Act may direct that the Act shall in its application to the areas or to any specific part thereof, shall have effect subject to such modification as he thinks fit ”.

An order was promulgated specifying the excluded and partially excluded areas.

Some of the provincial governments engaged themselves in working out legislative

measures that could offer protection to tribals particularly in regard to alienation of land and usury.

12. The constitutional-legal reforms introduced by the colonial administration during the decades preceding Independence were a response to the momentous popular non-violent movement that the country was going through as a result of steps taken by the national leadership. Earlier and contemporaneously, along with the transformation of a conquering power into a colonial administration, change was occurring among the tribal people. The mode of tribal protest and the nature of tribal demand were undergoing qualitative transformation. In contrast to the violent uprisings of the eighteenth and nineteenth centuries, the protest became peaceful and the demands and goals acquired distinct socio-economic and political content. For example, the Chhota Nagpur Unnati Samaj established in 1912 demanded spread of education and reservation for tribals, as well as a sub-state. In 1938, the Adivasi Mahasabha, a political body, came into being, reincarnating itself in 1949 as the Jharkhand party with the goal of a Jharkhand State. While the mass of tribals was still cloistered and backward, immiserated and illiterate, the upper stratum were becoming educationally and politically conscious. Another notable feature was that the Jharkhand movement tended to acquire pan-ethnic characteristics.

#### **Thakkar and Bardoloi Committees**

13. After attaining freedom, the Constituent Assembly 1946-48 embarked on its labours and set up an Advisory Committee on fundamental rights, minorities, tribal areas etc. The Committee split up into different sub-committees. There were two sub-committees dealing with tribal areas. One headed by A.V. Thakkar dealt with excluded and partially excluded areas (other than Assam) and the other, the Gopinath Bardoloi sub-Committee, was concerned with North-East Frontier (Assam) Tribal and Excluded Areas. So far as the sub-Committee on Central Tribal Areas (the Thakkar sub-committee) is concerned, it recommended the adoption of a measure which the Constituent Assembly enacted as the present Fifth Schedule. It is not difficult to detect in the Fifth Schedule conspicuous shades of its ancestor, the Scheduled Districts Act 1874. The recommendations of the Bardoloi Committee were transmuted into the Sixth Schedule. The perspective which informed the Fifth Schedule was paternalistic, extending the society's and government's shield for protection and promotion of tribal interests. Continuing the earlier trend, the Governor was charged with special responsibility therefor, but a Tribes Advisory Council having a majority of ST State legislators was to advise government. For the tribals of the north-east, the dispensation of the Sixth Schedule provided a self-management module which goes way towards self-rule at the district tier. We are treating the constitutional provisions for scheduled tribes in a separate chapter, but it is relevant to record here at least two provisions. Article 46 meant to guide government policy enjoins on the State to "promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and .....protect them

from social injustice and all forms of exploitation". This is bolstered by several other provisions, one relating to provision of adequate finances by the Union Government in Article 275. It is also necessary to add that the major responsibility for development of Scheduled Areas and Scheduled Tribes has been placed on the Union Government, as is evident from Articles 275(1), 339(2) and para 3 of the Fifth Schedule.

### **The first post-Independence phase**

14. It might be appreciated that in the matter of tribal affairs, the perspective and wisdom expressed in the constitutional provisions rested on the work and experience of not a few notable dedicated souls quietly at work among tribes for their welfare, at the instance and inspiration of national leaders like Mahatma Gandhi and Jawaharlal Nehru. In fact, Gandhiji included welfare of the tribes as one of the items in his 14-Point reconstruction programme drawn up in January 1942. Post-independence, the first phase was a time for soul-searching. Dr. B.R. Ambedkar made a powerful contribution to the cause of Dalit uplift through visionary leadership. Having initiated development module in democratic set-up, Prime Minister Jawaharlal Nehru enunciated the Panch Sheel (five principles) of Tribal Advancement. We have discussed these in detail elsewhere in this Report. Here we cannot help referring to the first of these to the effect that tribals should be enabled to advance along the lines of their own genius and imposition of anything on them should be avoided. The Panch Sheel became an ideological foundation.

15. Another marked feature of this phase was the appearance of a number of reports on tribal affairs. Among these were the reports of the Study Team of Social Welfare and Welfare of Backward Classes July 1959, also known as Renuka Ray Team, the Committee on Special Multi-purpose Tribal Blocks chaired by Verrier Elwin and the Study Team on Tribal Development Programmes chaired by Shilu Ao 1969, the First Scheduled Areas and Scheduled Tribes Commission 1961, also known as the Dhebar Commission. The report of the first Commission should be regarded as a high water-mark of this phase. It dealt comprehensively with a number of aspects of tribal affairs and development. Among the salient observations of the Commission were that the planning process was transforming the situation and important development activities had taken place in the fields of education, health and community development. A host of sectors were illumined by the suggestions and recommendations of the Commission, but one that turned out to be of far-reaching implications related to Article 275 of the Constitution. In it, the Commission expressed the view that grants under the Article were intended to supplement the general welfare programmes for the scheduled tribes and that the State Governments might consider issue of instructions on the lines of Andhra Pradesh Government to all heads of departments to the effect that 3 per cent of the total provision of each Department should be earmarked for the welfare of scheduled tribes during the Third five Year Plan. They also added that since a grant was intended to develop the area, the area's relative under development and problems should be assessed.

16. The point was subsequently emphasized in the 1969 report of the Study Team on Tribal Development Programmes led by Shilu Ao, a former chief Minister of Nagaland. In fact, the Team recommended that the Planning Commission should insist that the general development programmes should take into consideration the needs of tribals and indicate the directions in which the programmes could benefit the tribal communities. Adverse notice was taken by the Team of the delay in implementation of the Dhebar Commission's recommendations worsening the plight of tribals.

17. Apart from the Committees and Dhebar Commission which put in monumental labours, the Commissioner for Scheduled Castes and Scheduled Tribes was engaged in useful work conveying his observations and comments to the Government in his annual reports. On the whole, this phase was characterized by the observations of such important bodies contemplating on the scenario as it then was and searching for viable policies, formulations, programmes etc. The tribal masses were in receipt of small benefits from the backward classes sector of state plan projects and development works, including the tribal development blocks. The protective laws were being enforced feebly. The 1952 Forest Policy Resolution, the second for the country after 1894 and the first for Independent India, dealt a grievous blow to tribals. Their traditional rights over forest recognized as such earlier, were converted into "rights and concessions" and subsequently into mere "concessions". It was stated that village communities should not be allowed the use of forest produce "at the cost of national interest". The Dhebar Commission asked for reversion to pre-Independence position. On the whole, while through planned



socio-economic development effort, the condition of tribal mass was improving marginally, disparities between tribals and non-tribals were enlarging on social, economic, educational fronts.

### **The second post-Independence phase**

18. In the second post-Independence and more or less the contemporary phase, beginning in the decade of seventies, committees and task forces were at work for evolving strategies and methodologies for tribal development. The ideas and suggestions of the fore-runner committees had blazed the trail. More specifically, the Dhebar Commission's concept of earmarking of funds on Andhra pattern in proportion to or in excess of tribal population percentage in the state was the core around which other formulations revolved. The Shilu Ao Team had reinforced it. In the early seventies, the concept gave birth to the strategy of Tribal sub-Plan (TSP) whose chief ingredients were projectised integrated multi-sectoral approach pointedly suited to the local tribal communities in identified administrative units of tribal population concentration with the help of funds pooled from central, state and institutional organizations. The TSP strategy was launched enthusiastically in the Fifth Plan period and it has held the ground since. The subsequent main inputs have come from the reports of the Working Groups appointed by the Planning Commission on the eve of Sixth, Seventh, Eighth and Ninth Plans. It has been evaluated off and on. Its detailed consideration may be found in a separate chapter devoted to it.

## **Political dimension**

19. We have seen how conditions in the eighteenth and nineteenth centuries pitted tribals against the foreign power which was attempting to make inroads into hilly tribal areas pari pasu with its conquest in the plain areas. The tribals fought back to the extent that they could. Their resistance is recorded in the chronicles of the rebellions and uprisings. The tone and tenor of the invader kept changing along with its enlarging suzerainty, so much so that we find that the original commercial company transformed itself into an administering ruler in the early decades of the nineteenth century. It transferred power to the British Crown by the middle of that century and from then on it was a colonial government that ran the country. Having inherited peace and order, the colonial government undertook the task of legislation and administration. Ruthless and violent repression was being replaced gradually with subtle paternalism and economic imperialism. But it was difficult to abolish the dichotomous gulf between the apparently top benign policies and harsh ground realities in the nineteenth century. Violent insurrections continued till the end of the century. It is only in the second decade of the twentieth century, we find more or less a non-violent Tana Bhagat Oraon movement unusually combining protests against oppression at the hands of the police, Zamindars and Mahajans with a reformist thrust. Reformist movements took place in other parts of the country also, like the Rajmohini movement in the then Central Provinces. The colonial government passed a series of protective legislations for tribals particularly relating

to land. Reference has been made earlier to the formation of Chhotanagpur Unnati Samaj leading subsequently to the establishment of the Adivasi Mahasabha in the decade of the thirties. These were the beginnings of separate political organizations among tribals, though individual tribals might have been participating in some small way in the national movement for freedom. Elsewhere, in this report, we record how the tribals of Assam presented a memorandum to the Simon Commission in 1929. Their chief demand was for reservation of seats in various elective bodies

20. In the years preceding independence, the tribal representatives shared some legislative and executive fora with other sections of the society in the country. A major political movement made its appearance in the form of Jharkhand Movement in 1949. Passing through vicissitudes, it attained its goal of statehood in 2000. In the north-east, the struggle for independence from the successor power commenced soon after the British announced their departure from the subcontinent. Tribal states were established in the north-east, Nagaland in 1963 and Meghalaya in 1971, Arunachal and Mizoram following thereafter. The political ferment among the tribal people has been swelling these decades culminating in the establishment of Chhattisgarh (hived off from Madhya Pradesh) and Bodo Autonomous Council in Assam. The struggle for self-determination within the Indian Union will doubtless lead to formation of more such autonomous units. But it should cause no alarm. At the end of the day, the federal bonds grow stronger and more responsible with the fulfillment of aspiration of the constituents.

## **A look ahead**

21. Thus, overall, roughly three distinct though overlapping historical phases are recognizable. In the first, spanning the eighteenth and nineteenth centuries, the land policy of the colonial administration led to degradation of the status of tribal land-owners into land-tenants. Tribal rights in forest were first diluted into some rights (1894). Land and forest policies led to land alienation through superimposition of a new class of non-tribal intermediaries, money-lenders, land-owning peasants and contractors. The consequence of erosion of rights on land and forest resources triggered violent tribal protests against injustice, repression and exploitation. The second, that is closing years of the nineteenth century and the first half of the twentieth, comparatively peaceful, was characterised by little socio-economic change and constitutional protests demanding share of political power and education. In the third, the post-independence years, tribal representatives occupying political niches in the legislative, judicial and executive institutions of the Republic have tended to be articulate in different spheres, while stratification has set in tribal societies. On the one hand, dispossession of their land and forest resources has continued, some observers dubbing it as neo-colonial exploitation, planned socio-economic measures for their progress put largely through the bureaucratic agency have had much less than the expected impact..

22. When the Dhebar Commission reviewed the tribal scene, they exclaimed:

We stand at the threshold of a new era. The tribal people are prepared to make an entry into that area with other members of the family. The only thing that they expect is that the changes should not destroy the harmony of

their life, and the context should not result in suppressing their distinctive personality.

The problem of problems is not to disturb the harmony of tribal life and simultaneously work for its advance; not to impose anything upon the tribals and simultaneously work for their integration as members and part of the Indian family.

23. The Dhebar Commission was the first Scheduled Areas and Scheduled Tribes Commission set up under Article 339(1) of the Constitution and, as such, its report was a pioneering attempt. It was a laudable effort. We have the springboard of that report for further leaps but, it needs to be conceded that to-day, the scenario is much more complex and multi-faceted. They conceived of four-layered tribal societies and they could detect harmony among them. To-day, it is not difficult to recognize further layering. The top elitist layer and the bottom primitive groups layer are distinct. In between, there has been stratification in the tribal societies.

24. The world of Dhebar Commission seems to have been filled in by charm and grace. They could, in consequence, apprehend harmony in tribal life. But today's world is immersed in strife and violence and the tribal world has not remained totally impervious. Even so, cloistered somewhere there are tribal islands of peace, tranquility and harmony. The non-tribal world should seek it and emulate it.

25. The pertinent question is what direction should the tribals take at this juncture. The answer may not be simple. For that Commission, an article of faith was to promote tribal advancement without disturbing the essential harmony of

tribal life and to aim at integration without any imposition. Both these laudable goals call for a critical appraisal at the present juncture. In the first instance, it has to be clearly realized that four decades later, exogenous deliberations leading to formulations on the destiny of tribals may not be acceptable to them. Their representatives fill appropriate niches in the national political, economic and social space. Further, Part IX of the Constitution incorporating 73<sup>rd</sup> and 74<sup>th</sup> Constitutional amendments, and PESA Act 1996, provide an adequate institutional framework to the tribal communities to orchestrate their ideas and aspirations. The tribal elitist layer may be conceived to adopt modern modes of thought and behaviour, and the primitive tribal groups to continue largely with their unique life-style and world-view. Further, it may be safe to assume that the middle layers comprising a majority of tribal communities can be depended upon to evolve their own goals, mores and norms by interaction with and through the numerous fora available. In any event, the great diversity of tribal communities can be ignored at the peril of an enduring and viable frame of development. Considering the different parameters, it becomes imperative that sound policy directions be formulated which can usher in a bright future for the tribal people of the country. The question of a tribal policy will be discussed in a separate paper.

# **FIFTH SCHEDULE**

**[Article – 244 (1)]**

## **Provisions as to the Administration and Control of the Scheduled Areas and Scheduled Tribes**

1. Under Article 244 (1) of the Constitution, the provisions of the Fifth Schedule to the Constitution shall apply to the Administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the State of Assam, Meghalaya, Tripura and Mizoram. The principal object of these specific provisions in the Fifth Schedule particularly those under paragraph 5, as it appears, is to protect the interests and rights of the tribals in their land, habitat and economy; to preserve the community customs and tradition and to ensure a faster socio-economic development in the Scheduled Areas.
2. Under the provisions of the Fifth Schedule to the Constitution, the Governor of each State having Scheduled Areas therein has certain powers to exercise and functions to discharge for the administration and control of the Scheduled Areas. The executive power of a State extends to the Scheduled Areas therein. The Fifth Schedule provides for:-
  - (1) Report by the Governor to the President regarding the administration of the Scheduled Areas. (Part-A, Para – 3)
  - (2) Appointment of Tribes Advisory Council by the Governor; (Part-B, Para-4)
  - (3) Power of the Governor to regulate the application of laws of the State and the Acts of Parliament to Scheduled Areas; (Part-B, Para - 5)
  - (4) Power of the Governor to make regulations for the peace and good government of any or all Scheduled Areas in a State.( Part-B, Para-5)
  - (5) The President may by order declare an area to be Scheduled Area (Part-C, Para-6).

## **A Report by the Governor to the President regarding the administration of the Scheduled Areas**

1. The paragraph 3 of the Fifth Schedule enjoins on the Governor of the State having Scheduled Areas therein the responsibility to make a report to the President of India regarding the administration of the Scheduled Areas, which reads –

“The Governor of each State having Scheduled Areas therein shall, annually, or whenever so required by the President make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of said areas”.

2. At present only 9 States namely Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chhattisgarh, Orissa and Rajasthan have Scheduled Areas notified. Various Committees and Commissions and Working Groups which went into the problems of Scheduled Tribes, particularly, the Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission, 1961) and the Shilu Ao Study Team (1969) and the Working Group on the Development of Scheduled Tribes during Seventh Plan (1984) had observed that no instructions had been issued by the Union Government about the format and contents of these reports with the result the State Governments had come to look upon them as departmental reports. Dr. Rajendra Kumari Bajpai, the Union Minister of State for Welfare, Government of India vide her D.O. letter No. – 18013/3/86-TD(R) dated Jan 5, 1987 had informed the Chief Ministers of the States having the Scheduled Areas stating that the recommendations of the Dhebar Commission were considered at various meetings and conferences and it had been agreed that preparation of the Governors' reports should be the responsibility of the State Secretariat and that the views of the Tribes Advisory Councils should be incorporated in the Governor's reports etc.

3. The States having the Scheduled Areas therein were given a format for the presentation of a Governor's Report. The Governor's Report is expected to contain objective assessment of quality and adequacies of the administration of



the Scheduled Areas, operationalisation of the Constitutional safeguards, Acts and regulations – (1) to regulate money-lending, (2) to prevent land alienation, (3) to protect the interest of the tribals in forest and trade (4) for the abolition of bonded labour, (5) for prescribing a special excise policy keeping up with the traditional tribal custom etc. The report should cover the problems arising out of the displacement of tribals and the implementation of the rehabilitation policy and the plans. It should also cover the governmental and social action taken against the atrocities detected, Law and Order problems, and tribal unrest etc. All these are important and essential for the peace and good governance of the Scheduled Areas in a State. Report must also provide a sketch of the Tribal Sub-Plan prepared and Integrated Tribal Development Projects and Welfare Programmes undertaken including financial allocations and physical targets achieved etc. The Report should also indicate the level of administration of the Scheduled Areas and measures taken for its further up-gradation, improvement and strengthening etc.

4. The Governor's Report is required to be submitted annually or whenever so required by the President. In fact, the report of the Governor is required to be placed before the Tribes Advisory Councils for their advice and recommendations, if any.
5. Records are not readily available about the reports submitted before 1999-2000 by the States having the Scheduled Areas. Andhra Pradesh and Madhya Pradesh have not sent reports from 1999-2000 onwards. Maharashtra and Orissa have not submitted reports for the years 2000-01 onwards. State of Gujarat has not submitted the report from 2001-02 onwards. The status about the reports' submission in respect of State of Rajasthan and Chhattisgarh is not readily available. There has been a delay in re-notifying Scheduled Areas in Jharkhand and Chhattisgarh after the re-organisation of the States. Himachal Pradesh has been submitting reports more or less regularly.
6. A sample study of the reports submitted by the States shows that these reports describe the infrastructure developed for the tribal development and welfare programmes; and the problems faced by the Scheduled Tribes such as

unemployment, lack of infrastructural facilities etc. and describe about the programmes and schemes devised for tribal development/welfare usually ending with the statement that these schemes and programmes are making necessary dent in Scheduled Areas and that the specific efforts are being made to clear up reservations back-log in the Government services etc. **without any statistical back-up and without explaining what special programmes are under implementation and what has been the impact of the development efforts made on the overall development and welfare of the Scheduled Tribes.**

- What these special efforts made are and results thereof are not specified in the report.** It appears that the States do not have the firmed up statistics and the assessment of the impact of development efforts to form part of the report other than the census figures where the reliance can be placed only on the demographic figures. The prevalent feeling is that these reports often tend to be a modified version of the annual reports of the Department of Tribal Development. The Union Government had prescribed the format for the report development covering all aspects of tribal development/welfare, tribal affairs and operationalisation of the Constitutional safeguards to protect the interests of the Scheduled Tribes etc.
7. Although, there is no provision, under the procedure laid-down, which expressly empowers a Governor to ask for a special report from the Council of Ministers on any issue, yet there is no bar on asking for a special Report from Council of Ministers on any important matter concerning Scheduled Tribes in the Scheduled Areas.
  8. The Ministry of Tribal Affairs is expected to undertake an analysis of the Governor's Report and also to examine whether the Report reflects the correct state of affairs in the Scheduled Areas of a State. The Governor's Reports are received in the Ministry of Tribal Affairs where these are examined in a routine manner but are not analysed and the comments of the Ministry are put up to the Minister of Tribal Affairs for his approval whereafter the Governor's Report in respect of each State along with the comments of the Ministry are forwarded to the Secretary to the President with a request to submit it to the President of India. The Governors do not submit the Report directly to the President.

9. The Governors' Reports have become stereo-typed and the preparation of the report has been routinised and that important matters are not being adequately dealt with in these reports. There are serious problems faced by the tribals such as large scale displacement as a result of land alienation and lack of rehabilitation policy which have depleted the resource base of the tribals and have disturbed their traditional lifestyle. There are also problems of tribal – forest interface and many such problems that have largely contributed to widespread discontentment and emergence of sporadic tribal unrest in a number of States. Briefs on law and order problems, political matters, naxalite movement, insurgency problem and tribal unrest etc. do not find place in the Governor's Report despite the fact that the format devised for the Governor's Report is structured to cover all such matters apart from the state of tribal development and tribal welfare. The reports cover only development matters **The fact of the matter is that the present trend of Governor's Report development has reduced the importance of the report itself with the result it has failed to achieve the object as envisaged in the Fifth Schedule.**
10. The Ministry of Tribal Affairs in its reply to the questionnaire said that these Reports are of a routine nature, and in fact, it is practically treated as a departmental report at all levels with the result the object of having the Governor's Report as intended under the provisions of the Fifth Schedule has not been fully achieved.

#### 11. **Recommendations**

- (i) **The Commission has observed that the States have not been submitting reports regularly and some of them have not sent the reports for a number of years. It is recommended that in the cases where the Governor's report do not reach within 6 months of the closing of the financial year, instructions should be sent invariably to the defaulting States to submit the report by extending the time for the reporting. If it is necessary the Union Government should not hesitate sending a Mission**

from the Tribal Affairs Ministry to assess the state of the administration in the Scheduled Areas and make a report to the President of India.

- (ii) The format does not appear to be a rigid one which is good as this would help the Governors having vast powers under the Fifth Schedule to report on all aspects of tribal development/welfare and tribal affairs particularly the important problems faced with regard to the administration of the Scheduled Areas.
- (iii) The Commission is of the view that any reference received by the Governor of a State by way of petition, suggestion, advice or recommendations received from the individuals and a cross-section of people, may be referred to the Council of Ministers with a direction to examine and undertake a feasibility exercise on the suggestion, advice and recommendations etc. and to report. This in itself is a purposeful exercise and the outcome of which can form part of the Governor's Report.
- (iv) The appraisal of the Report may require inter-Ministerial consultations/interaction on various projects and programmes which concern the various Ministries. The scrutiny done of the processing of the Governor's Report shows that the inter-ministerial consultations/interaction are not being undertaken before the Report is finally presented to the President.
- (v) Even though the Report is labelled as a routine Report by the State Governments/Ministry of Tribal Affairs, it can still serve a purpose if it describes objectively the actual status of the tribal development/welfare and the state of the tribal economy. The evaluators of the Report in the Government of India can have a fair idea of the state of the things in the Scheduled Areas on all aspects of tribal development and tribal affairs which can form the basis for tribal policy development and even for giving directions to the States by exercising the executive powers of the Union under the provisions of the Fifth Schedule.

- (vi) The Commission recommends that the Governor's Report received on a prescribed format should be thoroughly examined and appraisal done of the material presented in the Report, and in the process, the Government of India can interact with the concerned State Governments, if found necessary for seeking clarification. It can even make references to the State Government for a detailed Report from the Governor on certain matters/issues such as working of the Constitutional safeguards, Regulations on land transfer, Laws against land alienation and indebtedness and working of the excise policy etc.
- (vii) If the Governor's Report is silent about the observations and advice of the Tribes Advisory Council, it can be sent back to the State Government concerned for placing it before the Tribes Advisory Council, as the TAC being an important forum to project tribal opinion which forms the basis for tribal development policy. The advice tendered by the non-official Members of the TAC carries the voice of the tribal people. Their advice on any matter cannot be ignored or brushed aside. We are of the view that the State Government should consider and act upon the advice of the TAC where it is found feasible to do so within the framework of the Constitution and laws enacted. Similarly, where the Report does not speak about the status of the operationalisation of laws and regulations to protect the interests of the tribals under para 5 of the Fifth Schedule, the President may call for a Supplementary Report from the Governor of the State concerned on this important aspect.
- (viii) The Governor's Report should invariably contain a brief on law and order problems, naxal movement, insurgency problem, tribal unrest and political matters apart from the state of tribal development and tribal welfare, and also on the operationalisation of the Constitutional safeguards for the protection of the interest and rights of the tribals in their land resources, habitats, economy and cultural affairs etc., the Commission observed.
- (ix) We recommend that the Union Government having the powers to give directions with regard to the Administration of the Scheduled Areas take

corrective measures to curb the proclivity of the States to abdicate the responsibility assigned to them for peace and good government of the Scheduled Areas and routinise the report.

- (x) The Commission recommends that the Governor's report may be processed in the Ministry of Tribal Affairs in consultation with the Ministry of Home Affairs also for better co-ordination.
- (xi) The time has perhaps come now that the Union Government may like to examine the manner in which the Governor's Reports submitted to the President can really work as mirror to reflect the correct state of affairs in the Scheduled Areas of the State and that necessary guidelines can be formulated as per our recommendations in this report for the States to prepare the Governor's report objectively with all sincerity to protect the interests of the tribals and welfare of the Scheduled Tribes. It is important that these reports apart from describing the state of economic development should also contain a brief on law and order situation, the problem of insurgency and militancy and about tribal unrest, if any, in the Scheduled Areas. A brief be given also on operationalisation of the Constitutional safeguards to protect the interests of the tribals in their indigenous faith, culture, custom and traditions embodied in the customary laws. We believe unless there is a correct reporting done about the sensitivity that is emerging in certain tribal habitats on account of lurking fear the tribals have about the cultural invasion from outside and the exploitative control over the tribal economy and the land resources from outside, nothing tangible can be done for the peace and good governance of the Scheduled Areas. The Union Government may also like to order a scrutiny as to why the planned development has not reached the tribal people in all these years despite adequate plan funds flow to the Scheduled Areas in the States of the Central India particularly, and also about the inapt application of the provisions of the Fifth Schedule and other Constitutional safeguards for the tribals, all of which have largely contributed to the spread of sporadic tribal unrest and naxal movement.

- (xii) The Commission recommends that necessary provision may be made in the paragraph 3 of the Fifth Schedule requiring the Governor's Report to be laid before the Vidhan Sabha.
- (xiii) The Commission recommends that the Governor may submit the report directly to the President instead of forwarding it to the Ministry of Tribal Affairs which in practice has routinised the whole process of report making.

## **B. Tribes Advisory Council (TAC)**

1. Part-B of the Fifth Schedule to the Constitution provides for setting up of Tribes Advisory Council in the States with tribal population and these provisions read as under:-

**"Tribes Advisory Council.** – (1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State;

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.

(3) The Governor may make rules prescribing or regulating, as the case may be, -

- (a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;

- (b) the conduct of its meetings and its procedure in general; and
- (c) all other incidental matters."

The framers of the Constitution thought that the TAC should be of great importance. The Excluded and Partially Excluded Areas (Other than Assam) Sub-Committee of the Advisory Committee (Constituent Assembly of India), in its Interim Report, paragraph 15, said that "to exercise special supervisory functions therefore and to bring to the attention of the Provincial Government from time to time the financial and other needs of the ab-original areas, the working of the development schemes, the suggestions of plans, or legislative or administrative machinery, it is necessary to provide by statute for the establishment of a Tribes Advisory Council in which the tribal element is strongly represented".

2. There are 26 States with tribal population in the country. All the States having the Scheduled Areas (at present 9), excepting the State of Jharkhand, have set up Tribes Advisory Council during the years between 1950 and 2003. As a result of re-organisation of the States in Central India, the Scheduled Areas (State of Chhattisgarh, Jharkhand and Madhya Pradesh) Orders 2003 were notified. In fact, the State of Chhattisgarh had set-up the Tribes Advisory Council in the year 2000 soon after its inception as a new State. Some of the States having Scheduled Tribes but not Scheduled Areas therein have set-up Tribes Advisory Council under the provisions of the Fifth Schedule to the Constitution. The State of Kerala has a State Tribes Advisory Board similar to TAC. The tribal States like Nagaland and Arunachal Pradesh having the preponderance of tribal population with over 80% population belonging to the Scheduled Tribes, do not consider it necessary to set-up the Tribes Advisory Council.

### **Membership of the Tribes Advisory Council (Composition of the Tribes Advisory Council):-**

3. As per the provisions of the Fifth Schedule the strength of the TAC should not exceed 20 Members of whom as nearly as may be  $\frac{3}{4}$  i.e. not exceeding 15



Members shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State. This leaves only 5 seats for the non-official Members of the Scheduled Tribes. The States which have constituted TAC have the rules prescribing or regulating, as the case may be – the mode of appointment of the Chairman and all the Members of the Council; and for the conduct of its meetings and its procedure in general; and all other incidental matters. In some States the Chief Minister has been made the Chairperson of the TACs with the Minister-in-charge Tribal Development/Tribal Welfare as Vice-Chairperson, while in others, the Minister-in-charge of Tribal Development/Tribal Welfare has been made Chairperson. Where the Chief Minister is the Chairperson and Minister-in-charge, Tribal Development/Tribal Welfare either as Vice-Chairperson or Member, there only 3 seats are available for non-official Members from the Scheduled Tribes. In the States with larger tribal population where there are 15 Members representing the tribal constituencies, the membership of the non-official representatives from the Scheduled Tribes is reduced to 3 only.

4. In the State of **Orissa**, the composition of the membership of the TAC is:- 15 MLAs, Chief Minister of the State, Minister-in-Charge of the tribal development, 2 MPs representing tribal constituencies and 1 woman Member belonging to ST community nominated. That means the only non-official Member taken on the TAC is a woman belonging to ST community. The State of Orissa has the substantial tribal population of STs and the object of having the Tribes Advisory Council is not served by nominating only 1 woman Member amongst the non-official Members from the representatives of the Scheduled Tribes.
5. The TAC in the State of **Chhattisgarh** consists of 25 Members of which 21 are the MLAs, 2 MPs (Lok Sabha), Chairman of Scheduled Tribes Commission of Chhattisgarh with Secretary, Tribal Welfare as its Member Secretary. There are no non-official Members representing the tribal people. The composition of the TAC in Chhattisgarh defeats the very purpose of having the TAC to enlist advisory inputs from non-official tribal representatives. Chhattisgarh having Scheduled Areas is expected to have the TAC set-up as per provisions of the Fifth Schedule.

6. Similarly, in **Rajasthan** during the year 2002-03, there were 19 Members of TAC including Chairman and Deputy Chairman with 13 MLAs, 3 officials and 1 NGO representative who is a non-tribal. No purpose is served having this type of membership where there are no participation from the non-official Members belonging to the Scheduled Tribes.
7. In **Madhya Pradesh**, the Tribes Advisory Council has 22 Members composition of which is – Chief Minister as Chairman, Minister-in-charge as Vice-Chairman, 17 ST MLAs, Chairman of Scheduled Tribe Commission and 2 Non-Official Members. The Membership of the TAC is more than that prescribed in the Fifth Schedule.
8. It is only in the State of **Himachal Pradesh** that there is a greater participation of non-official representatives in the Council which adequately fulfils the object of having the TAC.
9. There were views expressed before the Commission that non-official Members should constitute around 50% to allow representation from various tribal belts/regions in the States. In a State like Himachal Pradesh, there are only 3 MLAs representing the tribal constituencies and that leaves enough seats for non-official representatives covering various regions/tribal belts of the State.
10. Uttaranchal which has not yet set-up a TAC has only 1 MLA representing tribal constituency.

Some of the States with Scheduled Areas in the country have the strength of the MLAs representing the tribal constituencies close to 15 or more.

### **Term of Office and the eligibility criteria for the non-official Members**

11. In many States, the rules do not provide for a definite term of office for the non-officials. In practice, the term of the Council ends with the call for the general elections, and the TACs are re-constituted on the formation of the new Government in the State. However, as per the rules of the Andhra Pradesh, the term of office shall ordinarily be 3 years with the proviso that (a) a Member of

the Legislative Assembly shall vacate his office in the Council, if he ceases to be a Member of that Assembly. (b) a Member of the TAC shall cease to hold office, if he absents himself from three consecutive meetings of the Council, or (c) if a Member resigns his office by giving notice in writing to the Government.

### **Mode of appointment**

12. As per the Rules, in all States, non-official Members are appointed by nomination. There were also views expressed by some of the TAC Members and some tribal leaders as well in the States visited by the Commission that the non-official Members should be taken on to the TAC through direct elections held locally which would require proportionate distribution of the seats in the Scheduled Areas. There were others who opposed the direct election to the TAC as this would unnecessarily create a division in the community disturbing the peace and harmony in the areas as has been experienced in the Panchayati Raj elections. The provisions of the Fifth Schedule and the rules made by the States provide that the appointment of the Members shall be made by the Governor of the State by notification in the official gazette. In practice, the non-official Members are appointed by the political government.

### **Duties and functions assigned to the Tribes Advisory Council**

13. As per the provisions, para 4(2) of the Fifth Schedule of the Constitution "it shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor". Para 4(3) reads as under:-

- "(3) The Governor may make rules prescribing or regulating, as the case may be, -
- (a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;
  - (b) the conduct of its meetings and its procedure in general; and
  - (c) all other incidental matters."

14. In the first place, there have been complaints made by some Members of the TACs that the State Governments do not refer any or the important matters to the TAC for its advice. The Members of the TAC have the opportunity to express their views and tender advice only during the meetings of the TAC held twice or thrice on small and routine subject matters as is the practice in most of the States. The policy issues rarely find place on the agenda items of the TACs. Some Members have alleged that no advice is taken on important legislative measures proposed concerning socio-economic development and tribal affairs etc. In most States, it appears from the records as well as from the interaction with the tribal leaders that no major policy proposals and recommendations on the tribal policy, development policy were submitted by the TAC in all these years.
15. However, in the recent years, a few specific issues were referred to the TACs in different States for their advice which are of some importance. In **Andhra Pradesh**, advice of the TAC was sought in respect of proposal to declare Gudemarri Pakala Wild Life Century. During the course of discussion, TAC sought for the rehabilitation programme to be taken up in its meeting held on 28.10.2002 on the subject. There had been instances when the official Members and non-official Members in Andhra Pradesh differed in their views. The State Government reported that in the meeting of the TAC held on 23.12.1988 non-official members disagreed with the views of the official Members on an important subject of regulating land transfers in the Scheduled Areas. However, in the meeting held on 20.07.1995, a decision was taken by all Members unanimously resolving not to amend Andhra Pradesh Scheduled Areas land Transfer Regulation. Again in the meeting held on 29.06.1996, a decision was taken to amend the Andhra Pradesh Scheduled Areas land Transfer Regulation, 1959 to declare the land purchased in the name of tribal woman married or kept as concubine by a non-tribal man as null and void.
16. The TAC of **Andhra Pradesh** had suggested several times certain issues pertaining to protection and advancement of Scheduled Tribes, for instance, electrification of tribal hamlets checking illegal adoption of tribal children,

stopping allocation of house sites to non-tribal in the Scheduled Areas etc. There has been no evaluation done and there are no reports whether any effective measures have been taken to implement these suggestions. The State Government of **Andhra Pradesh** in its replies to the Questionnaires admitted that even though TAC has been active but its impact on tribal communities is not clearly visible.

17. One important issue placed before the TAC in the State of **Orissa** related to the rights of the tribals on forest land those relating to pre-1980 occupation of forest land. In the TAC meeting this issue was discussed and the compliance on the decision taken were confirmed in their subsequent meeting dated 03.05.2002. However, there are no reports about the actual implementation of these decisions and its positive impact on the target groups have not been assessed nor the Commission had the opportunity to assess the status of the decision and its impact on the target groups. The State has, however, replied that the issue of settlement of the forest land occupied by the tribal remained unresolved. There is one silver lining in respect of Orissa i.e. that the new NTFP Policy of the State Government in the year 2000 is an example of the role played by the TAC for promoting the development interests of the tribals.
18. In the State of **Chhattisgarh**, the State Government accepted the TAC proposals to increase the rates of scholarship and stipends to the STs. A new Excise Policy was promulgated for the tribal areas of the State. TAC proposed to provide land to the displaced tribal farmers on land acquired by the Government for any purpose. The State Government has not replied with certainty whether this was actually implemented by the State Government. The Scheduled Tribes Finance and Development Corporation of the State was set-up on the suggestions made by the TAC. The State Government reported that the TAC passed a resolution against the privatization of Bharat Aluminium Co. Ltd. It was not accepted and the company was privatized.
19. In the State of **Rajasthan**, there was no specific proposal/advice made by the TAC on any subject of importance, on a scrutiny of the replies on the subject received from the State. The State Government stated that issues like total

prohibition in the Scheduled Areas; and to allocate 5% reservation to the tribals of Scheduled Areas out of the 12% reservation in the State as proposed by the TAC were still unresolved for long. The Commission during its visit to the State observed that TAC was not consulted on the enactment of laws affecting the tribal interests.

20. In the State of **Gujarat**, the State Government has not specified any specific advice or proposal received from the TAC on any subject of importance.
21. In the State of **Madhya Pradesh**, the proposals for the implementation of various Acts or other Amendments pertaining to Scheduled Areas are placed before TAC. The agenda items on the collection and marketing of tendu leaves, minor forest produces etc. are placed before the TAC for consideration. But, there are no specific instances mentioned by the State about the actual implementation of the advice tendered by the TAC in the matter.
22. The replies from the States to the Questionnaires sent to them and from the interaction the Commission had with some of the Members of the Tribes Advisory Council in different States show that the Tribal Sub-Plan – Five Year or Annual – are not placed before the TAC. However, in some States TAC Members are consulted at ITDP level during the exercise undertaken for formulating TSP.

### **National Tribes Advisory Council (NTAC)**

23. Many State Governments have expressed views that the National level TAC should be set-up and it should have the advisory role to resolve the common problems and issues affecting tribal population in different States which can be addressed in more focused manner only by a National level Council. Such an Institution at National level will help coordination and interaction among the States and that the success stories of one State can be replicated in other States also. The State admitted that there are a number of policy interventions which are concluded at the National level only including legislation affecting tribals of the country. The tribals are in minority in most of the States and the State Governments tend to avoid making departure in general policy for the

tribals due to political pressures and compelling priorities. In that situation the voice of the tribals do not reach the Government of India.

However, there is National Commission for Scheduled Tribes set up under Article 338 of the Constitution which has the specific task assigned to advice, among other things, on the planning process of socio-economic development of the Scheduled Tribes and to make recommendations as to the measures that should be taken by the Union or any State for effective implementation of the Constitutional safeguards etc.

#### **24. Recommendations**

- 1. The Commission recommends that the States and the Union Territories with the tribal population should have the Tribes Advisory Council set-up strictly as per the provisions of the Fifth Schedule of the Constitution. Necessary provision may be made in the paragraph 4 of the Fifth Schedule for setting-up TAC in the Union Territories with tribal population.**
- 2. The Commission observed, on interaction with the tribal development authorities and the TAC Members and MLAs, that there is an advantage of having the Chief Minister as Chairperson to have all problems solved and all impediments removed for the smooth functioning of the mechanism set-up for the implementation of the tribal development and welfare programmes to achieve the desired object of a faster economic development, as the tribal development concerns almost all the sectoral Departments.**
- 3. The Commission is of the view that serious thought need be given by the States having the Scheduled Areas about the composition and mode of appointment of the TAC Members. The Commission found that there was no intervention by the Central Government, Ministry of Tribal Affairs by way of guiding the States in the formation of these Councils. There should have been proper directions issued to the States having the Scheduled Areas particularly for the strict**

implementation of the provisions of the Fifth Schedule with regard to the composition of the Council.

4. In view of the facts stated as above, the Commission recommends that there should be some flexibility provided for the composition of the TAC. Where there are 15 or more MLAs representing tribal constituencies, their appointment may be made by rotation with 2 to 3 years term. The Commission further recommends that the MPs representing the tribal constituencies may be invited to attend meetings of the TAC but without a voting right. This arrangement will allow representation to all shades and hues of opinion from different tribal regions, belts in a State.
  
5. There is a great advantage in having the presence of the Chief Secretary, by virtue of his office, in the meetings of the TAC he being the Chief Coordinator of planning and development works executed by various sectoral Departments in the States. Similarly, the Secretary and the Commissioner/Director-in-charge, Tribal Development/Tribal Welfare have to attend the meetings of the TAC by virtue of the office they hold without being formally made Members of the TAC. The Secretary to the Government may also attend the meetings of TAC as an invitee. These measures proposed for the rationalization of the composition of the TAC would provide greater scope for the appointment of non-official representatives. The MLAs and MPs have the role assigned on a number of forums to contribute towards tribal development/welfare and to oversee the implementation of the Constitutional safeguards to protect the interests of the tribals. The Tribes Advisory Council is a forum where the non-officials should have the greater participation so as to elicit the opinion of the tribal people from different areas/regions in a State. In fact, the object of having a TAC is to enlist the advice particularly of the non-official tribal Members who are expected to come up with independent views/suggestions as inputs for the decision making process



concerning all aspects of tribal development, tribal welfare and tribal affairs. The above recommendations are based on the ground realities assessed and the views taken by the Commission from the tribal leaders, social workers and public representatives.

**6. The Commission further recommends as under:-**

- (i) That there should be a tenure of the Member fixed which should ordinarily be 3 years on the pattern of rules notified by State of Andhra Pradesh.**
- (ii) Further, present practice of having the TAC re-constituted with the formation of a new Government in the State needs a review. That in respect of non-official Members representing the Scheduled Tribes, the rule must provide that they should complete their 3 years term. This will provide continuity and permanency to the TAC. In that the non-official Members with a fixed tenure will find membership in the TAC re-constituted after the general elections when the new MLAs are appointed as Members. This also helps remove complaints often made by the non-official Members that with the change of Government they cease to be Members of the TAC.**
- (iii) Given that the TAC is neither a social organization nor a political forum, there should be no ambiguity about its being an advisory forum. There are other fora/Committees at the District level for the redressal of the grievances and that each routine matters/issues are solved by the Panchayati Raj Institutions. It is, therefore, recommended that the non-official Members of the TAC should have the formal education and that only the eminent tribals with some expertise in socio-economic and cultural affairs be taken on TAC, as the duty assigned to them is advisory in nature on various subject matters. The non-official Members of the TAC should have genuine interest in the social work and public welfare.**

7. The Commission recommends that the existing mode of appointment of Members by nomination may continue and there is a need to have the elections to fill the seats of non-official Members considering the duties assigned to them under the provisions of the Fifth Schedule of the Constitution which duty can be performed satisfactorily only by eminent non-official tribal Members with expertise in socio-economic development, cultural affairs and having genuine interest in some work and who can be appointed practically only by nomination.
8. The Commission recommends that:-
- (i) Although the Members may on their own tender advice on any subject yet a provision need be made to allow the Members to advise on matters other than those referred to them.
  - (ii) There should be a mechanism devised for the consultations with TAC or for taking their advice before the laws, rules and regulations affecting the tribal interests are promulgated/passed by the Legislative Assembly/Parliament and the Council of Ministers.
9. The Commission recommends that the Tribal Sub-Plan proposals – Five Year as well as Annual – should be placed before the Tribes Advisory Council for their advice. The State Governments should not feel shy of consulting of Tribes Advisory Council in the matters such as formulating Five Year Plan as well as Annual Plan which, exercise in fact, should be open and transparent. Maximum possible efforts should be made to elicit opinion/views and enlist the advice of the TAC on tribal development and tribal welfare and all that has to be done in the interest of the tribal people. It is also recommended that the TAC should have the Standing Committee set-up to look after the interests of tribals in Land, Forest, Health, Education etc.

10. The TAC should be made a forum to adumbrate a perspective and a vision for the future of the tribes in the States and that the tribal opinion should form the basis for formulating the socio-economic development policies and also for the legislative measures to be taken for the protection of the interests of the tribals, the Commission observed.
11. The Commission recommends that the Tribes Advisory Council being an important advisory body needs strengthening and it should enlarge its operation beyond the routinised process of its functioning, as this institution has tremendous role to play making TSP programmes successful apart from advising the State on measures to be taken for peace and good governance of the Scheduled Areas as well as of the tribal habitats outside the Scheduled Areas.

### **C. Powers and Functions of the Governor under paragraph 5 of the Fifth Schedule**

1. The Fifth Schedule to the Constitution confers powers on the Governor of a State having the Scheduled Areas to regulate application of the laws of the State and Acts of Parliament to the Scheduled Areas. Paragraph 5 (1) of the Fifth Schedule reads

“Notwithstanding anything in this Constitution the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this subparagraph may be given so as to have retrospective effect.”

These provisions empower the Governor to reserve application of any particular Act of Parliament or of Legislature of the State to a Scheduled Area or he can modify them in their application to a Scheduled Area even with retrospective effect. These are very wide powers exercisable without taking a recourse to any

legislative amendments. But, the Governors have rarely exercised these powers. There are instances where laws of the Parliament or of the Legislature of the State have not been made applicable to the Scheduled Areas or to certain tribal communities declared as Scheduled Tribes primarily to protect the customary laws and social and religious practices of the tribal communities.

2. The Fifth Schedule assigns special responsibilities to the Governor for ensuring peace and good government of the Schedule Areas. Paragraph 5 (2) of the Schedule runs as follows:-

"The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may –

- (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;
  - (b) regulate the allotment of land to members of the Scheduled Tribes in such area;
  - (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.
- (3) In making any such regulation as is referred to in sub-paragraph (2) of this paragraph, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.
- (4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.
- (5) No regulation shall be made under this paragraph unless the Governor making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council."

3. Under paragraph 5(2) also the States have regulated the subjects like transfer of tribal land and the business of money-lending by framing regulations or by enacting laws or by modifying the existing regulations and Acts in their application to the Scheduled Areas. The allotment of land to the members of the Scheduled Tribes in the Scheduled Areas is regulated usually under the executive orders.
4. The First Scheduled Areas and Scheduled Tribes Commission had suggested a study of these protective laws/regulations made in pursuance of the provisions of the Fifth Schedule in order to plug the loopholes in them and make laws subserve the object to operationalising these Acts and regulations. This suggestion was prompted by the fact of there being loopholes in the relevant Act regulating business of money-lending and to prevent the money-lenders take undue advantage of these loopholes. Unfortunately, the recommendations of the said Commission in this regard have not been implemented in letter and spirit in all these years. During the interaction this Commission had with the State Governments some of them had admitted that there have been lapses in the implementation of the Acts and Rules regulating the money-lending and transfer of land etc. resulting in land alienation which had increased in number manifolds in all these years. There have been cases of "benami" transactions in all these years where non-tribals have taken the possession of the tribal land and the restoration of such alienated land legally did not arise because the ownership of such land is in the name of the tribals. Shilu Ao Committee had in fact pointed out way-back in 1969 that no serious attempt had been made to plug the loopholes in the Acts regulating money-lending. These protective provisions in the Acts and Rules have remained ineffective all these years and perhaps these will never be effective in future as well if we go by the trend analysis made.
5. The States have in fact either made the existing laws applicable in a modified form to adequately protect the interest of the Scheduled Tribes or they have enacted separate laws to regulate these subjects. In most cases the existing laws/regulations have been made applicable in a modified form. Even the laws/regulations of other States have been adopted. For example, the Chapter

X of the Assam Land and Revenue Regulations 1886 has been adopted in a modified form by many States in the North-Eastern region with tribal population. The Commission had the impression that there is hardly any case where any Governor had initiated a proposal to make such regulations for their application to the Scheduled Areas. Where the initiative for enactment of such laws comes from the State Government, it is welcomed as this would help build healthy convention and would in fact be desirable in a democratic set-up. After all the elected Government of the State has the mandate of the people.

6. The laws and regulations are protective in their nature but the important thing to examine is how these are operationalised; whether these have helped achieve the object of enacting them. The Commission was told by the State during its interaction with them that the Laws, Acts and Rules in operation are adequate to protect the interests and rights of the Scheduled Tribes. In our reports on the States these claims were not found quite fully justified. However, we believe that these protective measures have had some impact on the life and economy of the tribals and that the desired object of operationalising them has been achieved to some extent but not to an extent to the full satisfaction of the tribals of the country. Even where these have not been fully operationalised, these protective measures codified have had deterrent effect which helped achieve the desired object to an extent.
7. Under the provisions, para 5 of the Fifth Schedule the Governor must act in his own judgment when the advice of the Council of Ministers in its initiative taken for framing regulations/laws is not in accord with the regulations/laws the Governor wants to make.
8. The State Government concerned during their interaction with this Commission were unable to readily confirm whether there had been any case where the Governor had on his own made regulation or carried out modifications in the Acts of Parliament or of the State Legislature in their application to the Scheduled Areas.
9. The provisions of the para 5 of the Fifth Schedule are not limited to transfer of land, business of money-lending or the allotment of land to the members of the

Scheduled Tribes only. As per the provisions under para 5 (2), the Governor can make regulations on any subject or in any matter where such a regulation is essential for peace and good government of a Scheduled Area. There is one important subject of **trade and commerce** which is as important as the transfer of land where a regulation under the paragraph would be necessary to regulate the trade and commerce in the Scheduled Areas to protect the interests of the Scheduled Tribes.

10. In many States the process of institutional build-up for the operationalisation of the protective measures and even for the implementation of development strategy, the programmes and projects for the socio-economic development of the tribals are still in the making.
11. We believe the role that the Governor has been assigned under para 5 (1) and (2) as a modifier of the Acts and regulations of the State as well as of Parliament in their application to the Scheduled Areas should be effectively undertaken by the Governor to achieve the desired object i.e. to protect the rights of the tribals and for the peace and good governance of the Scheduled Areas. He has the powers to *ab initio* make regulations and getting them enacted and make them operational with the prior assent of the President which in our opinion is a continuous process. The proposals for the modification of the existing laws/regulations or to initiate new ones may come from the Tribes Advisory Council or from the cross-section of the tribal people or it may be initiated by the State Legislature or the Parliament which in fact, has been the conventional practice in the past rendering the role of the Governor under para 5 of the Schedule merely a routinised practice by applying the procedure under Article 163 of the Constitution.
12. While going through the report of the **Committee of Governors** on certain aspects concerning the Welfare and Rights of the Scheduled Castes and Scheduled Tribes, we found that the said Committee had very well observed in their Report to the Government of India submitted in April, 2001, which we feel necessary to quote here:-

"The present experience in all States is that the Governors have not exercised any significant role under the Fifth Schedule and wherever this has been so exercised it has been on the advice of the Council of Ministers."

13. The said Committee sought the advice of the Attorney General of India on the interpretation of the role of the Governor and the exercise of his powers under the Fifth Schedule. The relevant extracts from the Attorney General, Shri Sorabjee's advice on the subject as contained in the said report are as follows:-

"Under our constitutional scheme, as a general rule the Governor acts on the aid and advice of the Council of Ministers and not independently of it. The general rule is departed from in respect of certain functions to be performed by the Governor where the Constitution expressly provides that the Governor may act in his discretion. [the Sixth Schedule, para 9(2); Art. 371A(1)(d); Art. 371A(2)(b); Art.371A(2)(f)] or in his individual judgement [Art. 371A(1)(b)] or independently of the Council of Ministers. [Art.239(2)]. There are certain functions which from their very nature necessitate departure from the general rule. e.g report of the Governor to the President under Article 356 of the Constitution [Shamsher Singh V. State of Punjab, (1974) 2 SCC 831 at page 878 para 139 and page 885 para 154]."

"There is no provision in the Fifth Schedule of the Constitution which expressly empowers a Governor to act in his discretion independently of or contrary to ministerial advice. The Sixth Schedule of the Constitution contained such a provisions in para 18(3) – which has been subsequently deleted – and para 9(2) of the Sixth Schedule provides that the matters mentioned therein will be determined by the Governor "in his discretion". The omission of any such provision in the Fifth Schedule empowering the Governor to act in his discretion or in his individual judgement is significant."



"In my view, the Governor in discharge of his functions under the Fifth Schedule is required to act on ministerial advice and not independently of it."

14. In the light of the Attorney General's view, the said Committee of Governors was of the view that there being no provision under the Fifth Schedule for the Governor to act in his discretion the general principle of acting on the advice of the Council of Ministers seems to be binding on the actions of Governor under the Fifth Schedule. The said Committee was also of the view which is quoted here:-

"It may therefore be desirable to set at rest any ambiguity about the role of the Governors in the Fifth Schedule."

15. It is evident from the Constitutional safeguards provided in the Constitution particularly the provisions of the Fifth Schedule that the protection of the interests and rights of the Scheduled Tribes have been intended to be placed on a special footing in view of their remoteness, isolation, backwardness and distinct socio cultural character. There are no two views that the tribal communities although have benefited to some extent from the planned development and special protective measures taken for the socio-economic development and for their upliftment, yet they continue to lag behind the other communities. The Constitutional safeguards act as the frame for the policy formulation and implementation. These protective provisions particularly those of the Fifth Schedule need to be viewed in that perspective i.e. as a departure from the general or usual run of the Constitutional provisions.

16. The advice of the Attorney General presumably based on the Article 163 is a normal procedure followed by the Governor in exercise of his functions *except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion*. The words in italics may be noted. They enable departure from the normal procedure followed by the Governor in the event (a) where under the Constitution he is required to exercise his functions and (b)

where he can in his individual judgment exercise his discretion about the action to be taken which may run contrary to the advice of the Council of Ministers. There is a specific requirement of the Constitution for the Governor to act in the circumstances mentioned in the paragraph 5 (1) and (2) of the Schedule. On a plain reading of paragraph 5 of the Fifth Schedule that is untrammelled by the conventions and practices governing Article 163 one may take the view that Governor has been empowered through issue of public notification to (a) reserve of application of any particular Act of Parliament or of the Legislature of the State to a Scheduled Area or any part thereof in the State, (b) introduce a modifier by which he may specify exceptions and modifications in the notification in such laws in their application to a Scheduled Area and any direction that may be given so as to have retrospective effect. These are, undoubtedly extraordinary powers conferred on the Governors in respect of Scheduled Areas by the Constitution. These measures empower the Governor to effect redressal in case a legal enactment of Parliament or of the State Assembly adversely affects the tribal interests.

17. There is no explicit provision made in the Schedule requiring the Governor to act on the advice of the Council of Ministers. Whereas it is mandatory for the Governor to consult the Tribes Advisory Council while bringing modifications in the existing laws of the Parliament or of the State Legislature in their application to the Scheduled Areas and in making the regulations for the peace and good government of the Scheduled Areas. The Commission has interacted with a number of eminent persons who have had deep understanding of the tribal affairs and rich experience in respect of tribal development and operationalisation of the provisions of the Fifth Schedule to the Constitution. The Commission also had interaction with the tribal leaders, non-official members of the Tribes Advisory Councils and with a cross section of the tribal people during its field visits to the States having Scheduled Areas. The general opinion formed on the basis of the plain reading of the provisions of the para 5 (1) and (2) of the Fifth Schedule to the Constitution and the consultations and interaction the Commission had on the subject as described supra is that the Governor is competent to act decisively to protect the interests of the tribals

without being advised by the Council of Ministers and that he can in his judgment exercise his discretion. Subjecting it to the general principle under Article 163, where he is bound to act on the aid and advice of the Council of Ministers may not be in consonance with the letter and spirit of the para 5 of the Fifth Schedule. Both para 5 (1) and 5 (2) of the Schedule harmonise mutually and reflect the concern of the architects of the Constitution for the Scheduled Tribes. Both are in their very nature, specific and extraordinary provisions. As such, perhaps, as per the jurisprudence they should override the general provisions.

18. In view of the fact that there is no provision in the Fifth Schedule similar to paras 20 BB and 20 BA in the Sixth Schedule expressly empowering a Governor to act in his discretion i.e. independently of the advice of the Council of Ministers, it may be necessary to include in the Fifth Schedule provision conferring powers on the Governor to act as considered necessary "in his discretion". However, there is no bar on the Governor taking the advice of the Council of Ministers in exercising power under paragraph 5 (1) and (2), if he considers it necessary to have the advice of or consultation with the Council of Ministers before deciding anything in his own discretion. Such a consultation perhaps would be necessary in large many cases as, the Scheduled Areas are the integral parts of the State and any specific laws/regulations made for the Scheduled Areas may have their impact directly on indirectly on the life and economy of the people of the State concerned.

19. **Recommendations**

1. **In our opinion, the provisions of the Fifth Schedule have not been utilized to the full extent by the Governors of the States having Scheduled Areas. These protective measures are essential pre-requisites for the success of the Tribal Sub-Plan development strategy, programmes and projects for social and economic development of the Scheduled Tribes.**
2. **The Governors have themselves, generally, not applied necessary modifications in the applications of the regulations/Acts nor there are any**

new ones introduced to strengthen effectivity these protective laws/regulations. The implementing authorities in the States do not have necessary device to appraise and evaluate the efficacies of these protective measures being implemented. While the implementing authorities have taken the 'feel complacent' posture the ground realities are that due to ineffective implementation of the provisions of the Fifth Schedule the tribals have suffered an irreparable loss in all these years, the Commission observed.

3. The Commission recommends that it would be desirable to have a clause inserted under para 2 after clause c which should read:- *(d) regulate the trade and commerce in the Scheduled Areas.*

The object of this provision is to put the native tribals in command over trade and commerce in the Scheduled Areas through necessary regulations framed under para 5(2) of the Fifth Schedule to the Constitution. We further recommend that the feasibility of making these provisions applicable to the ITDP Areas outside the Scheduled Areas may be gone into by the Central Government.

4. We recommend that the process of institutional build-up, inter-alia, under the provisions of the Fifth Schedule should be accelerated and that the authorities under the provisions of the Schedule may have pro-active role to play purposefully. We recommend that there should be a Legal Cell set-up in the Tribal Development Department and the task assigned to it should be to appraise the possible impact on the life and economy of the tribes of these legislative enactments already operationalised and the ones which are under consideration by Parliament or the State Legislature. It is not enough to leave this kind of task only to the sectoral Departments which do not have specific responsibilities to appraise and evaluate the impact of the laws and regulations pertaining to the Scheduled Tribes, tribal development, tribal affairs which are multi-dimensional and highly complex in the present day scenario. We further recommend that based on the inputs built-up by the Tribal Development

Department through its Legal Cell, there should be a Committee headed by the Chief Secretary, comprised of other Secretaries-in-charge of the Departments of Law, Home Affairs, Revenue, Forest, Agriculture, Industry, Social Welfare and the Panchayats/Local Self-Government which should be assigned the task apart from monitoring the existing laws and regulations, to undertake appraisal and evaluation of the impact of these Acts and regulations under consideration by the State Legislature or Parliament on the life and economy of the tribes of the State.

5. The Commission after having examined the provisions of the Fifth Schedule and on the basis of the views and opinion taken from a cross-section of the tribal people, tribal leaders, Members of the Tribes Advisory Council, social organisations, tribal development authorities as well during the Commission's interaction with them recommends that – there should be a paragraph inserted at the end of the paragraph 4 and paragraph 5 of the Fifth Schedule which should read as under:-

"The Governor in the discharge of his functions under the Fifth Schedule, shall after consulting the Council of Ministers and the Tribes Advisory Council where there is one, take such action as he considers necessary in his discretion."

These recommendations will require necessary amendment to the provisions of the Fifth Schedule to the Constitution.

6. The Commission is of the view that such a provision made in the Schedule will enable the Governors to exercise a significant role under the Fifth Schedule. The object of these provisions recommended is to empower the Governor to discharge his function in his individual judgement and act as considered "necessary in his discretion" in the matters of paramount importance for the peace and good governance in the Scheduled Areas.

## **The Scheduled Areas**

20. Necessity for these provisions in the Constitution of India for governance of Scheduled Areas can be traced even prior to independence in the Govt. of India Act, 1935 and 1919, Scheduled District Act 1874, Ganjam and Vizagapatnam Act of 1839. The then British Administration had to resort to issuance of Regulation I of 1796, when the Paharias of the Raj Mahal Hills (now in Jharkhand) revolted against landlords. Their revolt continued in 1789, 1801, 1807 and 1808. This followed disturbances among the Kols in 1831. The British had to enact "Ganjam and Vizagapatnam Act in 1839." Within next two decades, Santals revolted in 1855 against oppression of money lenders and landlords, land settlement with non-tribals, dispossession of khuntkatti rights, enhancement of rent, begar (forced labour) and unhelpful attitude of officials. The concept of 'Scheduled Districts' was brought in and the Scheduled Districts Act was brought into force in 1874. The Act provided for Civil and Criminal justice, Settlement and Collection of Public Revenue, Collection of rent and extension of laws to the Scheduled Districts with special restrictions and modifications as deemed fit in the interest of tribal people. Administrative reforms were carried therefore through Regulation XIII of 1883.
21. Tribal unrest was manifested through Sardari Agitation in 1887 in Ranchi area against compulsory labour, periodical contribution and illegal enhancement of rent by landlords. Mundas and Oraons led by Birsa Munda organised agitations in 1895 against landlords, moneylenders and Christian Missionaries. The agitation led to preparation of record of rights to give protection against exploitation by non-tribals, settlement and survey operations. In the Agency areas of Andhra Pradesh uprisings were reported by the Koyas in 1803, 1862 and 1879 against Muttadars (intermediary rent collector) who enforced forced labour, took best lands, and who did not allow tribals to come up. The tribals were even oppressed by the petty officials. The revolts by the tribals spread to East Godavari, Bastar (in 1911) and to Orissa among the Kondhs in 1920. It is during this period that Tana Bhagat mobilized the tribals against exploitation.

Adilabad also witnessed uneasiness in 1941 when the Gonds and Kolams protested against alienation of land and forest rules.

22. Article 244(l) of the Constitution of India provides for the administration of Scheduled Areas and Tribal Areas, which reads as under: -

(l) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than [the States of Assam (Meghalaya, Tripura and Mizoram).]

22.1 Part C of the Fifth Schedule, paragraph 6 reads as under:-

Scheduled Areas- (1) In this Constitution, the expression 'Scheduled Areas' means such areas as the President may by order declare to be Scheduled Areas.

(2) The President may at any time by order – (a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area; (aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

(c) on any alteration of the boundaries of a state or on the admission into union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

(d) rescind, in relation to any State or States, any orders or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas; and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (l) of the paragraph shall not be varied by any subsequent order.

### **Constitution Order**

23. In pursuance of these provisions as described in paras 4 & 4.1 above, the President of India has issued under-mentioned the Scheduled Areas Orders:-

- (i) The Scheduled Areas (Part A States) Order, 1950 (C.O. 9) dated 26.01.1950
- (ii) The Scheduled Areas (Part B States) Order, 1950 (C.O.26) dated 7.12.1950
- (iii) The Scheduled Areas (Himachal Pradesh) Order, 1975 (C. O. 102) dated 21.11.1975
- (iv) The Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 (C.O.109) dated 31.12.1977 [later amended in 2003]
- (v) The Scheduled Areas (State of Rajasthan) Order, 1981 (C.O. 114) dated 12.2.1981
- (vi) The Scheduled Areas (Maharashtra) Order, 1985 (C.O. 123) dated 2.12.1985
- (vii) The Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order, 2003 (C.O. 192) dated 20.2.2003

### **Criteria**

24. First Scheduled Areas and Scheduled Tribes Commission known as the Dhebar Commission had recommended the following criteria for identification of Scheduled Areas:

- i. Preponderance of tribal population,
- ii. Compactness and reasonable size of the area,
- iii. Under-developed nature of the area, and
- iv. Marked disparity in economic standard of the people,

### **Views of State Governments**

25. The State Governments were requested to review the aforesaid criteria in present day circumstances and suggest what should be the norm of percentage of ST population or the range of percentage of ST population to denote 'preponderance'? During the past decades, there has been appreciable influx of non-tribal population into Scheduled Areas, reducing the percentage of ST population, while not altering in any substantial manner the disparity of the non-ST and ST population and the area. In so far as compactness is concerned.



since scheduling implies special administrative arrangements for application of protective and developmental measures, it is an important consideration. In the earlier times, with lower density of population and lower rate of influx of non-tribal population in Scheduled Areas, compact areas were easy to map out. The unit also was larger. The Dhebar Commission recommended a tribal development block as the unit. In the Tribal sub-Plan concept also ITDP/ITDA, Modified Area Development Project approach pockets and clusters of tribal concentration were identified. Now, the significance of the role assigned to Gram Sabha has to be considered in the context of its constitutional mandate as per the 73rd Amendment. Prime-facie, it may be conceded that many Scheduled Areas and areas outside having the concentration of ST population are still under-developed. Their backwardness is visible particularly in the inadequacy of infrastructural facilities generally and inaccessibility in particular. Development of an area may be reckoned in terms of certain norms like agriculture, productivity, irrigated area, road length, etc. A comparison of the parameters of tribal areas with those of areas outside should indicate the level of under-development of the former. Also, there is marked disparity in the economic standards of the people. It is generally agreed that STs are the poorest and the most backward segment of the Indian society. Their mode of agriculture is generally of the unsettled type with shifting or terrace cultivation as an integral part of the economy. It does not commonly rise above the subsistence level. Their animal husbandry is generally of a primitive type. Whatever small or cottage indigenous industry is there, mostly caters to self-consumption. The human development indices, particularly those relating to education and health, place them far below that of the surrounding non-tribal population. Alongside these, exclusiveness and distinctive way of life mark the tribal communities.

- 25.1** The views of the State Governments were sought to suggest whether the aforesaid criteria were adequate and if not what could be added. Should all the Scheduled Areas in the State be co-terminus with the Tribal-sub-Plan areas? Should any new area be included in the list of Scheduled Areas or part

of it cease to be a Scheduled Area? In response to the above, some of the States have expressed their views.

**26. Andhra Pradesh** - The State Govt. has favoured maintenance of status-quo in regard to criteria for the Scheduled Areas. They have sent a proposal for inclusion of 790 villages in the Scheduled Area to the Ministry of Tribal Affairs. The Commission was informed that there was an omission in the proposal (referred to above) of 23 villages of Warangal district and also of six villages of Khammam district, as we have listed them in our report on the State of Andhra Pradesh (See Vol. II)

**26.1 Chhattisgarh** - State Govt. has only 81,669.70 sq. km. of Scheduled Area as against 88,000 sq. km. included in the Tribal-sub-Plan, therefore, they have suggested that Scheduled Area should be co-terminus with that of TSP area and it should cover all the ITDPs, MADA pockets and clusters. A proposal in this regard has been formulated by the State Govt. They have suggested that criteria of 50% ST population and a block being a unit should be modified to slightly less than that proportion and Gram Panchayat should be treated as a viable unit. As regards human development as one of the indices for determining the advancement of any area for exclusion from the Scheduled Area it may perhaps not be a viable because various tribes may be on different footing.

**26.2 Gujarat** - has reported that the existing criteria are adequate and it should be followed. Entire Scheduled Area in the State is co-terminus with the Tribal-sub-Plan area and there is no need to change the existing boundaries and the status-quo be maintained. As regards development of the Scheduled Area viz-a-viz the area outside, efforts should be made to improve the economy of tribals in the Scheduled Areas. In regard to exclusion or retention in the Scheduled Area, the State Govt. was of the view that the criteria should be based on the human development index. The Commission during its visit were given representations by various voluntary agencies and tribal

representatives for inclusion of the following areas in the list of Scheduled Areas:-

1. Danta and Hamirgadh tehsil of the Banaskantha district.
2. Sankheda tehsil of Baroda district.
3. All villages of the MADA pockets i. e. Choriwad, Karoli, Jambughoda and Choriyasi.
4. Cluster of Kathola, Mora, Govindi, Vadali, Bharpur, Ankleshwar, Uttara, Bhatgam, Rahej, Olpada, Palsana, Kamrej, Amod, Ganver, Sisodara Ganesh and Amirgadh.

In so far Danta and Hamirgadh tehsils of Banaskantha district are concerned, these two tehsils were earlier recommended by the State Government to the first Scheduled Areas and Scheduled Tribes Commission. This Commission recommends that the proposals referred to above may be examined by the State Government for inclusion in the list of Scheduled Areas and a suitable proposal thereto should be submitted to the Ministry of Tribal Affairs.

**26.3 Himachal Pradesh** - Scheduled Areas have been notified in the districts of Kinnaur, Lahaul & Spiti, Bharmour and Pangi. However, in Chamba district there are two development blocks - Bhatiyat and Chamba having 55% STs population included in MADA pocket, which is not a part of the Scheduled Area. State Govt. has made a suggestion for inclusion of certain areas as part of the Scheduled Area, as listed in our report on the State of Himachal Pradesh (See Vol. II)

**26.4 Jharkhand** - The State Govt. has informed that existing criteria are alright and no changes are necessary. However, an errata to the existing notification is necessary as two blocks, namely, Mandro and Udhwa of Sahebganj district have not been included although those were earlier part of the Scheduled Area. No area in the State could be deleted from the list of Scheduled Areas.

**26.5 Madhya Pradesh** - With the formation of State of Chhattisgarh out of Madhya Pradesh, Govt. of India has rescinded the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 and has replaced it by a separate Order known as the Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order, 2003. This Order was notified on

20.2.2003. The Govt. of M. P. in their letter dated 16.6.2003 has drawn the attention of Ministry of Tribal Affairs to carryout correction in the spellings of certain districts in their order referred to above. State Govt. has suggested that criteria for determining any area as Scheduled Area should be modified taking into account the following:

- (1) Entire TSP area as it exists today should be declared Scheduled Area.
- (2) All Blocks having more than 40% ST population and all Gram Panchayats having 40% and above ST population should be included in Scheduled Area. State Govt. does not consider any scheduled area in the State, which could be excluded. However, development of any area could certainly be measured on the scale of human development index. A proposal to make TSP area co-terminus with the Scheduled Area is being formulated by the State Govt.

**26.6 Maharashtra** - The Scheduled Areas in the State were originally specified by the Scheduled Areas (Part A States) Order, 1950 (C.O.9) dated 23.1.1950 and the Scheduled Areas (Part B States) Order, 1950 (C.O.26) dated 7.12.1950. With the introduction of the Tribal-sub-Plan (TSP) strategy the Scheduled Areas were enlarged and were re-specified under the Scheduled Areas of Maharashtra Order, 1985 (C.O.123) dated 2.12.1985 after rescinding the orders of 1950. The State Govt. has not suggested any modification to the existing criteria.

**26.7 Orissa** - State Government has opined that there should not be unnecessary tinkering with the Scheduled Areas. The Scheduled Areas have been generally accepted and should be allowed to continue as such with minor adjustments wherever absolutely necessary. The existing criteria are adequate. The percentage may continue to be 50%, but to eliminate the adverse influence of influx of non-tribal population to the Scheduled Area, the population living in municipal areas within the Scheduled Areas should be excluded from the calculations, but Municipalities and Notified Area Councils in Scheduled Areas as such must form a part of the Scheduled Area within which they are situated. The Scheduled Areas of the State are by and large co-terminus with TSP

areas. Only a small area of 912.00 sq. km in Suruda Tahasil of Ghumusur sub-division in Ganjam district which forms a part of the Scheduled Area is not included in any TD block and hence is not part of the TSP area. The Scheduled Areas declared in the Presidential Order, 1977 cover 118 Blocks out of 314 blocks of the State. Meanwhile some more Blocks having 50% tribal population have been identified for considering inclusion in the Scheduled Areas. As per the present criterion tribals forming 50% of population living in a compact area comprised in one or more block. Tileibani Block of Deogarh district. Laikera and Kirimira Blocks of Jharsuguda district, qualify to be declared as Scheduled areas. These three Blocks adequately meet the criteria relating to under-development and marked disparity in the economic standards of the people

**26.8 Rajasthan-** At present, existing Tribal-sub-Plan area is co-terminus with the Scheduled Area. State Govt. hold the view that criteria of backwardness should include ST female literacy, availability of safe drinking water, health and electrification facilities.

The State Govt. has a proposal under consideration based on a survey for inclusion of certain areas in the list of Scheduled Areas.

**26.9 Karnataka** - State Govt. has informed that no areas in the State fulfill the requisite criteria of the Scheduled Area and they have not made any recommendation to this effect.

**26.10 Kerala** - State Govt. has suggested that viable administrative unit for notifying Scheduled Area should be Gram Panchayat and not the Block.

**26.11 Uttar Pradesh** - State Govt. has suggested that proportion of ST population to total population should be relaxed from 50% to 35% to 40% in a Block and viable unit should be Gram Panchayat and not the Block. State Govt. has suggested that ITDP Chandan Chowki in Lakhimpur Kheri district and MADA project Vishnupur in Balrampur district should be declared as Scheduled Area.

Development of area, in particular, the tribal area should be measured by productivity of agriculture, animal husbandry and cottage industries, irrigated area, road and rail mileage and air facilities.

26.12 **Andaman & Nicobar Islands** - The UT has not been declared as Scheduled Area. However, tribal areas have been designated as reserved areas under the A&N Islands (Protection of Aboriginal Tribes) Regulation, 1956. Entry of non-tribals into reserved areas is prohibited and it is regulated by a permit. The interests of tribals in lands and trades in the reserved area are adequately protected.

26.13 **Dadra and Nagar Haveli** – The UT is predominantly inhabited by the STs and the Administration has not offered any comments on this issue.

27. Today, the possible causes of tribal unrest are likely to be following:

- (1) Land alienation
- (2) Unemployment among Post matric level ST students and lack of direction or no direction for school dropouts
- (3) Making forest resources out of bounds for tribals
- (4) Lack of health infrastructure in tribal areas
- (5) Lack of development of tribals living outside Scheduled Areas
- (6) Increased litigation against tribals and swelling of their number in jails as convicts and undertrials
- (7) Against non-tribals who possess fake/false ST certificates
- (8) Involuntary migration

28. **Analysis**

- (a) Protection and development of tribals are needed most (i) where they live in forest area, (ii) where they are categorized as Primitive Tribal Groups, (iii) where their population is minimal say less than 10% to total population (iv) where they lived in areas affected by extremists/naxalities, and (v) which are not represented by democratic institutions (MLA etc.)

- (b) Necessary protection and development of tribals is required in Laddakh region of J & K, Sikkim, Uttaranchal and Arunachal Pradesh and those settlements of Uttar Pradesh (Sonbhadra district) where tribals have been listed as STs in 2003.
- (c) Protection and development of tribal oustees of Sardar Sarovar Project (the Narmada river) who were residents of Scheduled Area earlier (Jhabua district of Madhya Pradesh) deserve to be well looked after in Gujarat. Should these villages in Gujarat not be considered for inclusion in the list of Scheduled Areas? Likewise other Project affected areas also require due attention.
- (d) Whereas Scheduled Areas in the country have been notified either as whole district, a tahsil, a block, a Revenue Inspector Circle, a Patwar Circle or sometimes a few villages, district Police has their own boundaries of Police Stations and Circles so also, Forest Deptt. has its own geographical boundary of Division, Range and beats of Forest Guards and these are independent of Revenue set up. **A Scheduled Area should also have its own identity.**

### **Recommendations**

29. The Commission makes following observations/recommendations in regard to Scheduled Areas:

- (1) **Scheduled Area as notified in 1950 should not be altered by an exclusion. The administrative units, such as, districts, tahsils, blocks and Gram Panchayats should be re-organized to extend prime significance to the Scheduled Areas and not vice-versa. Sanctity of Scheduled Areas should be preserved.**

- (2) **Ministry of Tribal Affairs should look into the proposal of Govt. of Andhra Pradesh for inclusion of (a) 790 villages processed earlier, (b) 23 villages of Warangal district omitted due to oversight and (c) Six villages of Khammam district (omitted due to oversight as these were earlier part of Warangal district), in the Scheduled Areas. Laikera and Kirmira Blocks of Jharsugda district and Tileibani Block of Deogarh district of Orissa and Shahbad and Kishanganj tahsils of Baran district alongwith areas of Udaipur, Rajamand, Chittorgarh, Sirohi and Pali districts of Rajasthan may be surveyed whether they fulfil the criteria laid down for notifying as Scheduled Areas. Likewise, Leh and Kargil districts of Jammu & Kashmir State may also be considered for inclusion in the Scheduled Areas as these two districts fulfil the criteria laid down for Scheduled Areas, subject to the provisions of Article 370 of the Constitution. Jaunsar Bawar area of the State of Uttaranchal having the preponderance of the tribal population may also be considered for being notified as Scheduled Areas as it fulfils the basic criteria laid down.**
- (3) **All revenue villages with 40% and more tribal population according to 1951 census may be considered as Scheduled Area on merit. Each proposal of State should be examined independent of other.**

### **General Recommendations**

- (4) **While notifying Scheduled Areas, Govt. of India should notify that Scheduled Area includes villages as well as towns and cities included in the blocks, tehsils and the districts in their entirety inclusive of all revenue and forest lands.**
- (5) **The concept of 'Scheduled Area' should be given wide publicity so that 'dos' and don'ts' are known to the people. Signboards should be displayed on the borders of Scheduled Areas in adequate measures making the people knowledgeable about protecting the interests of tribal people and preserving their cultural heritage.**



- (6) The lists of STs should be notified in two parts, Part I for Scheduled Areas and Part II for Non- Scheduled Areas. This will bring focused attention on the development of STs in Scheduled Areas.
- (7) The Commission recommends that all the Integrated Tribal Development Projects (ITDPs), Modified Development Approach (MADA) Pockets and Clusters included in Tribal-sub-Plan should be considered for notifying as Scheduled Areas provided they fulfil the criteria laid down for Scheduled Areas. The Commission further recommends that a revenue village or a group of villages or Panchayats may also be considered for notifying them as Scheduled Areas provided they fulfil the other criteria suggested by us for creation of Scheduled Areas.
- (8) The Commission further recommends that the system of single line administration should be strengthened in the Districts of the Scheduled Areas to make it an effective instrument of faster economic growth of development. The Collectors/Dy. Commissioners of the Districts in the Scheduled Areas should be given the administrative and financial powers of the Heads of Deptts. for providing administrative and financial approvals on time considering the remoteness of the Scheduled Areas some of which remain inaccessible for certain periods on account of geographical and climatic conditions.
- (9) The Commission recommends that there should be a Secretary in the Prime Minister's office to monitor the implementation of the recommendations of the various Commissions and Committees on tribal development, tribal welfare, operationalization of the Constitutional safeguards for the Scheduled Tribes, and to advise the Govt. of India on tribal affairs.

## **THE TRIBAL SUB – PLAN**

### **RETROSPECT, REVIEW AND PROSPECT**

The road to integrated planning for tribal development has been long and arduous. Even now, integrated planning can scarcely be regarded as having been fully grounded. For a long time, tribal development programmes remained either confined to within the four corners of one sector of a state's budget (the backward classes welfare sector) or encysted in the rigid schematic framework of a development block. At other times, the two were simultaneously in operation, but more or less compartmentalised. Only with the beginning of the Fifth Five Year Plan, there was attempt to transcend the sectoral barriers to acquire broad multi-sectoral integrated approach.

2. The strategy for integrated development led to the launching of the Tribal sub-Plan concept in the Fifth Plan period. Three basic parameters of the tribal situation in the country were recognised in the formulation of the concept. First, that there are variations in the socio-economic and cultural milieu among the different scheduled tribe communities in the country; second, that their demographic distribution reveals their concentration in parts of some States, dispersal in others and absence in a few; further, that the so-called primitive tribal communities live in secluded regions. Hence the broad approach to tribal development has had to be related to their level of development and pattern of distribution. In predominant tribal regions, area approach with focus on development of tribal communities has been favoured, while for primitive groups community-oriented programmes have been preferred. For dispersed

tribals, their participation in activities of rural development has been thought to be the apt developmental mechanism. For execution of programmes having integrated thrust, pooling of finances from all sources has been regarded as essential requisite.

### **Objectives of tribal development**

3. In the words of the First Scheduled Areas and Scheduled Tribes Commission headed by Shri U.N. Dhebar (1961), "the task that confronted the framers of the Constitution was ....to devise a suitable formula which would protect the economic interests of the tribals, safeguard their way of life, and ensure their development so that they might take their legitimate place in the in the general life of the country" (para 4.12, p.33).

4. The Commission defined the objective of development among tribals as "advancement and integration of tribals.... The problem of problems is not to disturb the harmony of tribal life and simultaneously work for its advance".

5. With a view to clearing the confusion regarding the aim of tribal welfare policy, the Study Team on Tribal Development programmes headed by P. Shilu Ao, at one time Chief Minister, Nagaland , in its report (1969) observed that the progress was to be

achieved not by attempting to transform them overnight ..... into carbon copies of the sophisticated plainsmen but by fostering all that is good and beautiful in their culture – their aesthetic sense, their honesty, their zest for life, in other words, by a process of growth which has its roots in their traditions and by instilling in them a sense of pride in their heritage and a feeling of equality in place of the existing feeling of inferiority.

Spelling out the aim of the policy on tribal development, the Study Team suggested it as

..... progressive advancement, social and economic, of the tribals with a view to their integration with the rest of the community on a footing of equality within a reasonable distance of time. Period has necessarily to vary from tribe to tribe and while it may be 5 or 10 years in the case of certain tribes, more particularly the tribes who have come in contact with the general population by living in

the plains, it may be two decades or more in the case of tribals who are still in the primitive food-gathering stage.

6. In "Guidelines for Tribal sub-Plan 1978-83" (1978), the Planning Commission ruled long-term objectives of tribal development as

- (i) narrowing the gap between the level of development of tribal and other areas, and
- (ii) improving the quality of life of the tribal communities.

7. As elaborated later, in our view, for the scheduled tribe people of the country, the objective should be envisaged as elimination of exploitation, accelerating the pace of socio-economic development, building inner strength and improving their organizational capability.

#### **Approach to tribal development**

8. The Study Team on Social Welfare and Welfare of Backward Classes led by Shrimati Renuka Ray reviewed the tribal scene in the late fifties and remarked in its Report (July 1959) that while each aspect of development was important in its own place, in the actual operation no rigid order of priority was universally applicable. They took note of the fact that the felt needs of tribal communities varied from community to community. The Team recommended (a) economic development and communication (b) education and (c) public health, as the overall order of priority. However, they stressed that the programme should be integrated based on agriculture, forestry, handicrafts and village industries, the degree of emphasis upon each of them being determined by a systematic survey of the needs and possibilities in each area.

9. Jointly sponsored and supported by the Ministry of Community Development and the Ministry of Home Affairs, from April 1957 an integral programme of intensive

development was initiated in the shape of special multi-purpose (SMP) blocks. The SMP blocks were endowed with schematic budget. Commenting, the Team observed that "the scheme of budget allocation in the special multi-purpose blocks does not fit in with the programme requirements which is variable under diverse local conditions". Further, "the schematic budget, more or less, sets a pattern which tends to be rigid". In 1961, the Dhebar Commission advocated "a balanced picture".

10. Apart from the 'integrated and planned approach', the Dhebar Commission crystallised the idea of distinctive quantification of resources, whether of the state or central governments, for tribal areas. They commended to other State Governments the example of the Andhra Pradesh Government which had issued instructions to the effect that three per cent of the total provision of each department should be earmarked for the welfare of STs during the Third Five Year Plan period.

11. In the background of the pronouncements of the two Study Teams of 1959 and 1969 and the Dhebar Commission 1961, the approach and policy were spelt out in the following words in the Fourth Five Year Plan documents for 1969-74:

136. The problems of Scheduled Tribes and Scheduled Castes have in addition some special features. The problem of scheduled tribes living in compact areas is essentially that of economic development of their areas and of integrating their economy with that of the rest of the country. The individual welfare approach or that of a schematic block is inappropriate in this case. Development plans must be formulated to suit the specific potentialities and levels of development of separate regions or areas.

The statement that the problem was essentially that of economic development of the tribal areas and of integrating their economy with the rest of the country, seemed to be related specifically to the then extant situation. The scenario has undergone complexities since.

12. Howsoever praiseworthy, these formulations led to little practical results. On the eve of commencement of the Fourth Plan, 489 tribal development (TD) blocks had come into existence and these blocks were thought to be the most important programme for economic betterment of the scheduled tribes and intensive development of areas having large concentration of tribal population. In fact, tribal development became synonymous with TD Blocks having pre-determined schematic budget. But, the programmes the TD blocks sponsored became more or less general benefit programmes and the special schemes of the backward classes welfare sector remained the only significant tribal development programme.

#### **Tribal sub-Plan Strategy, Fifth Five Year Plan**

13. The genesis of the total concept of the Tribal sub-Plan (TSP) is traceable to the thoughts scattered in the Dhebar Commission Report 1961:

(a) As already mentioned, in Chapter 9 para 12 of their report, they cited the example of the Andhra Pradesh Government who had issued instructions that three per cent of the total provision of each department should be earmarked for the welfare of Scheduled Tribes during the Third Five Year Plan period. They commended the procedure to the other State Governments. The seeds of quantification and earmarking of funds were thus sown.

(b) In Chapter 9 para 6, they stated that through grants under Article 275(1), the Union Government is in a position to correct inter-State financial disparities as may be conducive to an all-round development of the country and to exercise control and power of coordination in relation to state welfare schemes on a national scale. This flows from the intention of that Article since it gives powers to the Parliament to make such grants as it may deem necessary to any State which is in need of such assistance including that for schemes of tribal development and for raising the level of administration of the Scheduled Areas as well as for the development of the tribal areas of the State of Assam.

(c) They emphasized that special financial provisions such as that provided under Article 275(1) and the provisions of the backward classes welfare sector in a State plan budget are "intended to supplement and not to supplant the general welfare programmes which are directed to the entire community, of which the Scheduled Tribes are only a part". For this interpretation, they drew corroboration from the Second Five Year Plan which made it clear that "the special provisions made in favour of backward classes should be so utilized as

to derive the maximum advantage from general development provisions and to make up as speedily as possible for retarded progress in the past". {Chapter 9 para 9}

(d) They quoted from a communication of the Ministry of Home Affairs of September 1959 wherein the Ministry called for formulations in the Third Five Year Plan to ensure that maximum advantage was given to the backward classes from the general development programmes. {Chapter 9 para 10}

(e) The same communication of the Home Ministry called for a proportion of the general development outlays to be incurred to the disadvantaged sections of the society and to be shown separately.

(f) The Commission mentioned that the Planning Commission had sent a communication to the concerned Ministries of the Government of India asking them to ensure adequate provision for the welfare schemes of the tribal people from their normal programmes. {Chapter 9 para 11}

It will thus be clear that some characteristics of the Tribal sub-Plan i.e. the supplementary character of special Central financial assistance, State Plan budget being the backbone, population-proportionate allocations to the TSP from all concerned sectors, involvement of Central Ministries and earmarking of funds had been thought out in the earlier years and lay rather strewn about. The formal frame of the Tribal sub-Plan approach connected them, strung them together logically to crystallize into the concept.

14. Later, having been seized of the weaknesses in policies and programmes of tribal development following up to the end of the Fourth Plan, notably (a) the programme got atrophied financially and consequently physically since it became a sectoral programme for execution of certain schemes with the limited resources of backward classes welfare sector (b) there was failure to comprehend distinctive characteristics of the tribal areas and the scheduled tribes and (c) the policies and programmes as well as the administrative machinery, therefore, were hardly adapted to their needs, the Government of India took the decision that from the Fifth Plan

onwards, the major thrust for development of the tribal areas and tribal communities ought to be provided by the concerned sectoral authorities. Since sometimes area development was provided for at the cost of the resources meant for the tribal communities, it was laid down that the strategy would be "area development with the focus on development of the tribal communities.... for areas where tribals are a predominant community". As already noted, the tasks were defined as elimination of exploitation in all forms, speeding up the process of socio-economic development, building inner strength of the people and improving their organizational capability.

15. The four important ingredients of the Tribal Sub-Plan have been delineated as

- (i) identification of development blocks having, generally a majority of ST population and appropriately constituting them into ITDPs
- (ii) preparation of a project report for each ITDP based on the natural resource endowment therein, available financial resources and the avocations, skills and aptitudes of the people of the ITDP
- (iii) ensuring availability of at least population-proportionate pooled financial resources earmarked from State Plan funds, funds of Central and Centrally sponsored programmes, special Central assistance, institutional finance and any other source, and
- (iv) placement of a suitable techno-administrative structure in the ITDP for execution of programmes, schemes etc. contained in the approved project report of an ITDP.

16. We apprehend that the concept of Tribal sub-Plan is not sometimes viewed in clarity even in the papers of the Planning Commission and the Ministry of Tribal Affairs. For instance, it has been mentioned in reply to question 15 in our questionnaire addressed to the Planning Commission "the funds available through the SCA have to be utilized in conjunction with TSP funds to meet the critical gap in these areas". What, perhaps, is meant is that the SCA funds have to be utilized in conjunction with the State Plan flows. The TSP concept implies that the TSP funds are the funds in totality composed of State Plan funds plus Central funds plus Special Central Assistance plus



institutional finance. Thus, the SCA is a part of the total TSP funds. Similarly, in the order of the Ministry of Tribal Affairs No. 14020/5/2003-SG&C dated 2 May 2003, in IViv, it has been mentioned that "the TSP component of various Departments/sectors under the State Plan should be put in a separate Budget Head of the Tribal Development Department of the State". Here, again, the reference to "TSP component" seems really to be to State Plan component. In the use of "TSP" conceptual clarity is essential for a common understanding.

17. The exercise of identification of tribal majority blocks in the country was undertaken in the Fifth Plan period (1974-79) and completed in the Sixth Plan period (1980-85). According to the background paper on Tribal Development No. 7 entitled TRIBAL SUB-PLAN AREAS of the Ministry of Home Affairs, 633 full and 280 part blocks (1982 figures, which might have undergone change since) have been constituted into 194 ITDPs/ITDAs in the country. Generally, an ITDP as a unit rests between the district and the block tiers. During the Sixth Plan period, it was noted that some pockets of tribal concentration falling outside the tribal-majority development blocks remained uncovered. It was felt that they also called for coverage under the TSP strategy. Accordingly, pockets comprising contiguous villages having 10,000 or more of tribal population with half or more than half of ST population were identified and placed under the special dispensation. In subsequent Plan periods, smaller clusters comprising contiguous villages of tribal concentration of a total population of about 5,000 wherein a majority are STs also were located for the special development approach. It is understood that presently there are 259 pockets and 82 clusters wherein modified area development approach (MADA) has been adopted. Together with 194 ITDPs, they are distributed in 21 States and 2 Union Territories, namely Andhra Pradesh, Assam, Bihar,

Chhatisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, West Bengal, Andaman & Nicobar Islands and Daman & Diu. It seems that the benefits of the TSP have been extended also to the scattered tribal population through family-oriented programmes. The Report of the Working Group for Empowering the Scheduled Tribes during the Tenth Five Year Plan (2002-07) of the Ministry of Tribal Affairs indicates that cent per cent ST population has been brought under the TSP strategy in the afore-said States and UTs. In some States, there is a happy geographical co-incidence of a sub-division and an ITDP. Also the TSP area and the Scheduled Areas are now, to a large extent, co-terminus. Yet there remain some disjunctures between them and they need to be either removed or at least minimised. Rationalisation may be needed in some other respects also.

18. In this context, there has been a proposal to effect coterminality as between a district and an ITDP/ITDA where the district is totally Scheduled. Prima facie, it looks attractive as it may imply economy in establishment and overheads. But in the balance, the consequential little economy may hardly be worthwhile, as it may result in a large degree of diffusion of attention to the required programmes of intensive nature. However, the matter should also await structural reorganization in the district consequent on induction of the Panchayat system.

19. At the launch of the TSP during the Fifth Plan, there was considerable enthusiasm resulting in preparation of project reports for a large number of ITDPs and it was sustained during the Sixth Plan. The basic idea of establishing ITDPs in the country has been to institute a projectised integrated multi-sectoral approach with the help of pooled funds garnered from various sources. The results of operationalising the

project reports during these two Plan periods were visible in the field. To an extent, the tempo was kept up during the Seventh Plan period (1986-91), but there seems to have been a decline later. One reason may be the lack of attention to the preparation of five-year and annual reports for each ITDP resting on sound principles of multi-sectoral planning.

20. The Tribal sub-Plan has been envisaged as representing the total development effort in the identified areas with the aid of resources pooled from various sources, viz. (i) outlays from the State Plans (ii) investment of Central ministries and Planning Commission (iii) special Central assistance of the Ministry of Home Affairs and (iv) institutional finance. The first State TSPs were finalised in 1975-76. Separate sub-heads for TSPs were introduced in State budgets at approximately the same time. Further, in the Fifth Plan the allocations from the backward classes sector remained as additive to the allocations from the general sectors.

21. Prior to the introduction of TSP, the main agency of administration of development in the district was the development block with some tenuous ramifications among the Panchayats. Except for tribal development blocks, of which we have already spoken, hardly any other agency looked after tribal development specifically. With the formation of ITDPs, the need arose for an appropriate techno-administrative structure attached to it. Generally a Project Director or a Project Administrator has been placed in charge with a few selected sector-specialist associates. In some States, the ITDP remained an integral part of the district administration, but in Andhra Pradesh and Orissa, the projects were converted into independent integrated tribal development agencies (ITDAs) formed under the Societies Registration Act 1860. The constituent blocks and the constituent Gram Panchayats of those blocks became a part of the

ITDPs/ITDAs. On the higher echelons, the Project Administrator accounted to the district collector/deputy commissioner. At the ITDP level, a deliberative body headed by the collector or deputy commissioner, comprised of not only the administration and technical officials, but also tribal and other local leaders, were constituted. Thus, a full-fledged hierarchy for execution of programmes and schemes contained in the project report was brought into being.

22. A vital aspect of the Tribal sub-Plan strategy has been that, echoing the provisions of Article 46 contained in the Chapter on Directive Principles of State Policy of the Constitution, it places stress on adoption of anti-exploitative measures. In fact, in defining the strategy, protection from exploitation was described as the first step necessary for raising the socio-economic condition of the tribals. The specific fields in which anti-exploitative action was indicated as necessary were eviction from forest areas, land alienation, indebtedness, market, bondage etc. Legislative and executive measures were expressed as necessary, particularly removal of loopholes in legislation and infirmities in administrative machinery.

#### **Methodology of preparation of TSP**

23. In prescribing the methodology of preparation of TSP for the tribal regions of a State, briefly, it has been laid down that since the strategy is to prepare programmes for specific needs of the area and the people, planning should be ITDP-based. Each constituent block of an ITDP should formulate its five-year plan with annual phasing in the context of the natural resources endowment, occupations and skills of the people, infrastructure available and human requirements. The block plans should be aggregated at the ITDP level, taking an overview of the entire project area. The project reports thus prepared should be aggregated at the state level into the TSP of the State.

The need-based ITDP project reports and the State TSP have to be matched to resource availability. The process of planning should, thus, be built up, funneling upwards. Further, the process needs to be initiated simultaneously multi-sectorally at the sub-district level and the state level, as well as individual sectorally at the concerned levels. Harmonious interweaving has to take place at the block, the ITDP as well as the State level. In other words, the project report for an ITDP should reflect the balanced multi-sectoral programmes relative to the earlier cited desiderata of natural resource endowment, the needs and aspirations of the people and their skills and aptitudes. Similarly, the State TSP should represent an aggregate of the various project reports, articulating, in sum, the priorities, needs and aspirations of the tribal people and tribal areas in the State, duly married to the financial resources available.

24. The methodology implies that the State authorities communicate to the project authorities outlays which the latter can expect for the five-year period as well as for each of the annual phases well before the commencement of the respective periods. Once the outlays are known, the project authorities have to sort out priorities and arrange sectoral programmes in the light of the priorities. At this stage, particularly, association of tribal representatives is of crucial importance so that the plans can become truly reflective of the people's needs, aspirations and inclinations. However, the process has not come into being completely in any of the states owing to a variety of reasons. Generally, the disaggregation exercise at the State level has been adopted, whereby lump sectoral outlays are broken up and passed on to the tribal development department and/or the concerned field authorities for implementation of programmes. Even if this step is adopted in certain states, it misses out on other vital aspects. In

short, both elements in the planning process viz. planning from below and realistic integrated efforts have yet to materialise.

25. During the Fifth, Sixth and Seventh Plan periods, the practice was that the ITDP/ITDA project reports prepared in the states were discussed for approval at the Central level i.e. among officials of the concerned State Government and representatives of the Ministry of Home Affairs, the Planning Commission and the concerned Ministries. Even a Minister of State took part in the discussions to strengthen the plans and programmes. Somewhere down the line, the process languished. It is understood from the replies of the Planning Commission and the Ministry of Tribal Affairs that a Central Standing Committee met in December 2002 and reviewed the formulation of TSP in respect of important Central Ministries/Departments and suggested certain remedial measures. As hitherto, similar standing committees are needed for scrutiny on a regular basis by the Ministry of Tribal Affairs in conjunction with the Planning Commission and the concerned Ministries of ITDP/ITDA project reports, annual TSPs and five-year TSPs prepared in the states.

26. So far as the financial aspect is concerned, adequate financial provisions should be made from the State Plans for tribal areas keeping in view (a) the total population of the TSP area (b) the geographical area (c) the comparative level of development and (d) the state of social services. The State Plan outlays may be regarded as comprised of 'divisible' and 'non-divisible' components. Those investments whose benefit does not or cannot flow to the target group may be called the non-divisible part. From the state divisible pool, weightage needs to be given to schemes of income-generation and related infrastructure back-up for tribal families, while due accrual of benefits for development of tribal regions should be ensured through capital-intensive

infrastructure sectors of the non-divisible portion. The object has been that, on the whole, to compensate for the past neglect and backwardness, the tribal areas should attract weightage in allocation of funds. Another important factor to be taken into consideration is that while the ST population in the country is about 8% of the total population, the TSP area constitutes about 18 % of the total geographical area. When we consider some states, the population-area disparity becomes glaring. For example, the 22% ST of the total population is spread over 44% of Orissa's total geographical area; in Manipur the ST population is about 30% of the total population but the TSP area is 90% of the total area. The other two factors i.e. (c) the comparative level of development and (d) the state of social services, have hardly attracted any notice so far, perhaps, on account of difficulty in their computation. But they *should* influence earmarking of funds. In fact, the entire gamut of criteria deserves detailed attention.

#### **Priorities**

27. The question to be considered is whether a larger proportion of the admittedly limited resources being earmarked for the tribal areas should not be utilized for schemes which are likely to make quick impact on the socio-economic condition of individual tribal families. Reasonable investments in family-oriented schemes in the economic sectors like agriculture, horticulture, animal husbandry, forestry, small and village industries can usher in quick benefits, howsoever small, and liable to make substantial difference to the meagre income of the family. It has been seen, for instance, that effective marketing arrangements for items of minor forest produce collected by a tribal family has pulled the family out of the brink of starvation. Further, investment in social sectors like education and health are likely to play, for short-term

as well as long-term, a big role in the progress of each such family whose members are educated and healthy.

28. As a part of Sixth Plan Mid-term Appraisal, an exercise was made to appreciate what proportion of financial resources went into different sectors. Three groups of sectors were envisaged as follows:

- (i) direct economic-benefiting sectors like agriculture, horticulture, animal husbandry and dairy development, fisheries, forests, small village and cottage industries
- (ii) social service group of sectors comprising general education, technical education, culture, health, water supply, housing, nutrition, backward classes welfare
- (iii) infrastructure group of sectors like large and medium industries, mining, power, ports and harbours, roads and bridges, road transport, flood control, major and medium irrigation.

It was found that for the period of the Fifth Plan and the early years of the Sixth Plan, the infrastructure sectors groups appropriated more than 60 per cent of the financial resources, sometimes adding up to over 70 per cent of the State Plan budget. The capital-intensive nature of this group limits availability of funds for the other two groups of sectors which are, in the short and medium term, more germane for a section of the population like the scheduled tribes hovering around the poverty-line and low levels of health and education. It was concluded that for the short-term (a) attention needs to be focused on the direct economic-benefiting sectors through strong inter-linkage with minor irrigation, soil and water conservation, marketing, cooperation etc. (b) effort needs to be intensified on the social services sectors group, particularly in the fields of drinking water, health, general education and technical education so that the gap between the present capability of STs and that required to assimilate advantages of the modern sectors can be closed over a minimum period and (c) so far as the



programme of infra-structure is concerned, emphasis should be laid more on improving back-up facilities in identified minimum needs sectors.

29. During the Fifth and the Sixth Plan periods, the approach laid down was that the TSP should aim at area development with focus on development of tribal communities in tracts where they predominate. The objectives in the Sixth Plan period were indicated as raising productivity levels, consideration of education as the key sector, provision of adequate infrastructure and combating exploitation. The Seventh Plan Working Group Report emphasized area-based development with focus on the scheduled tribe population, particularly providing them a protective legal shield. The Eighth Plan Working Group on Tribal Development again called for de-emphasis on heavy infrastructure investments to emphasise family-oriented programmes. They favoured a judicious mix of infrastructure development and beneficiary-oriented schemes, the infrastructure geared more towards improving facilities in identified minimum needs sectors. The Tenth Plan Working Group has suggested that following tribal ethos, the entire community should be placed center-stage for elevation from all points of view (economy, education, health, communication and so on) and not merely the individuals. It may thus be seen that the stress has been on the beneficiary, earlier an ST family and in the Tenth Plan Working Group Report the community. In other words, the planning direction adopted has sought to channelise financial and physical resources to human development along with allocation of funds for a commensurate infrastructure. Translation of such planning desiderata into neat practical formulations does require a degree of adroitness. In the first instance, the perspectives of national and state levels planners may differ and, secondly, even more important, the ground conditions may vary a great deal from one region to another, influencing ideas of field

implementers and creating hiatus between them and the planners. It is in this context, that the entry of peoples' own bodies i.e. the Panchayats at four different tiers in the field of "economic development and social justice" and implementation of schemes therefore (cf. Article 243 G of the Constitution) is to be welcomed whole-heartedly. They have to plan and implement. No one may be regarded as more suited to the task, as the task is their own and they are located close to the mother earth. No doubt, the plans, programmes and schemes drawn up by them would harmonise with the national policies and plans, but the effort at assonance would have to be at both the ends.

### **Gender planning**

30. Article 243D of the Constitution stipulates that not less than one-third of the total number of seats reserved for scheduled tribes are to be reserved for ST women. Further, that not less than one-third (including the number of seats reserved for SC and ST women) of the total number of seats to be filled by direct election in every Panchayat are to be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat. It also provides that not less than one-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women. These provisions are valid for Scheduled Areas also wherein The Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996 is applicable. Women enjoy a high social status in tribal areas, in contradistinction to their sisters in non-tribal societies, linked, perhaps, to the substantial contribution they make to the well-being of the family through their physical labour and moral support. It is, therefore, not surprising that they should claim separate component in the State and Central TSPs. In each TDP/TTDA, there should be a section devoted to womens' planning and implementation. Every TSP and project report should exhibit suitable earmarked

distinctive programmes and schemes for women, along with earmarked resources. In the guidelines of the Ministry of Tribal Affairs cited earlier, they have called for drafting of such schemes and projects as throw up centre-stage issues affecting tribal women and their participation right from the stage of formulation to implementation. In their earlier guidelines for release and utilization of grants under the first proviso to Article 275(1) of the Constitution i.e. No. 14011/9/2001-SG&C dated 2 July 2002, the Ministry had directed that substantial benefits, at least 30 per cent in proportion, should be targetted to women. These are salutary provisions and, if implemented adequately and sincerely, may bring about radical improvement in the condition of tribal women. We strongly recommend these measures.

#### **Contribution of Central Ministries**

31. As earlier mentioned, the Tribal sub-Plan strategy, launched in the Fifth Plan period, seeks inter alia to ensure adequate flow of funds not only from the State Plan funds, the Central Sector and Centrally Sponsored Schemes of the Ministry of Tribal Affairs, institutional funds, but also from the Planning Commission, other Central Ministries and Departments. The Centre having a special constitutional responsibility towards the Scheduled Tribes and Scheduled Areas, the role of Central Ministries assumes significance. The Planning Commission had asked Central Ministries and Departments to have a clear idea of the problems of tribal people and tribal areas to prepare specific programmes relating to their concerned sectors and adapt the programmes wherever necessary, in consultation with the State Governments. In order to ensure that the Central Ministries and Departments accept responsibility for development and welfare of the Scheduled Tribes, the Government of India (Allocation of Business) Rules 1961 were amended in 1999 and the amended rule reads as follows:

The Ministry of Tribal Affairs shall be the nodal Ministry for overall policy, planning and coordination of programmes of development for the Scheduled Tribes. In regard to sectoral programmes and schemes of development of these communities, policy, planning, monitoring, evaluation etc., also their coordination will be the responsibility of the concerned Central Ministries/Departments, State Governments and Union Territory Administration. Each Central Ministry/Department will be the nodal Ministry or Department concerning its sector.

32. In order to focus attention to tribal development, in letter dated 12 March 1980 the then Prime Minister called upon the concerned Central Ministries to take the following steps:

- (i) quantification and earmarking of funds for tribal areas under the Central Ministries programmes
- (ii) formulation of appropriate need-based programmes for tribal areas
- (iii) adaptation of the on-going programmes to meet the specific requirements of scheduled tribes
- (iv) identification of a senior officer in a Ministry to monitor the progress of implementation of programmes for the welfare of scheduled tribes.

33. These guidelines have been reiterated from time to time by the Ministry of Tribal Affairs and the Planning Commission, particularly that funds at least equivalent of the percentage of ST population in the country should be set aside under TSP by the concerned Central Ministries and Departments. It is understood that, as a part of its Plan exercises, the Planning Commission has been issuing instructions to all the Central Ministries on formulation of TSP in their annual plans. Similarly, the Ministry of Tribal Affairs also has been sending communications to them on the need for quantification of funds for TSP from their annual plan in proportion to the population-percentage of STs in the country. The objective has been that areas in which Central Ministries/Departments can play distinct role are to be identified and quantified outlays projected. It has been stressed time and again that the basic investments in tribal areas

and for tribal communities are to be made from the State Plan and funds of the Central schemes as well as Centrally Sponsored Schemes. It is important that the Ministries and Departments of the Central Government take an integrated view of the developmental programmes undertaken by them, simultaneously with an appreciation of the special needs of the tribal socio-economic situation, in order to be able to identify schemes of relevance to the tribal areas and tribal population. In this context, the need for weightage over and above funds equivalent of population-percentage has also been mentioned. This should be seriously considered. The special Central assistance (SCA) has been cut out in the role of a gap-filler i.e. to make available resources for specially relevant schemes or in critical programme spaces for which funds are otherwise not in sight. In other words, the SCA is to be treated as supplementary in character. These guidelines should be enforced strictly.

34. Attention has also been paid to the manner of exhibition of earmarked funds in the budgets of the Ministries, though discussions have centred more around the question of exhibition of quantified funds in State budgets. The report of the Working Group on Tribal Development during the Seventh Plan period 1985-90 recalled that the Central Ministries had been asked to adopt separate sub-heads under the respective major heads in their budgets to reflect flow of funds to tribal areas. Adoption of appropriate budgetary mechanism to this end had been agreed to by the Ministry of Finance. We are not aware to what extent this measure has been complied with and whether it carries the requisite quantifications.

35. The Central Ministries/Departments can play a vital role in a number of key sectors converging on tribal areas and tribal population. Their involvement appears to have been increasing since the Sixth Plan period. It could be more purposeful if the

concerned Ministries and Departments identify and incorporate such programmes in consolidated TSP documents. Periodical, at least annual, review of these programmes could bring to focus the urgency of steps to be taken in important segments of activities which may not have received attention and, hence, may be lagging behind. A Tribal sub-Plan for development-oriented Ministries and Departments is, therefore, an undoubted requirement. Since most of the concerned Ministries and Departments would have already established a tribal cell in them, there should be no difficulty in consolidating the TSP component of their programmes in a separate document. Specifically, adequacy and relevance of scheme component and population coverage vis-à-vis total plan size of the Ministry/Department should be borne in mind.

36. One of the shortcomings identified by the Eighth Plan Working Group on Tribal Development was that no guidelines had been issued to States and UTs to ensure that adequate share in the benefits arising from the activities of the concerned Ministry/Department flow to the ST population and TSP areas. We are not aware whether such guidelines have since been issued and, if so, whether they have been acted upon. We would like it to be ensured that on receipt of funds of Central sector and Centrally sponsored schemes, the State Governments distribute them equitably among the ITDPs, MADA and cluster areas, PTGs etc. apart from being made available to other areas. A second shortcoming they indicated was that quantification of funds and physical targets were being worked out on purely notional basis. This is a criticism which is applicable in respect of utilisation of states resources also. It has to be understood that illusory hand-outs create socio-political tensions. Real and substantial benefits alone can satisfy STs.

37 We understand that instructions have been issued that in the Annual Administration reports of some selected Ministries, separate chapters on progress in Tribal sub-Plan should be included; for other Ministries/Departments exclusive chapters have not been insisted upon, though related matters should be included in some other appropriate chapter or chapters in the report. On perusal of some Annual Administration reports, we find that while broadly these instructions have been followed, there is need for improving these reports both in respect of quantity and quality of information.

38. The Central and Centrally sponsored schemes constitute an important area of common interest to both the Centre and the States. They are joint efforts in important areas and fields to push programmes relating thereto not getting sufficient attention otherwise. In our tours of states, we found that at the cutting edge of tribal administration in the field i.e. at the level of ITDP/ITDA etc., the Project Administrators have no clear idea of the programmes. We have recommended above formulation of a Tribal sub-Plan document by each concerned Central Ministries and Departments. These documents should be made available to the Project Administrators, making it possible for the field units to have a clear picture of the programmes enabling a more viable plan to be operationalised. Hopefully, this should be a step towards a more informed and coordinated approach to tribal development on the plane of the critical field nodal units.

39. The contribution of the Central Ministries has been reviewed from time to time and, on the whole, as mentioned elsewhere, it has been found to be below par. The table hereunder shows the picture as gleaned from different records:

	Outlay	Rs. in crores		Source
		Flow to TSP	Percentage	
Sixth Plan	7,508	912	12.10	Working Group report for Seventh Plan NA
Seventh Plan				
Eighth Plan (1992-97)	68,924	5517	8.00	Plan.Com's Ninth Plan document
Ninth Plan (1997-2002)	1,10,454	6462	5.85	Plann.Com's Tenth Plan document

The contributions of the Central Ministries have not been uniform or all of satisfactory level. Nor all the concerned Ministries have come forward. According to the Tenth Plan document of the Planning Commission, earmarking of funds for TSP is being carried out in 25 Ministries/Departments of the Central Government and 20 States/UTs.

40. The Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes has made observations and recommendations generally on quantification of benefits and found it to be not satisfactory. On occasions they expressed unhappiness on the performance of the Ministries and urged them as well as the Planning Commission to ensure that the intended funds and benefits from the general sectors are actually availed of for their welfare. Further, they suggested evaluation to be undertaken periodically to assess the extent of flow of funds and benefits with a view to rectification of shortcomings and augmentation of the provisions. These should be noted for compliance.



41. According to the Tenth Plan document of the Planning Commission, though the percentage of ST families below poverty-line had come down from 51.94 in 1993 to 45.86 in 1999-2000 in rural areas and from 41.14 to 34.75 during the same period in urban areas, the gap between the figures of general population below poverty-line and ST population below poverty-line persist. Further, in reply to this Commission's questionnaire, the Planning Commission mentioned that 32 per cent of ST agricultural labourers have been landless "with no productive assets and no access to sustainable employment as well as minimum wages". Undoubtedly, there has been a range of Central and State programmes and schemes, both for poverty alleviation as well as infrastructure strengthening. But, judged from the above figures and otherwise, their impact has been inadequate. In fact, during the Ninth Plan period, there has been consistent shortfall in achievement of educational schemes like hostels for ST boys and girls where the outlay was Rs.73.30 crores and the expenditure Rs. 53.20 crores, Ashram schools with outlay Rs.44.86 crores and expenditure Rs.23.97 crores, low literacy pockets Rs.23.20 crores and Rs. 11.71 crores vocational training centres RS.30.25 crores and Rs. 16.78 crores. Evidently, the development machinery has not been able to translate monetary assets into physical achievements. According to the mid-term appraisal of the Planning Commission, the performance of TRIFED and TDCs did not inspire the confidence that they would be able to ensure remunerative prices for tribal produce. The turn-out of various other schemes also did not match the expectations. The Gram Sabhas and Panchayats have not become sufficiently functional as yet. Two dimensions need particular attention (a) capabilities of institutions and instruments of implementation and (b) adequacy of fiscal infusions into tribal areas. In so far as

the former are concerned, apart from the techno-bureaucratic administrative machinery, emplacement of Gram Sabhas and Panchayats in the totality of the development infrastructure in Scheduled and Tribal Areas as well as the poverty situation of STs calls for massive financial provisions. The government agencies, particularly the Planning Commission, should look at the matter from the point of view of bringing ST population on par with the rest of the population in a designated span of time, say before the end of the Eleventh Plan.

### **Budgetary Procedures**

42. As already mentioned, being aware of the lack-lustre achievements of the backward classes sector of State budgets in the field of tribal development, the Dhebar Commission called for earmarking of financial provisions by each concerned department for the welfare of the scheduled tribe people. The concept of the Tribal sub-Plan put into effect during the Fifth Plan period evolved therefrom. The stipulation of earmarking of financial resources in the States and at the Centre led to increased and increasing total provision during successive Plan periods. The total outlay during the Fifth Plan period was Rs. 1158 crores and it grew to Rs. 32,087 crores during the Ninth Plan period. Taking into consideration the expansion of the on-going programmes and new starts in the Tenth Plan period, the Working Group on Empowering the Scheduled Tribes has recommended a total outlay of Rs. 10,470 crores.

43. The first question which arises is the basis on which fund allotment is made for TSP (a) by the Centre to the States whether it be Special Central Assistance or Central sector schemes fund of the Central Ministries or Centrally sponsored schemes fund and (b) by the States internally among the ITDPs/IFDAs.

44. In so far as the distribution Special Central Assistance by the Ministry of Tribal Affairs among States is concerned, it is governed by recent orders contained in their communication No.14020/5/2003-SG&C of 2 May 2003 wherein they have factored population and area, but have side-stepped backwardness. In fact, they have categorized the States into A and B

Category A: having substantial areas predominantly inhabited by tribals such as Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan and Sikkim.

Category B: having dispersed tribal population with some areas of tribal concentration such as Assam, Bihar, Jammu& Kashmir, Karnataka, Kerala, Tamil Nadu, Tripura, Uttar Pradesh, Uttaranchal, West Bengal and the UTs of Andaman and Nicobar island and Daman and Diu.

In the first instance, the Ministry allocate SCA between the above two groups of States in proportion to the total tribal population of States/UTs included in each group.

44.1. The fund allocated to category A is then distributed to the States on the basis of the criteria:

70% on the basis of ST population in ITDPs/ITDAs

30% on the basis of geographical area of ITDPs/ITDAs

The fund allocated to the category B States is distributed among the states in that category on the basis of only ST population in the ITDPs. Thus, it would be seen that the backwardness criterion does not figure in the allotment formulae.

44.2. In so far as distribution of SCA fund among ITDPs/ITDAs in a State is concerned, it has been mentioned in the aforesaid order of the Ministry of Tribal Affairs

that such funds are earmarked by the Ministry for ITDPs and should be released by the State Governments / UT administrations directly to the ITDPs/ITDAs and no part should be released directly to any department at the State level; transfer of funds to implementing department/agency should be done by the ITDPs. It is understood that earmarking of funds of SCA in the Ministry inter se among ITDPs/ITDAs is done on the basis of population as well as geographical areas. After allocation of funds to the ITDPs/ITDAs, the balance of the SCA is allocated inter se to MADA areas and primitive tribal groups, for the former on the basis of population and for the latter on the basis of a specific formula.

45. In our view, the index of backwardness is an important factor which should influence allocations both at the Centre and in the States and, hence, needs to be built into the funds-allotment prescriptions. However, we are also aware of the difficulty in its adoption. At present backwardness indices are available, if at all, for a State as a whole. These indices do not specifically reflect backwardness of tribal areas. As per the Gadgil formula, allocation to an economically advanced State relative to its backwardness index may be less than the allocation to a less advanced State whose backwardness index is higher, though it may be arguable whether the tribal areas in the former State are any less backward than the tribal areas of the latter. The solution lies in evolving specific backwardness indices for tribal areas in the concerned States. On becoming available, such indices should be factored in formulae regulating apportionment from the Centre to States as well as in the States internally among ITDPs/ITDAs,

46. The second issue arising is: what achievements have accrued with this order of investment? The physical achievements in the field relating to the advancement of ST families and upgradation of infrastructure would specially need to be scrutinized. We shall revert to this question later.

47. The third question relates to the manner in which quantified funds are exhibited in the budgets of the State Governments and the Central Ministries.

48. In so far as the State Governments are concerned, the backward classes welfare sector has been under the administrative control of the Tribal Development Department, from the beginning. The mode of exhibition of quantified funds in each department indicates not only the quantum of funds earmarked but also the control exercisable in regard to their utilization for the tribal development. One method has been to open in a sectoral department's budget a minor head under the appropriate sub-head/major head of account in which the flow-quantum to TSP is shown. This was a step forward, as for the first time, the sectoral departments were made conscious of the specific responsibility towards tribal areas. But, since the utilization of the quantified funds was left to the department itself, it could not ensure that the entire quantum would be channelised into the tribal areas or that relevant schemes would be implemented. The second method has been to have a single demand head in the budget under the control of the Tribal Development Department of the State exhibiting under the relevant heads, sub-heads etc. the quantified funds of all the sectoral departments. This latter method was considered as advance over the earlier mode, since it centralized the funds as well as control in the Tribal Development Department. But this procedure also has been found to have its draw-backs. The concerned sectoral department may lose sight of the provisions and, more hurtfully, may lose the sense of initiative, and

even responsibility for utilizing the provisions. Thirdly, if one may be realistic, one cannot ignore the fact that it generates an under-current of political envy of one department having been arrogated a sizeable percentage of the state's total finance. A concomitant symptomatic factor is that it casts the responsibility of explanation of lapses like shortfall in expenditure, diversion, misuse by other departments, on the Minister in charge of the Tribal Development Department in forums like the Legislature of the State, the Public Accounts Committee. It would, thus, appear that each of the two modes has its merits and demerits.

49. But, it is arguable that, on the whole, exhibition of the provisions earmarked for tribal areas in the budgets of the concerned departments with certain stipulations for their appropriate and full utilization may be regarded as of more practical value. One stipulation may be that, at the pre-budget formulation stage, the Tribal Development Department should be in the picture for adequacy and priority of provisions and relevance of schemes, with a view to a judicious mix of beneficiary-oriented and infrastructure development schemes. So far as infrastructure is concerned, the TD department could ensure that it is not unduly weighted in favour of capital-intensive low-utility schemes, but that its main function is to back up beneficiary-oriented programmes. In this context, we refer to pre-budget scrutiny procedure followed in some states. A small group comprising officers of the Finance, Planning, the concerned administrative department and Tribal Development department scrutinises the staff and other components of the schemes for TSP ahead of presentation of the budget to the State Legislature to satisfy itself and to enable issue of sanctions soon after passage of the budget. The leverage could be exercised in additional or in some other ways. It

needs to be ensured, however, that adoption of the procedure does not delay issue of sanctions, but that all sanctions are issued before the end of the first quarter of the financial year. Any methodology in this regard should keep in view the fact that the working season in most tribal areas is short, being circumscribed by several months of rain or snow. If need be, post-budget, there could be interaction between the concerned sectoral department and the Tribal Development department.

50. In the chapter "Panchayats", we have referred to the fact that there have been delays in funds reaching the field-end where they are actually required for implementation of programmes, schemes etc. It is no secret that funds for tribal development devolved on the State Governments generally get stuck at State headquarters in the Finance Department for varying periods, being used for the unstated purpose of mending the ways and means position of the State Governments. While we refrain from making comments in the matter of financial principles, we cannot help expressing our concern that funds which should reach the poor tribal people expeditiously for alleviation of their economic and social plight get blocked thus, even though temporarily. We have, therefore, stressed in the aforesaid chapter "introduction of procedures" which will enable the field formations like the ITDPs/ITDAs and the Panchayat tiers to assuredly and timely receive funds along with the stipulation of their accountability for such funds. We have quoted the example of District Rural Development Agency (DRDA) to whom the Central Ministry of Rural Development makes direct devolutions. In their guidelines for release and utilization of special Central assistance (SCA) to the Tribal sub-Plan contained in Ministry of Tribal Affairs communication No. 14020/5/2003-SG&C of 2 May 2003, they have gone so far as to say that (a) the SCA funds earmarked by the Ministry for ITDPs should be released

directly to the ITDPs by the State Governments/UT Administrations (b) no part of SCA should be released directly to any department at the State level and (c) transfer of funds to implementing departments/agencies, if required, should be done by the ITDPs. This guideline should eliminate one stage of likely delay. But it does not confront the situation which arises out of delay in distribution of funds by the Finance Department and the State line departments received/receivable by them from other Central Ministries. It is possible that the Ministry of Tribal Affairs desired to approach the matter step by step or that they might not have received the financial or other procedural concurrence for going beyond the stage mentioned. However, in our view, Government procedures should cut down dilatory steps to be able to directly deliver resources for improvement of tribals' condition. In other words, our approach should be to cut out superfluous links in the chain. Further, in the chapter mentioned, we have suggested that as the devolutions should now take place through the Panchayat tiers, each of the higher Panchayat tier should take timely action to make devolutions downwards, largely on population basis, giving weightage to particularly backward segments like primitive tribal groups and needs of infrastructure.

### **Institutional Finance**

51. In the formulation of programmes, specific problems of each area as well as of the target group in terms of family are to be clearly defined and schemes directly benefiting the individual tribal given the highest priority. The State out-lays require to be multiplied by attracting institutional finance. This source of finance is the fourth significant contribution to the TSP funds. Its importance cannot be exaggerated if, as is the case, the emphasis is to be on schemes of individual benefit. Examples of such schemes are numerous. In the field of agriculture, a tribal family may be given part



subsidy and the other part may be loan component from a financial institution; the relative percentages of subsidy and loan component may vary from state to state and from time to time. Similar arrangements may hold in the fields of horticulture, animal husbandry, small irrigation, forestry, cottage and small industries. In the field of credit-cum-marketing, the part to be played by institutional finance is vital. Consumption credit, no less than production credit, has come to occupy a crucial position in the gamut of measures for the promotion of tribal economy. Despite the recognition of the role that institutional finance has in the tribal development framework, there is a feeling that, on the whole, the financial institutional sector has not helped adequately. In particular, though the decision to allow the tribal areas the benefit of differential rate of interest finance i.e. at 4 per cent, was taken by the Government of India some years ago, to what extent it has been operationalised is not known. In any event, institutional finance has to augment the State funds more and more for schemes of individual benefit.

#### **Non-Plan Sector**

52. There is an umbral region in the financial picture. This is non-plan budget of the State Government. It is known that programmes taken up in the course of a Plan period get transferred to the non-Plan side at the end of the Plan period. Maintenance of service created as a part of the plan activity is provided for by the award of the Finance Commission. A matter of concern in respect of tribal areas is that the developmental effort in these areas having so far been inadequate, the non-Plan sector also has remained correspondingly small. This is indeed a pity since certain sectors are financed largely from the non-Plan side e.g. education, health, cooperation, agriculture. It is well-known that in the education field, the non-Plan investment is many times that of

the Plan outlay, since bulk of the expenditure goes for defraying salaries of teachers and maintenance of school buildings. It is incumbent that, as in the case of Plan outlays, earmarking of funds from the non-Plan side also for tribal areas should be undertaken by the State Governments.

53. In the overall schemes of priorities, as already explained there is a bias towards commitment of resources for capital-intensive sectors like power, flood-control, large and medium industries, mining and transportation, as a consequence of which resources available for schemes of individual family benefits have been disproportionately small. In the tribal context, utilization of infrastructural facilities created as a result of investment in capital-intensive sectors, though essential, can fructify over a long period of time. In the meantime, sustained application to implementation of family-benefit schemes will yield to a tribal family immediate tangible dividends. It is, therefore, to be emphasized that adequate quantum of resources should be earmarked for schemes of individual family development. In effect, of the three major orientation patterns of development strategy, namely region-specific, resource-specific and people (client) specific, the last named should preponderate over the other two in a mix of tribal development plan.

54. Non-Plan outlays are of considerable magnitude in certain sectors of States' activities. While most of this expenditure relates to maintenance of existing establishments, engineering works and other assets, in a number of cases there is development angle to it as much as addition to the staff and improvement to assets provide a base for several developments in these sectors. The Sixth Plan Working Group on Tribal Development had recommended consideration of the non-Plan funds. However, it seems so far little move has been made in this direction. On the other

hand, even Plan funds have been utilized for establishments and works which should have been borne on non-Plan funds.

55. The non-Plan sectors which subsume development angle concerning tribal population vitally and where success of investments in schemes and critical infrastructure calls for adequate attention, are education, health, rural development schemes, communication, cooperation, agriculture, irrigation. In fact, substantial funds under the non-Plan rubric are spent in these sectors for maintenance and improvement. Since, so far, the TSP has remained deprived of non-Plan funds, it is incumbent that the concerned Ministries and Departments at Centre and the States review the position to make reasonable non-Plan allocations. The Tribal Affairs Ministry at the Centre and the Tribal development Departments in the States should review the matter with the concerned Ministries and Departments to ensure adequate flow. The extent of availability of non-Plan funds will correspondingly relieve the pressure on Plan funds in the different sectors of tribal development.

56. In this context, the awards of the Finance Commissions assume importance. The Seventh Finance Commission (1979-84) recognized, for the first time, that the level of administration in the tribal areas stood in need of upgradation and awarded Rs. 42.6 crores to 13 revenue deficit TSP States, consisting of Rs. 23.52 crores of compensatory allowance to staff and Rs. 19.11 crores for construction of residential quarters in tribal areas. Diversion of funds from one scheme to other was permitted. The Eighth Finance Commission (1984-89) recommended a grant-in-aid of Rs. 97.19 crores to 13 revenue deficit TSP States, again for upgradation of tribal administration. Against this award, the Government of India made a provision of Rs. 88.70 crores comprising Rs. 19.27 crores for compensatory allowance, Rs. 30.97 crores for staff

quarters and Rs. 38.45 crores for improvement of infrastructure in 769 villages. The Ninth Finance Commission (1989-94) did not make any provision for payment of compensatory allowance, as it was found that some States had not been using it. On the other hand, in certain States expenditure on capital works and staff quarters contributing to infrastructure had been poor and it appeared that the works commenced with the award of the Eighth Finance Commission would remain incomplete. It recommended Rs. 14.37 crores for staff quarters, Rs. 2.05 crores for capital outlay in 41 villages, Rs. 4.01 crores for development of Bastar district and Rs. 0.32 crores for construction of office buildings etc. for the Autonomous District Council in Tripura, in all amounting to Rs.20.75 crores. The Working Group for the Eighth Plan period observed that payment of compensatory allowance should be continued even if not provided for in the award of the Commission; the entire provision made for upgradation of standards of tribal administration should be placed at the disposal of the Tribal Development Department for better coordination among the funding, executing and user agencies; staff quarters be provided in tribal areas to the employees of all Government Departments working in educational and health institutions etc; the States likely to lose revenue on account of implementation of full or partial prohibition in TSP areas and abolition of royalties on MFP collected by the tribals might approach the Finance Commission for compensation for such losses of revenue.

57. We have emphasized the importance of non-Plan funds. But we are glad to find that the Ministry of Tribal Affairs has submitted a memorandum to the Twelfth Finance Commission, though the opportunity of approaching the Eleventh Finance Commission was, perhaps, missed. Some of the States seem not to have shown adequate alacrity in

this regard. For instance, we noted with consternation that the Government of Arunachal Pradesh had not preferred their claims so far to any Finance Commission; they would now do so to the Twelfth Finance Commission. Loss of non-Plan funds means diversion of Plan funds from development to non-development (mostly establishment) purposes and a serious dent in the total resource availability of the TSP.

#### **A Performance Appraisal**

58. According to the Report of the Working Group on Tribal development during the Seventh Plan period, a majority of the ST areas and people remained isolated, poor and backward. About 2 lakh ST families in nearly 5000 forest villages (under the management and control of the Forest Department) did not possess the rights to lands which they cultivated. While integration of administration in ST areas at the ITDP level had been the aim, there were several programmes operating in the project areas of which the ITDP administration was ignorant. Above all, they observed that despite the strategy and efforts of all the years, 85 per cent of the total number of tribal families remained below the poverty-line on the eve of the Seventh Plan compared to the national average of 38 per cent.

59. According to the Report of the Working group for Scheduled Tribes during the Eighth Plan period, the results of the TSP strategy were not commensurate with both the investments and expectations. In several States, the TSP approach was interpreted as area approach, laying stress on infrastructure, de-emphasising family-oriented approach. It was indicated that Maharashtra had laid a premium on development of infrastructure, allocating 78 to 89 per cent funds to it. Adequate attention was not being paid to the relevance of the schemes for tribal people and assessment of likely flow therefrom of physical benefits. Integration under the TSP strategy had not been

achieved as an ITDP had not been accepted as a unit of planning. Implementation of protective laws had not received priority. Institutions like LAMPS had not been able to substitute moneylenders as viable credit agencies.

60. The appraisal of the Ninth Plan Working Group also does not register satisfactory implementation of the TSP strategy. But, on the whole, the record-keeping of physical achievements has been far from what is desirable.

### **Tribal participation**

61. Unlike the problem of development in the rural areas of the country, that of development of scheduled tribes and tribal areas is not merely one of higher productivity, increased incomes and raised levels of consumption. It bears emphasis that the tribal areas have remained secluded from other areas and sections of society for long centuries. Almost every one of the tribal communities has, as a result, evolved its own distinctive economic system, culture and individuality. By and large, the general concept of development in post-independence India may not accord with their own idea system. On the contrary, it is not unlikely that the new western and industrial culture making inroads in the tribal areas might strike discordant notes in the harmony achieved by the tribal people through a fine balance of the various forces at work. The exhortation of Jawaharlal Nehru that the tribal people should be enabled to advance along the lines of their own genius has, therefore, relevance even today. It would be ideal if each of the scheduled tribe community were to deliberate over and decide the course of its development. The decision might be taken in the light of various factors like its cultural background, the present level of development and the projected needs.

62. In the earlier stage of evolution of Tribal sub-Plan, the anxiety was how to associate the tribals. For the purpose, Project Implementation Committees containing

tribal representatives were to be set-up at the ITDP level. The guide-lines worked in some states, though not in all. Consequently, tribal association has remained an uncertain factor. However, the situation changed on the passage of 73<sup>rd</sup> Constitutional Amendment leading to insertion of Articles 243, 243A - 243O. These provisions confer constitutional sanction on Panchayats at the grass-root, intermediate and district tiers in perpetuity. Part IX of the Constitution dealing with the subject contains some wholesome provisions including the one for filling up Panchayat seats through elections. Clause (4)(b) of Article 243M called upon the Parliament to pass a law extending the provisions of Part IX to the Scheduled Areas and the Tribal Areas subject to such exceptions and amendments as may be specified in such law and not to deem such law as an amendment of the Constitution. In pursuance of this provision, in 1994, the Govt. of India set-up a Committee of MPs and experts to make recommendations for such a law. The Committee, known as Bhuria Committee, submitted its report to the Government of India in 1995. Based on its recommendations, in December 1996, the Parliament passed the Provisions of the Panchayats (Extension to the Scheduled Areas) Act [ PESA Act 1996]. This law calls upon the legislature of a state not to make any law under Part IX which is inconsistent with the (a) customary law, social and religious practices, and traditional management practices of community resources (b) the duties of every Gram Sabha to safe-guard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution. It confers on Gram Sabha and the Panchayats wide powers such as prevention of land alienation, restoration of alienated land, control over local plans and resources, control over institutions and functionaries in all social sectors, enforcement of regulations of intoxicants, control over money-lending etc. With such

highly empowered Gram Sabhas and Panchayats in place at least in law, the apprehension of lack of tribal participation should not have substance. But, in actual practice, there are hurdles in the way. In the first instance, the tribal Panchayats are not fully aware of their powers, responsibilities and duties conferred on them. Secondly, and partly as a consequence, impediments have been created in their functioning by some sections of the executive, that is those very quarters which ought to encourage them. Thirdly, it is doubtful that a well-conceived mechanism for the Panchayats and the techno-administrative government machinery to play their respective mutually complementary and integrated roles, has been evolved. Nevertheless, the Panchayat system offers tremendous opportunity for tribal communities to take command of their resources and with the help of public finances and techno-administrative apparatus, to carve out their own destiny and march forward towards economic, political, social and cultural well-being. The all-important role of Panchayats in this context is discussed in a separate chapter in this report, containing the lines on which a paradigm shift in the Tribal sub-Plan is envisaged.

63. Reference was made earlier to the existence of a number of regulatory measures framed under the Fifth Schedule of the Constitution. The foregoing review would also indicate that financial resources no longer remain a serious constraint to tribal development. It is to policy and implementational aspects that attention should turn more. The Fifth and Sixth Schedules offer comprehensive scope for shaping an administrative framework capable of translating the objectives into reality. It appears adequate use has not been made of it. Its effective instrumentality should engage our serious attention. It is the subject of another chapter here.



### **Ombudsman Authorities**

64. We have found the processes of monitoring and evaluation weak. It is for that reason that we have not been able to depict hereinbefore a picture relating to physical achievements resulting from the massive financial investments which have been made in tribal areas during the past five five-year Plan periods commencing the Fifth Plan. As the various tables and statements indicate in this report, the outlays in tribal areas during the first four five-year Plan periods were hardly significant. Too much emphasis cannot be laid on making the monitoring and evaluation mechanism intensively operative and faithful. We have a separate chapter on the subject in this report.

65. The purpose of this particular section in this chapter is, however, slightly different though related in some way to monitoring and evaluation. We have in view creation of independent and autonomous Authorities at the Centre and in each of the States which have sizeable tribal ST population and which have already been identified. These Authorities should comprise High Court/ Supreme Court Judges, eminent ST leaders inside or outside the Legislatures, eminent non-ST men and women who have a glowing record of empathetic service and knowledge of tribal affairs, sociologists and anthropologists of very high caliber, not exceeding 10 in number at the Centre and not exceeding 7 at the State level. These Authorities should function as overseeing bodies and as Ombudsmen. Specifically, they should be entrusted with the following functions:

- a) Keeping track of developments and happenings among the tribal people and in the tribal areas
- b) Suggesting to the Central and/or State Governments measures for advancement of the ST communities along the right lines and at the appropriate pace
- c) As Ombudsmen, adjudicating between Central/State Governments and tribal communities and individuals on matters likely to cause social or political friction or conflict.

66. It may be argued that at the national level, a National Commission for Scheduled Tribes may soon start functioning under Article 338(1) of the Constitution and similar

bodies may exist in the States. Further, that Tribes Advisory Councils under the Fifth Schedule of the Constitution have been established. It may, however, be appreciated that these bodies have not brought about the requisite quality change in the situation. Notwithstanding the constitutional sanction behind the two organizations, they have concerned themselves more in the day-to-day matters which are, in any case, important in themselves as also numerous. It will be essential to vest the proposed Authorities with adequate stature and sanction to enable them to function more in the nature of super-Ombudsman. It needs to be stressed that, for the purpose, the positions should be filled up with individuals of unimpeachable integrity, high moral standing and deep understanding of public, particularly ST, affairs in the country.

## **Summary and Recommendations**

For the scheduled tribe people of the country, the objective should be elimination of exploitation, acceleration of the pace of socio-economic development, building inner strength and improving their organizational capability.

2. The genesis of the concept of Tribal sub-Plan (TSP) is traceable to thoughts scattered in the Dhebar Commission Report, 1961.

3. Before the advent of the TSP concept, the policies and programmes of tribal development got atrophied financially and physically since it was merely a sectoral programme for execution of certain schemes with the limited resources of backward classes welfare sector. The Tribal sub-Plan was launched in the beginning of the Fifth Five Year Plan.

4. The four important ingredients of the TSP have been:

- (i) identification of development blocks having, generally, majority of ST population and appropriately constituting them into ITDP
- (ii) preparation of a project report for each ITDP based on the natural resource endowment therein, available financial resources and the avocations, skills and aptitudes of the people of the ITDP
- (iii) ensuring availability of at least population-proportionate pooled financial resources earmarked from State Plan funds, funds of Central and Centrally sponsored programmes, special Central assistance, institutional finance and any other source, and
- (iv) placement of a suitable techno-administrative structure in the ITDP for execution of programmes, schemes etc. contained in the approved project report of an ITDP.

5. According to available information, 633 full and 280 part development blocks have been constituted into 194 integrated tribal development projects (ITDPs)/

integrated tribal development agencies (ITDAs). In addition, there are 59 modified area development approach (MADA) pockets and 82 clusters, outside the ITDP/ITDA areas. They are distributed in 21 States and 2 Union Territories. The report of the Tenth Five Year Plan (2002-07) Working Group of the Ministry of Tribal Affairs indicates that cent percent ST population has been covered thus. The TSP area and the Scheduled Area are, to a large extent, co-terminus.

6. The basic idea of constituting development blocks into ITDP/ITDA has been to institute a projectised integrated multi-sectoral approach with the help of pooled funds of various sources.

7. The TSP has been envisaged as representing the total development effort in the identified areas with the aid of resources pooled from (i) outlays from the State Plans (ii) investment of Central Ministries and Planning Commission (iii) special Central assistance and (iv) institutional finance.

8. The project report for an ITDP/ITDA has been envisaged as reflecting the balanced multi-sectoral programmes relative to the desiderata of natural resource endowment, the needs and aspirations of the people and their skills and aptitudes. The State TSP should represent an aggregate of the various project reports articulating, in sum, the priorities, needs and aspirations of the tribal people and tribal areas in the State correlated to financial resources availability.

9. The approach during the Fifth, Sixth and Seventh Five Year Plans has been to aim at area development with focus on scheduled tribe population, particularly providing them a protective legal shield. The Tenth Plan Working Group has suggested that following tribal ethos, an entire tribal community should be placed centre-stage for elevation from all points of view (economy, education, health, communications and so on) and not merely the individuals. Thus, the stress has been on the beneficiary, earlier an ST family and in the Tenth Plan Working Group report, an ST community.

10. We recommend that every ITDP/ITDA should have a section devoted to women's planning and implementation. Every State TSP and ITDP/ITDA project report should exhibit suitable earmarked distinctive programmes and schemes for women, along with earmarked resources, at least 30 per cent.

11. The Centre having a special constitutional responsibility towards the scheduled tribes and Scheduled Areas, the role of Central Ministries and Planning Commission assumes significance. They should quantify and earmark funds for tribal areas under their programmes, formulate appropriate need-based programmes and adapt the on-going programmes to meet the specific requirements of scheduled tribes and identify a senior officer in the Ministry to monitor the progress of implementation of programmes for the development of STs. Weightage may be given over and above funds equivalent to ST population-percentage. The special Central assistance (SCA) should be regarded as a gap-filler to make available resources for specially relevant schemes and in critical programmes especially, for which funds are not otherwise visible. The SCA should be treated as supplementary in character.

12. Every concerned Ministry should prepare a Tribal sub-Plan indicating the programmes and available financial resources, distributed amongst States on equitable basis. These documents should be circulated to project administrators making it possible for the field units to have a clear picture of the programmes for implementation.

13. The Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes has observed unsatisfactory quantification of funds and benefits. We recommend that the Ministries and Planning Commission should take steps to improve the position.

14. The total outlays in the Tribal sub-Plan in the States recorded quantum jump from Fifth to Sixth Five Year Plans and succeeding Plan periods. So much so, the cumulative figures of investment may total to more than Rs. 30,000 crores. We have

not been able to ascertain the physical achievements accruing from this order of investment, either in respect of infrastructure or in relation to the benefits to ST families. We regret we find this most unsatisfactory. We request the Government of India and the concerned State Governments to put in place monitoring and evaluation mechanisms enabling the full picture of physical achievements resulting from massive investments.

15. In so far as the question of exhibition of quantified funds in the State Government Departments and Central Ministries is concerned, for reasons mentioned, we recommend exhibition of the provisions earmarked for tribal areas in the budgets of the concerned sectoral Departments of State Governments and Central Ministries with certain stipulations for their appropriate and full utilization.

16. The Centre should make direct devolutions to the Zilla Panchayats, instead of routing the funds through the State Governments because of delays involved in funds reaching the field formations. The procedure being recommended is on all fours with that now obtaining between the Ministry of Rural Development and DRDAs.

17. Since beneficiary-oriented schemes in which loan component is generally a factor have been stressed all along, the role of institutional finance becomes important. So far, accessibility of institutional finance has been limited in tribal areas owing to various factors. The accessibility should be facilitated and even differential rate of interest finance should be made available to the ST beneficiaries.

18. Non-Plan finance has been neglected for tribal areas. The result has been unconscionable burden on Plan resources, restricting their availability, particularly for beneficiary-oriented programmes. At the same time, the existing assets have not been maintained properly. The Central and the State Governments should review the matter to ensure flow of adequate non-Plan funds to relieve pressure on Plan funds in different sectors of tribal development.

19. The Seventh, Eighth and Ninth Finance Commissions recommended certain devolutions. Perhaps, the subsequent Finance Commissions did not make allotments for tribal areas. The Central and the State Governments need to project their non-Plan requirements to the Finance Commissions at regular intervals.

20. By all accounts, the performance appraisal points to unsatisfactory state of affairs. We would urge improvement.

21. Since the passage of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments and the Provisions of Panchayats (Extension to the Scheduled Areas) Act 1996, the role of the four-tier Panchayats in Scheduled Areas has become dominant. The aims of the constitutional and statutory instruments should be carried out by empowering the Panchayats and constructing a viable interface between the Panchayats and the administrative apparatus. This has been suggested in the Panchayats chapter.

## LAND

### Some general observations

Before discussing the various aspects of the subject, it may be appropriate to set the perspective. In the non-tribal societies, land may be treated as a mere commodity, much like cash, which may change hands. The concept of land among tribal societies is radically different:

Land is not something you inherit from your ancestors, rather something you borrow from your children .....

It is essential to know and understand the deeply spiritual special relationship between indigenous peoples and their land as basic to their existence as such and to all their beliefs, customs, traditions and culture.

.....of the most basic human rights – including the right to maintain their ancestral lands, their cultures and their traditional way of life .....

Their land is not a commodity which can be acquired, but a material element to be enjoyed freely.

2. It needs to be appreciated that strong bonds subsist among members of a tribal village community than observed among non-tribal village societies. Its genesis may be traceable to their isolated existence for centuries in remote locations in forests and plateaux. The tribal village communities learnt and evolved their own governing and administrative systems, in which social relations played a significant part.

3. It is essential to understand that in many tribal societies, both community ownership and individual ownership of land exist side by side. While in the past, community ownership may have been the dominant mode, presently private holdings seem to be preferred. The community land may comprise of the common land, grazing land, wooded tracts, service tenures, religious lands, burial and commemorative lands etc. Customary laws usually regulate the use. The following kinds of land ownership prevalent among the tribal communities have been identified:



- 1) religious lands etc. treated as sacred on account of spirits residing there
- 2) burial, cremation or commemorative lands
- 3) land owned by village deity
- 4) land required for worship on specific occasions e.g. Pahn, Dali Katari, Bhut Petha
- 5) the tribal chief's land which may escheat into the community in the event of heirlessness
- 6) Service tenures of village black-smith, carpenter, washerman, watchman et al.
- 7) Common land benefiting the entire community occupied by pathways, village tanks, tree-groves, land used for fairs and festivals
- 8) Village wasteland that may be brought under the plough if so decided by the village community
- 9) Village forests
- 10) Individual land holdings, inheritable and transferable, usually with the sanction of the community

Custom also dictates that among certain communities heirless or abandoned land holdings revert to the village corpus.

4. While there is flexibility in the matter of other categories, the first three categories of land are deemed as inviolate and transfer of these lands is normally out.

#### **Dhebar Commission's report**

5. In chapter XI on Land and the Scheduled Tribes, the Dhebar Commission dwelt on the different facets of land as related to the tribal population. Repeatedly, they expressed concern at the loss of tribal land and, analyzing the reasons, made some recommendations.

6. It is appropriate to mention a few of their observations, inferences, recommendations etc. In the first instance, note has to be taken of the fact that, that Commission did not have access to adequate land data. The chapter contains references to results of only a few socio-economic surveys conducted in Gujarat, Madhya Pradesh and Rajasthan. It is, indeed, creditable that they could draw sound conclusions therefrom still holding validity. They cited poor soils, out-dated techniques of cultivation, low productivity and the burden of indebtedness as largely responsible for the many handicaps and hardships of the tribals. As evident to even a casual observer, a critical problem of tribals is dispossession of their land, which is their major resource.

7. To anyone familiar with the agrarian scene of a couple of decades following independence, a burning question of the time related to the abolition of the intermediaries, enforcement of ceiling on holdings and distribution of ceiling-surplus land. The Dhebar Commission pointed out that schemes

of land reforms were based upon landlord-tenant system and tribal areas did not customarily have such a practice on a significant scale. But, in some States like Maharashtra and Gujarat, where a sizeable percentage of tribals were landless or marginal farmers, the land reforms were expected to help in matter of acquisition of tenancy rights. However, on account of changes in the laws and defective execution, much of the impact was lost. Even, it was estimated that in some tribal areas, about 15 to 30 per cent of the land belonging to tenants went out of their hands. Among other important reasons for the failure in tribal areas were: the tribals were ignorant of the law and the rights it conferred, they had no money to buy up tenancy, they were under the thumb of the land-holders.

8. According to the Dhebar Commission report, shifting cultivation has been practiced extensively in tribal areas. The NSSO 1988-89 reports that 6.5 per cent of the households resorted to shifting cultivation at the all-India level, the figure being 3.3 per cent for the Central tribal belt and 33.8 per cent for the north-eastern region. The regional variation is wide. In the north-eastern region, the percentage of area under Jhum was 9.5, while for the Central tribal it was 0.5.

#### **Land Reforms**

9. Before proceeding further, we wish to recall that early after attainment of independence, mainly with a view to elimination of intermediaries and vesting surplus land in the tenant, land reforms were put into effect. According to the Yugandhar Expert Group on Prevention of Alienation of Tribal Land and its Restoration 2003 (EGOTL), set up by the Ministry of Rural Development, Government of India, approximately 3.4 crore peasants in 57% of cultivated land areas under the Permanent Settlement were brought directly under the State and additional 2.6 crore hectares of land in the form of waste-lands went over to the State. Two repercussions are notable. First, that the tribal areas had few intermediary right-holders and, hence, there was little surplus land to be taken over from them. In fact, size-wise, distribution among tribal land-holders is less skewed than in non-tribal areas. Hence, the question of distribution of ceiling-surplus land is not of great significance in these areas. It may be useful to recall in this context that for the tribals, land is not purely a matter of economic resource but also a communitarian symbol. The second, that the intermediaries and tenure-holders were abolished and the aforesaid quantum of waste-land, which had hitherto been a part of tribal land rights, passed on to the State. But mostly, the ceded lands did not come to tribals for reasons recorded by the Dhebar Commission cited earlier as well as on account of poor land records maintained in the Zamindari areas and manipulations of unscrupulous lower revenue officials like Patwaries, Revenue Inspectors. At the higher level, the Government commenced functioning both as the State and landlord. Thus, the Land Reforms hardly brought in the expected benefits to the tribal

people. This will be clear from the following data, as on 31 March 2002, of the Directorate of Land Reforms, Ministry of Rural Development :

Total area declared surplus	73.73 lakh acres.
Area taken possession	65.01 lakh acres.
Area distributed to the individual beneficiaries	53.90 lakh acres.
Area allotted to ST beneficiaries	7.79 lakh acres.
Total number of beneficiaries	56.47 lakhs
Number of ST beneficiaries	8.30 lakhs

Data are not available as to what percentage of land allotted to tribals came to their actual possession and how many of them retained it.

10. During the post-independence times, one of the important items of development programme relates to distribution of Government land. The figures of the Ministry of Rural Development indicate that 14.7 crore acres have been distributed, as per information available in March, 2002, but it is not known how much of such land has been allotted to the tribals. According to the EGOTL, Government land in tribal villages was settled liberally with the non-tribals and such settlement tantamounts to deprivation of tribals from accessing lands, as the scope of expansion of the corpus of tribal land was blocked.

#### Some NSS data

11. The general impression is that land being abundant in tribal areas, the average per-family land-holding is high. It may have been so in the earlier times when ST population was relatively smaller and man-land ratio was more favourable. The 44<sup>th</sup> Round of National Sample Survey conducted July 1988 – June 1989 showed a great deal of variability among the tribes of different states. In the Central tribal belt, a household had, on an average, 1.09 hectares, the average figure of 1.58 hectares being the highest in the Central belt while the lowest average was 0.46 hectares in West Bengal. As expected, these figures are lower than the average holdings in the north-eastern region where the regional average was 1.32 hectares and maximum and the minimum average sizes 4.02 hectares in Arunachal Pradesh and 0.59 hectares in Tripura. Though not very meaningful, the results of the survey showed the all-India figure to be 1.10 hectares. It is noteworthy that households possessing between 0.01 hectares to 2 hectares

comprised the predominant percentage. About 21 percent of the households were landless i.e. having landholdings less than 0.005 hectares, 42 percent were marginal landholders having lands between 0.01 hectares to 1 hectare. Further, 6 percent of the households of the north-eastern region were landless while 22 per cent were landless in the Central tribal belt.

12. The general presumption is that the average tribal holding is bigger than that owned by a non-tribal household. The tribal land is generally slopy with a thin soil cover and without irrigation facilities. It may also be rocky. Often, it is comparatively less fertile. The 44<sup>th</sup> Round showed that, at the all-India level, despite the handicaps the average area owned by a tribal household was 1.15 hectares and that owned by non-tribal household was 1.16 hectares, indicating a slight edge over the tribals. The respective figures in the Central belt were 1.20 hectares and 1.24 hectares indicating a larger hiatus, and in the north-eastern region, the position was reversed with 1.54 hectares and 0.83 hectares.

13. The percentage of landless households among tribals was somewhat higher than among the non-tribals, the respective figures being 20.5 per cent and 16.3 per cent. The percentage of tribal marginal households was less than the non-tribal marginal households, that is respectively 40.6 percent and 51.7 per cent.

14. The NSS results also permit a comparison among the different ST communities. Among the Bhils, 52.4% Gujarat, 45.5% in Madhya Pradesh and 62.4% in Maharashtra occupied prior positions among the landless in the Central tribal belt. On the other hand, nearly 45% the Gond of MP possessed a holding above 2.03 hectares. In the north-eastern region, the Tripuri (13.8%) fell in the highest landless category. The number possessing land more than 4 hectares was not significant; the majority fell in the category belonging to land owning between 1 and 4 hectares.

15. The general conception of abundant land resources availability in tribal areas needs further scrutiny. For one thing, with growing population, this no longer remains true. The pressure from incursion of non-tribal population has been building up. Secondly, it should not be overlooked that most of the tribal groups occupy hilly and plateaux tracts, where soils are usually of poor quality and run-off rate of rainfall is usually high. Thirdly, a large majority of the tribal people usually ill-affords modern inputs and technology. These factors converge to low productivity in tribal areas. However, depiction of a full picture of these areas would need inclusion of low-lying paddy lands yielding two crops a year without irrigation, paddy lands capable of only one assured crop without irrigation in a year, medium land capable of broadcast coarse paddy and uplands yielding millets, oil-seeds and pulses. In shifting cultivation lands, rotation of at least 3 years may be observed.

16. The NSS estimates show that 46% of the rural tribal household earn a major share of their livelihood from self-employment, while 47% make a living from wage-employment as rural labour. Most of the self-employed tribal families, about 44%, derive their livelihood from farming and hardly 2% have had access to diversify non-agricultural self-employment. Other occupations like hunting and food-gathering are insignificant, considered from an over-all point of view.

17. Considering the country's major tribal groups, it is of interest to note that the Bhil of Maharashtra (85%), Gujarat (71%), Rajasthan (70%) and M.P. (58%) depend mainly on rural labour for sustenance. So is the case with the Santhal of West Bengal (65.6%) and Gond of Andhra Pradesh (62.3%). At the other end, 74% of the Meena, 77% of the Miri, 75% of the Khasi, 69% of the Bodo and 68% of the Rabha are self-employed at agriculture.

18. The picture obtaining above indicates the prime importance of land for tribals. Directly as cultivators indirectly as agricultural labourers, land is their main-stay. At the same time, it speaks of lack of diversification of their economy.

19. Instituting comparison between tribals and non-tribals on the basis of NSSO data, one draws the inference that a tribal household possesses much poorer asset-base in the Central tribal belt than a non-tribal household, the two respective figures being Rs. 27,000 and Rs. 49,400 and that, on an average, the tribal households are indebted to the extent of 21.5%.

#### Poverty Picture

20. In so far as the poverty situation is concerned, the statistics furnished by the Planning Commission from time to time show that the percentage of Scheduled Tribes below the poverty-line has been decreasing over the years. The figures for 1983-84, 1993-94 and 1999-2000 have been shown as 58.4 %, 50.3 % and 40.305 respectively. Incidentally, the States scenario in this regard is available in Annexure I. The all-India rural-urban break-up of percentages for the total of Indian population and ST population extracted from the Planning Commission's Tenth Plan document is as follows:

	(in percentage)					
	1993-94		1999-2000		Percentage change	
	Rural	Urban	Rural	Urban	Rural	Urban
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Total *	37.27	32.38	27.09	23.62	(-) 10.18	(-)10.04

STs	51.94	41.14	45.86	34.75	(-) 6.08	(-) 6.39
Gap	14.67	7.48	18.77	11.13	(+) 4.10	(+)3.65

Note : \* includes ST population

Source: Perspective Planning Division, Planning Commission, New Delhi.

Some other studies have indicated higher levels of poverty among scheduled tribes. Nevertheless, it will be noticed that the gap between the percentage of rural total population and rural ST population below the poverty-line increased from 14.67 to 18.77 between 1993-94 and 1999-2000. Similarly, the gap in respect of urban population increased from 7.48 to 11.13. These figures indicate that while there is a decline in the percentages of rural and urban ST population below the poverty-line during the six years, the differential has grown. Considering the facts that predominant percentage of the ST population lives in the country-side and that land has been passing out of their hands, we need to treat these figures with caution.

### **The prelude**

21. In the nineteenth century, the British colonial power was faced with a number of uprisings and rebellions, particularly in Central India. Consequently, it considered seriously the tribal situation and undertook a series of measures calculated to pacify the tribal people. The Wilkinson Rules 1839, the Chota Nagpur Tenures Act 1869 and the Santhal Parganas Act 1855, the Scheduled District Act, 1874, the Chota Nagpur and Santhal Parganas Tenancy Act 1908, were enacted. Two regulations were passed: XXXIII of 1870 for the peace and the good government to Santhal Parganas and Regulation III of 1872, empowering the Lt-Governor to remove the grievances of the Santhals regarding settlement of land, fixation of rent, application of customs and usages of the people and limitation of interest on debt. The burden of most of these enactments was to place the tribal people in a special category, to shield them from exploitation and to assuage their wounded pride and sentiment. The Deputy Commissioners and Assistant Commissions of districts were vested special power in the administration of tribal people and areas inhabited by them. The Governors wielded powers over and above those of the Deputy Commissioners and the Assistant Commissioners. Since land was the principal socio-economic resource of the tribals, legislative and executive actions focussed on prevention of its slippage. Restrictions on transfer of tribal land between tribal and non-tribals were placed. An outright ban was imposed as in the case of the Santhal and prior permission from the Deputy Commissioners was required for transfer. Equally important, the enactments sought to safeguard the traditional rights of the tribal communities in waste-lands, forests and water sources against landlords' or outsiders' incursions. Restrictions were

imposed on settlement of non-tribals in Scheduled areas. The institution of money-lending was regulated and creditors could not secure tribal land in lieu of debts.

22. The Government of India Act 1919 categorized tribal areas into "wholly excluded areas" and "areas with modified exclusion". The Government of India Act 1935 retained the two categories under a slightly different nomenclature i.e. "excluded areas" and "partial excluded areas". Relative administrative stability having set in by the last few decades of the nineteenth century, several provincial governments took a hand in legislating laws to prevent alienation of tribal land. For instance, Section 73 A of the Bombay Land Revenue Code 1879 prohibited without the written permission of the competent officer transfer of occupancy held by a tribal cultivator in Scheduled Areas and in areas where survey settlement operations had not taken place. The Central Provinces Land Alienation Act 1916 aimed at checking the tendency to dispossess the aboriginals of their lands. Similarly, in the composite state of Madras, the Agency Tracts Interest and Land Transfer Act, 1917, was enacted to check transfers of land in the Agency tracts.

23. Annexure II provides at a glance the laws in force presently in the different States of India, the source being by the Ministry of Rural Development. But before we scrutinize these laws state-wise, a synoptic picture of land alienated will be helpful.

#### **Alienation of tribal land**

24. As we have mentioned at a number of places, notwithstanding the operation of anti-land alienation laws for decades, legal and illegal transfer of tribal land has been taking place. This is illustrated by Table below.

Table

## Statement showing Areas of Tribal Land Alienated and Restored

Sl. No.	State	No of Cases filed in the Court	Area	Cases Disposed of by the Court	Area	Cases Decided in favour of Tribals	Area	Cases in which land was restored to tribals	Area	Cases Pending in Court	Area
1	2	3	4	5	6	7	8	9	10	11	12
1	Andhra Pradesh	65,875	2,87,776	58,212	2,56,452	26,475	1,06,225	23,383	94,312	7,663	31,324
	(date not indicated)	71,238	NA	68,137	NA	29,224	NA	27,599	1,10,277	3101	NA
2	Assam	2,042	4,211	50	19	50	19	50	19	1992	4,192
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3	Bihar*	86,291	1,04,893	7,65,18	95,151	44,634	45,421	44,634	45,421	9,773	9,742
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
4	Gujarat	47,926	1,40,324	40,400	1,20,691	40,281	1,20,194	39,503	1,18,259	7,526	19,633
	(upto sept. 2002)	20509	30,514 Hect.	19,621	29,354 Hect.	19,139	28,839	18,848	28,261 Hect.	888	1160
5	Himachal Pradesh	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
		2	4 Hect.	NA	NA	2	NA	NA	NA	NA	NA
6	Karnataka	42,582	1,30,373	38,521	1,15,021	21,834	67,862	21,834	67,862	4,061	15,352
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
7	Kerala	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
		8,088	NA	1,021	NA	NA	NA	3	NA	7067	NA
8	Madhya Pradesh #	53,806	1,58,398	29,596	97,123	NR	NR	NR	NR	24,210	61,275
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
9	Maharashtra	45,634	NR	44,624	99,486	19,943	99,486	19,943	99,486	1,010	NR
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
10	Orissa	1,431	1,712	594	816	442	612	212	455	837	896
	(Till Nov. 2002)	97,641	96,218	95,643	94,535 Acres	52,786	50,707 Acres	52,786	47,797 Acres	1,998	1,683



11	Rajasthan	<b>651</b>	<b>2,300</b>	<b>240</b>	<b>774</b>	<b>187</b>	<b>587</b>	<b>187</b>	<b>587</b>	<b>411</b>	<b>1,526</b>
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
12	Tripura	<b>28,926</b>	<b>25,295</b>	<b>28,888</b>	<b>25,274</b>	<b>8,804</b>	<b>6,908</b>	<b>8,551</b>	<b>6,732</b>	<b>38</b>	<b>21</b>
		NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
13	West Bengal	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
		<i>563</i>	NA	NA	NA	NA	NA	<i>7.24</i> Hect	NA	<i>563</i>	NA
	<b>Total</b>	<b>375164</b>	<b>855282</b>	<b>317643</b>	<b>810807</b>	<b>162650</b>	<b>447314</b>	<b>158297</b>	<b>433133</b>	<b>57521</b>	<b>143961</b>
		<i>198041</i>	<i>126736</i>	<i>184422</i>	<i>123889</i>	<i>101171</i>	<i>79567</i>	<i>99244</i>	<i>186336</i>	<i>13617</i>	<i>2843</i>

- 1)- Figures in acres as on 31-3-2002 in bold characters furnished by the Ministry of Rural Development  
2) Figures in italics received from state concerned in reply to the Commission's questionnaire (Nov.2002)  
\* Figures of Bihar include those of Jharkhand  
# Figures of Madhya Pradesh include those of Chhattisgarh

25. It will be seen from the above Table that it contains two sets of figures: one furnished by the concerned State Government in reply to our November 2002 questionnaire and the other provided by the Ministry of Rural Development which is the administrative Ministry. The figures of the Ministry show the position as on 31.03.2002 while those of the States pertain to the period as indicated in column 2. As may be noticed, no information is available from the States of Assam, Bihar, Karnataka, Madhya Pradesh, Rajasthan and Tripura. In other states from whom information has been received, there are gaps in particulars. Further, state figures as are available do not generally tally with those communicated by the Ministry of Rural Development. In the circumstances, we feel that it may be more appropriate to go by the Ministry's figures.

26. Further, from the Table, it appears that the disposal of cases by courts is fairly high, only over 57,000 cases pending out of 3.75 lakhs cases filed. This gives a good impression. But, of the number disposed of i.e. 3.18 lakh cases, the number decided in favour of STs was 1.60 lakh, being nearly 50%. In the context of the general impression that the STs are hardly in a position to seek legal redress even in genuine cases, the percentage decided in favour of STs does not appear to be high enough. If we analyse the Table further, we find that, all the 4.47 lakh acres decreed in ST favour have not been restored to the STs. Over 14,000 acres had yet to be restored, as per the situation known in March 2002. Above all, we believe the picture obtaining through court cases does not represent the totality of the scenario. As we have stressed here as well as elsewhere, illegal and coercive transfers have taken a large toll of tribal land. Anyone who views tribal land alienation problem has to reckon with both court cases as well as extra-legal transfers.

27. In the following pages, we have undertaken the exercise of scrutinizing i-alienation laws of the different states as have become available. We have referred to strengths and weaknesses of these laws. We have also ventured to suggest some modifications where we felt them necessary for consideration of the State Governments.

### **Andhra Pradesh**

28. The noteworthy features of the Andhra Pradesh Law designated as the Andhra Pradesh Scheduled Areas Land Transfer Regulation (LTR) 1959 may be summarized as follows :

(a) "Agency tracts" has been defined as areas which have been declared from time to time as Scheduled Areas in the districts of East Godavari, West Godavari, Vishakhapatnam, Srikakulam, Adilabad, Warangal, Khammam and Mahaboobnagar.

(b) Transfers has been defined to include lease, which is not the case in some other States.

(c) Section 3 (1)(a) prohibits absolutely transfer of land in the Agency tracts in favour of a person who is not a member of scheduled tribe or a cooperative society composed solely of ST members, even though the transferor may be a non-ST.

(d) As per section 3 (1)(b), until the contrary is proved, any immovable property situated in the Agency tracts and in the possession of a person who is not a member of a scheduled tribe is presumed to have been acquired by that person or his predecessor-in-possession through a transfer made to him by a member of a scheduled tribe. Section 6 (a) lays down penalty in case of acquisition of any immovable property unlawfully or continued possession of such property after a decree for ejectment has been passed. This provision may be compared with section 3-B inserted by the 2000 Amendment of Orissa Scheduled Areas Transfers of Immovable Property (by Scheduled Tribes) Regulation 1956 which obliges every person in possession of agricultural land in Scheduled Areas which belonged to a member of scheduled tribes between 1956 and 2000, to notify to the Sub-Collector. The prescribed information purports to show how he came in possession of such land. Failure in this regard has been deemed as absence of lawful authority ensuing in reversion of the land to the original owner. Further, on receipt of the information, the Sub-Collector has to make the requisite enquiry and if the finding indicates defraudment of a member of an ST, the transaction is to be declared as null and void, the land reverting to the original owner. No penalty has been stipulated in the Orissa Regulation.

(e) A ban is prescribed in section 3 (b) on registration of land transfer documents except where the person presenting the document furnishes a declaration by the transferee in the prescribed form to the effect that the transferee is a member

of a scheduled tribe or is a registered society composed solely of members of scheduled tribes.

29. The following further issues in the Andhra Pradesh context are relevant:

(i) Protection of the LTR is not available to members of scheduled tribes outside the Scheduled Areas. The result is that STs remaining outside are being elbowed out from their lands through various modes. The Yenadi and the Chenchu in the Nellore, West Godavari, Prakasam and other districts, being deprived of their lands, are examples. The remedy lies in either scheduling the area concerned on the basis of normative criteria or extension of the LTR to such areas.

(ii) Further, where the tribals institute cases against non-tribal transferees, the onus of proving that the transfer of immovable property is in violation of the LTR rests on the transferor. Under section 3(1)(b) of LTR, the non-tribal transferee should be required to prove that the transfer was valid.

(iii) Since the High Court has held that Section 15 of the Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulation 1970 confers over-riding effect, the State Government may consider insertion of a new clause in the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, so that orders passed under the latter have effect over the former.

(iv) Non-tribals have been using courts' stay orders and even mere acknowledgements from the High Court to halt proceedings for restoration of lands in LTR cases in the lower courts. Steps are required to be taken to ensure that stay orders do not impede the proceedings.

(v) The LTR may incorporate a provision to prohibit transfer of land to a female member of a scheduled tribe married to a non-tribal or kept as a concubine by a non-tribal.

(vi) If a tribal is hard-pressed to sell his land on account of distressed condition, the State Government or the Girijan Cooperative Corporation or any other authority should be made responsible for acceptance of his lands as mortgaged property. For the purpose, a corpus fund may be created. In case the tribal is not able to repay the loan and get back the mortgaged property, the land should vest with the Government and be leased out to a ST in the locality for a specified period.

(vii) Under the Agency Rules of 1870, oral testimonies and summary trial are permissible. This system could be adopted both for settlement of rights on revenue and forest lands.

(viii) It is reported that even among the scheduled tribes, the bigger and economically stronger tribal groups like the Lambada have been taking over the land of the smaller and weaker tribes like the Koya and the Chenchu. There have been demands that, as in the case of scheduled caste communities in Andhra Pradesh, there should be classification or gradation of scheduled tribe communities, so that the smaller and weaker communities are also able to avail of the benefit of positive discrimination.

(ix) In the non-Scheduled Area district of Nellore inhabited by the Yenadi, and elsewhere, Pattas have been given to STs on annual basis. The rationale for such temporary Pattas was that they would be converted subsequently into regular Pattas. This seems not to have been done.

30. It is understood that the Govt. of India has under consideration disinvestment of cent percent shares of the public sector Sponge Iron (India) Limited located in the Khammam district and a writ petition has been filed in the High Court of Andhra Pradesh against the move since it would imply transference of the public sector into private sector, violating the diktat of the judgement of the Supreme Court in Samata case.

31. It is also learnt that the Andhra Pradesh Tribes Advisory Council recommended amendment of section 3 (1)(a) of the LTR to the effect that the State should be empowered "to acquire or grant any interest in the land, including sub-soil, rights for reconnaissance permit or prospecting license or mining lease for major minerals to any person or organization whether or not under the control of State or Central Government". However, the State Government has expressed the view that they

would not proceed with the recommendation. As such, we do not wish to make any comment in the matter.

### **Arunachal Pradesh**

32. Generally speaking, ownership of land is vested in the community as per the tradition and usage of tribal communities. But, except for land used for common community purposes, land under cultivation, whether settled or Jhum, is in the possession of an individual cultivator and is heritable. Section 7 of the Bengal Eastern Frontier Regulation 1873 prohibits acquisition of interest in land or the product of land by non-natives beyond the "Inner Line" without the sanction of the State Government. Further, transfer of Jhum land under Arunachal Pradesh Jhum Land Regulation 1947 has also been prohibited except with the previous permission of the Land Conservator i.e. the Deputy Commissioner. The State Government has reported that there are no cases of land alienation.

33. On account of community ownership of land, it has become necessary for the State to introduce a system of issue of land possession certificate (LPC) to individual land holders to enable them to approach institutions for obtaining benefits like credit. The LPC is issued on the certification of different authorities like Village Councils, Gaon Burha, Anchal Samities, Forest Department etc. However, it was understood that the financial institutions have been hesitant in accepting the LPCs as security.

34. The State has enacted the Arunachal Pradesh (Land Settlement and Records) Act 2000 which provides for revenue administration, preparation of record of rights over land, assignment of land for special purposes, assessment of land revenue with regard to the use of land for agriculture, industrial or commercial purposes, for dwelling and any other purpose. Under the Act, cadastral survey of land in a phased manner has begun for the first time in the State.

### **Assam**

35. Land matters in the state of Assam have been regulated by the Assam Land and Revenue Regulation 1886. This Regulation refers to rights over land settlement and resumption, survey and demarcation, assessment, registration and protection of the interests of backward classes. The State Government has clarified that the backward classes include STs and SCs. It may be recalled that, in the earlier days, the state was coextensive with all the present seven sisters. Most of the present

state governments in the north-eastern region have adopted the provisions of the regulation with suitable adaptations.

36. As per Regulation the protective measures include constitution of compact areas in regions having predominance of the protective clauses and the boundaries of the areas so constituted should, as far as possible, coincide with the mauza boundaries or be otherwise easily distinguishable. The Government of Assam has reported that they have constituted 47 belts and blocks. Further, according to them, the provisions of chapter 10 of the 1886 Regulation prohibit transfer of Patta land from a tribal to any other land-owner within a protected belt or block to a non-eligible person. They have mentioned that the 1964 amendment to the Act placed an embargo on registration of transfer, exchange, lease agreement or settlement, if it appears to the registering authority that the transaction has been effected in contravention of the provisions of chapter 10. The condition of "appearing" to be in contravention of the provisions of the Regulation seems rather nebulous. Some states have inserted a better alternative. For instance, Andhra Pradesh has stipulated that at the time of registration a declaration has to be furnished by the transferee that he is a member of a scheduled tribe or is a member of a registered society composed solely of members of scheduled tribes. Another provision in chapter 10 relates to denial of right to any person to whom land is transferred in a belt or block in contravention of the provisions of the chapter by length of possession whether adverse or not. The duration of possession has not been specified, in the context of the provisions of the Limitation Act.

37. Two Autonomous Councils i.e. the Karbi Anglong Council and North Cachar Hills Autonomous Council have been formed in the two hill districts of Assam. In these two districts, the community owns or controls land, may be through village chiefs. Individual ownership of land is limited. It is, however, seen that the North Cachar Hills Autonomous Council has been engaged in building up a system of record of rights, land management, regulation of transfer of rights etc. The documentation should help obtaining credit, showing land as a collateral and is a good step. Legal instrument or instruments may be devised to help farmers to pledge the land, where it is held in community ownership.

### **Gujarat**

38. Section 73AA of the Bombay Land Revenue Code bans transfer of land belonging to members of scheduled tribe without the previous sanction of the Collector. Section 73AB allows attachment of occupancy of a tribal by the State Government, bank or cooperative society in the

event of default in payment of loan, but the Collector has to approve before the occupancy is sold to a non-tribal. Section 73AB makes it obligatory on a transferee to submit documents containing the sanction of the Collector at the time of the registration of transfer. These are wholesome provisions. But despite their existence, control of land has been passing to non-tribals. During the years 1981–1997, 39,622 cases were registered for transfer under Section 73A and 73AA. Out of these, 33,537 cases were cleared in favour of tribals and 4116 cases went against them. But no data about of restoration of land under the provisions of Section 73AA are available.

39. Our recommendations are that alienated tribal land should be restored removing the bar of limitation. If a tribal does not agree to take back possession of his land, the land should be vested with the State and should be allotted to a landless tribal of the same village. In areas covered by the law, land in possession of a non-tribal should be presumed to have been acquired by transfer and the onus of proving it to have been legally acquired should rest on the non-tribal concerned. Special attention should be paid to incidence of land alienation around industrial towns and growing urban centres.

40. It was found that Jagirdari Nabubi Dhara was enforced, but the Jagirdars indulged in indiscriminate cutting of forests. The land was sold by them to the tribals from 1953 onwards. The tribals developed the land and dug wells. But in 1973, the State Government acquired the private forests with the land which had been sold to the tribals. Now, 1804 persons have been allowed 1308 hectares of the land. This has made them encroachers on their own land. The matter has to be resolved.

### **Jharkhand**

41. Jharkhand has two major divisions (a) Chotanagpur division and (b) Santhal Parganas division. In the matter of land, the Chotanagpur division is governed by the Chotanagpur Tenancy Act 1908. The Santhal Parganas division is governed by the Santal Parganas Tenancy Act 1949.

#### **The Chota Nagpur Tenancy Act**

42. The Chota Nagpur Tenures Act 1869 had the object of ascertaining, regulating and recording certain tenures in Chota Nagpur. The tenures related to 'Bhuinhari' i.e. relating to persons claiming

to be descendants of the original founders of the villages in which such land is situated or their assigns; 'Bhetkheta', 'Dalikatari', 'Pahnai', i.e. consisting of lands set apart for duties which the village 'Pahan' or priest is required to perform and also other similar tenures known as 'Mahtoai' i.e. consisting of lands allotted to the village 'Mahto' or collector of rents. It had no special application to scheduled tribes, then known as aboriginals. This and other earlier enactments were consolidated in the Chota Nagpur Tenancy Act 1908 (CNT Act), which was made comprehensive. Its provisions were subsequently amended by the Bihar Scheduled Areas Regulation 1969 in their application to Scheduled Areas in the State of Bihar for the peace and good governance of the area.

43. The 1969 Regulation I also effected amendments to the Code of Civil Procedure, the Limitation Act of 1963 and the Santhal Pargana Tenancy (Supplementary Provisions) Act 1949.

44. The Code of Civil Procedure was amended so that the Deputy Commissioner could be joined as a defendant in suits for declaration of or for possession relating to immovable properties of a member of a scheduled tribe.

45. Through the Bihar Scheduled Areas Regulation 1969, the limit of 12 years prescribed in the Limitation Act of 1963 was extended to 30 years in the case of immovable property belonging to an ST. However, its benefit was denied retrospectively i.e. prior to the introduction of the Regulation on 9 February 1969.

46. Sections 71A relating to the power of the Deputy Commissioner to restore possession to a member of a scheduled tribe of land unlawfully transferred and procedure relating thereto and 71B relating to penalties for illegal and fraudulent transfer were added after section 71 in the Chota Nagpur Tenancy Act 1908 as per the amendments provided for in section 4 of the Bihar Scheduled Areas Regulation 1969 (Bihar Regulation I of 1969).

47. The interpretation of the High Court that 'surrender' of land is not a transfer within the meaning of section 46 of the CNT Act has operated adversely for the tribals, since the concerned ST raiyats were likely wheedled into surrenders by the non-tribal landlords before 1947 when permission of the Deputy Commissioner for transfer was not legally necessary.

48. The main provision relating to STs is contained in section 46 of the CNT Act placing restrictions on transfer of rights in lands by raiyats. Clause (a) of the second proviso of section 46 (1) of the Act lays down conditions for transfer of rights in a holding belonging to an ST: (a) the transferee should be a member of an ST community and should be resident within the local limits of the area of the police-station within which the holding is situated (b) the previous sanction of the Deputy Commissioner should be obtained. A transfer in contravention cannot be registered or recognized as valid by any court. If a transfer in contravention of this provision or by any fraudulent method comes to the notice of the Deputy Commissioner, he has to enquire



into the matter, evict the transferee from such land without payment of compensation and restore it to the transferor or his heir. The 1969 Regulation I also deals with the question of any building or structures which the transferee may have constructed within 30 years from the date of transfer in case where the transferor is willing to pay for them and in case where he is not willing to pay and these have been incorporated in section 46(4A) (c) of the Act. Section 71B relates to penalty for transfer of land in contravention of section 46 or by fraudulent method; if the land is held and cultivated by any person with the knowledge of such transfer, the penalty prescribed is imprisonment of either description for a term which may extend to three years as well as with fine.

#### The Santhal Parganas Tenancy Act

49. By the end of the eighteenth century, the region now known as Santhal Parganas was divided into different divisions called Parganas or Tappas, each under a chief called 'Sardar'. However, relating to the administration of the hills numerous complaints of corruption and tyranny poured in and disputes between hill-men and low-land Zamindars were rampant. The Santhals felt insecure in possession of land. The Santhal Rebellion broke out in 1855. Following it, the Santhal Parganas Act 1855 was enacted excluding the region from application of the general laws. The Santhal Parganas Settlement Regulation 1872 and subsequently Regulations II of 1904 and III of 1908 ensued, declaring non-transferability of raiyati lands, affirming power of the Deputy Commissioner to intervene in illegal alienation and to enforce the provisions of the settlement records. In 1949, these tenancy laws were supplemented by Bihar Act XIV of 1949 and the Santhal Parganas Tenancy (Supplementary Provisions) Act 1949 which placed some of the customary laws in the statute book.

50. The Santhal Parganas Settlement Regulation 1872 was aimed mainly at peace and good government in the Santhal Parganas territory through mediation by settlement officers into the rights of Zamindars against tenants or raiyats, the rights of the Manjhis or head-men as against both the proprietors and the tenants, as "also in other landed rights to which by the law or custom of the country or of any other tribe, any person may have legal or equitable claim" (section 12). In relation to the scheduled tribe population (described as "aboriginals" in these enactments) the law acquired focus in the Santhal Parganas Tenancy (Supplementary Provisions) Act 1949 [SPT (SP) Act 1949].

51. Sub-section (1) of section 20 of the SPTA 1949 invalidates transfer of a land-holding by sale, gift, mortgage, will, lease or any other contract or agreement by a raiyat unless the right to transfer has been recorded in the record-of-right (ROR). Its sub-section (2) allows such transfer provided it occurs from an ST land-owner to another ST belonging to the Pargana or Taluk or Tappa in which the holding is situated. Following the Gortzer survey and settlement report of 1936, the subsequent RORs mention details of the plots in terms of dimensions as well as quality of land, but do not inscribe secondary rights like womens' rights. Further, the last survey of 1980s was finalized for most blocks and districts in the Santhal Parganas division but has not been published as yet, resulting in several handicaps. In any event, the ROR is an important document since even bank credit is linked with entries therein and should be updated from time to time. The latest technology like computerization may be adopted, since it will be beneficial both for the revenue staff as well as the tenants.

52. Section 20(2) of the SPT (SP) Act 1949 stipulated that no right of an aboriginal raiyat in his holding shall be transferred in any manner to any one except a bona fide cultivating aboriginal raiyat of the pargana or taluk or tappa in which the holding is situated. It is noteworthy that this provision of the SPT(SP) Act omits one condition included in section 46 of the Chota Nagpur Tenancy Act 1908 (CNT Act 1908), that is the permission of the Deputy Commissioner is required even where the transfer is to another resident member of ST community. It implies that, in this respect, the CNT Act is more stringent than the SPT Act 1949. On the contrary, as per the SPT (SP) Act, an ST raiyat cannot enter into a simple mortgage with a scheduled bank or a registered cooperative bank or society or a public financial institution for the purpose of obtaining agricultural credit, without the previous sanction of the Deputy Commissioner; the CNT Act does not include such stipulation. Previous sanction of the Deputy Commissioner may not be deemed necessary when the transaction is with such aforesaid public institutions and, hence, in that respect the SPT(SP) Act calls for deletion of the clause. What needs to be considered is whether, in other cases, as prescribed in the CNT Act, the prior permission of the Deputy Commissioner should govern transfer. The number of cases of transfer (legal and fraudulent) has increased with the growing population. The level of education and awareness among STs has shown a distinct upward trend. At the same time, fraudulence has invented new devices and, as we have indicated in the note on the Jharkhand state, the conditions presently point to the need for a stiffer protective regime. This can be achieved by mounting pressure on the administrative machinery to implement the laws in the spirit in which they have been conceived, that is emphatically pro-tribal. Slotting the prior approval of the Deputy Commissioner may introduce more stringency in the law. But, at the same time, it may unduly fetter inter-ST transactions. As such, we are in favour of continuation of the present laws,

with an additional rider that the application for registration of the transfer should be accompanied by an affidavit of the transferee to the effect that he belongs to a scheduled tribe.

53. Mention of the period of 30 years in sub-section (5) has given handle to preparation by unscrupulous elements of spurious documents known as 'Kurfa' showing occupancy details to accord with the timing contained in the law. Section 42 of the SPTA does not indicate any fixed time-limit for ejection of any person who has encroached upon, reclaimed, acquired or come into position of agricultural land in contravention of the provisions of the Act. Analogously, the time-bar of 30 years in section 20(5) seems anomalous and may be considered for removal.

54. The provision relating to the situation where the non-tribal has constructed buildings or structures on the land in question, are similar in the two enactments.

55. The provision relating to contention of possession of land with the knowledge that such transfer is in contravention of the provisions of section 20, visited with punishment of either description for a term which may extend to three years or with fine or both, is identical with the clause contained in section 71 B in the CNT Act.

56. Appeals in section 57 of the Act have been contemplated to be four-tiered: from Deputy Collector to SDO, SDO to Deputy Commissioner, Deputy Commissioner to Commissioner and Commissioner to Tribunal. It is not known whether the government of Jharkhand has appointed a tribunal in this context. In some states like Orissa, the Commissioner is the final appellate authority. It is advantageous for tribals to have a simpler system.

57. Section 63 states that no suit shall be entertained in any court to vary, modify or set aside, directly or indirectly, any order of the Deputy Commissioner in any application which is cognisable by the Deputy Commissioner and every such order shall, subject to the provisions of the Act relating to appeals and revision, be final. This provision seems to be helpful and is, incidentally, in agreement with the provisions of the Orissa law.

58. It may thus be seen that salutary provisions exist in both the CNT Act and the SPT (SP) Act. Notwithstanding these provisions, land transfer has been taking place on an undesirably large scale in areas which now are a part of a new State of Jharkhand as well as those which are now included in the state of Bihar.

## **Kerala**

59. In reply to questions in the Land chapter contained in our Questionnaire Volume I, the Govt. of Kerala observed as follows:

Kerala was carved out of Travancore and Kochi kingdoms and Madras province ruled by the British. Even during the Travancore and Kochi dynasties, there were orders permitting the tribes to live in forest areas, cultivate land and restricting the entry of non-tribals and restriction of transfer of land. The Travancore Government promulgated an order in 1903 permitting the tribals to live in forest areas and to cultivate land. In 1910, the Government passed an order permitting the tribals to enrol in Schools and in 1911 the Government ordered restricting the transfer of land and a rule by name "Hillmen rules" were ruled.

60. After independence, the Government of Kerala enacted Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act 1975 [Act 31 of 1975]. For several years, the rules for the Act were not framed and it remained inoperative. The rules were framed in 1986 and the Act came into force from 1 January 1982. As per the version of State Government, the Act could not be implemented in letter and spirit due to various reasons.

61. In supersession of the Act 31 of 1975, the State passed the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act 1999. To quote the reply of the State Government "the Kerala Scheduled Tribes (Restriction of Transfer of Lands and Restoration of Alienated Lands) ( Act of 1975) and the amended Act viz. the Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Act 1999 could not be implemented for various reasons" [reply to question 7 in the chapter on Land Alienation Law in our Questionnaire Vol. II]. The fact is that the 1999 Act says clearly in its section 22 that the 1975 Act stood repealed. However, they have reported 8,088 cases involving 6,817 hectares for restoration of land under Act 31 of 1975 of which 1,201 cases favouring restoration of 183.93 hectares were disposed of, but restoration has occurred in only three cases.

62. The reason why even the 1999 Act has not been operationable is litigation. Its constitutional validity has been questioned in a case before the Supreme Court.

63. Kerala has no Scheduled Area. As mentioned, the Act 31 of the 1975 could not be operationalised till 1986 though made retrospective since 1982, because of the fact that the State Government did not frame rules thereunder. It was under the pressure of the Home Ministry which dealt with tribal affairs at that time that the State Government brought forth the rules. It is worth noting that that Act did not permit transfer of land belonging to a member of scheduled tribe to a non-tribal without the permission of a competent authority. Appeal against the order of the competent authority lay to another competent authority whose decision was to be regarded as final. Another provision made it clear that no right or interest held in any immovable property by a

member of scheduled tribe could be attached or sold for execution of a money decree against him. No legal practitioner was allowed to appear in the proceedings except with the permission of the concerned authority. The jurisdiction of civil courts was barred. The only adverse flaw visible in the Act is that at the stage of restoration of the immovable property to a member of scheduled tribe, he was required to make payment of the actual amount of consideration received by him at the time of transfer plus an amount determined for improvements effected by the transferee. Since the transferee enjoys possession of tribal land for years before restoration, the provision of compensation seems iniquitous.

64. In comparison, Act 12 of 1999 appears retrogressive. The restriction on transfer of land envisaged in Section 4 of the 1975 Act continues in this Act, but is subject to two serious conditions. Firstly, it does not disallow transfer between 1 January 1960 and 24 January 1986 of land not exceeding 2 hectares belonging to a member of a scheduled tribe to a person not belonging to a scheduled tribe. Secondly, without prescribing any time-frame, it permits retention of possession of agricultural land up to two acres transferred by a member of scheduled tribe to a non-tribal. Evidently, these two provisions are weighted against tribals. It needs to be kept in mind that most of the tribal families in Kerala have small holdings and it is likely that about 90 per cent of them have less than two acres each. Hence, most of them would be deprived. There are other negative features of this Act which repeals in Section 22 the Act 31 of 1975. On the grounds mentioned, the case seems to have gone to the Supreme Court and, being sub-judice, is inoperative presently.

65. It is estimated that in Kerala about 54 thousand families outside forest area and about two thousand families in forest areas are landless, that is they have less than one acre of land each. To settle them, the Ministry of Environment and Forest conveyed to the Government of Kerala approval for diversion of about 8,000 acres of reserve forest/vested land in the Kasargode, Kannur, Wynad, Palakkad and Malappuram districts under the Forest (Conservation) Act 1980, provided compensatory afforestation is taken up. The State Government have been asked to deposit the net present value of the forest to be diverted, amounting to Rs. 60 crores. Since the State Government is not in a position to bear this financial outlay, the Government of India may make available the sum so that the problem of resettlement of landless tribal families may be solved. No price should be charged from the tribal families.

#### **Madhya Pradesh & Chattisgarh**

66. The first Act to protect tribal land from being alienated was passed by the Central Provinces and Berar (present Madhya Pradesh) under the rubric of Land Alienation Act 1916. Another law applicable to the Madhya Bharat region only known as Madhya Bharat Scheduled Areas (Allotment

and Transfer of Land) Regulation was passed in 1954. Both these laws were aimed at checking indiscriminate transfer of tribal land by way of sale, mortgage, lease or otherwise without the permission of District Collectors. The "gift" mode of transfer seems to be an omission and should be included. After independence and reorganization of states, the Madhya Pradesh Land Revenue Code 1959 has become the basic document for the two States of Madhya Pradesh and Chattisgarh.

67. Section 165 (6) of the Code restricts the transfer of land belonging to a member of 'aboriginal tribe' to others in two parts: (a) the land-owning (Bhumiswami) right of a tribal is not transferable either by way of sale or as a consequence of transaction of loan to a person not belonging to such tribe in the area notified by the State Government where the aboriginal tribes predominate (b) in areas other than those specified in the notification, such transfer cannot be effected without the permission of a revenue officer not below the rank of a Collector who has to record the reasons for his orders.

68. However salutary, these provisions were nullified by section 169 which allows the rights of a occupancy tenant to accrue to those who cultivate the land of a Bhumiswami (tribal or non-tribal) for a period of more than two years continuously. This and section 190 were incorporated in the Code to prevent absentee landlordism and to protect the actual tillers of the soil. But they were misused for transfer of tribal land to non-tribals.

69. To counteract such malpractices section 170-A and 170-B were inserted in 1976 and 1980 respectively.

70. According to section 170-A any transfer during the period between 2 October 1959 and 29 November 1976 of agricultural tribal land to a non-tribal can be enquired into by a Sub-Divisional Officer on his own motion or an application made by the transferor. If the SDO is satisfied that such transfer is not bonafide, he can set aside the transfer both in Scheduled Areas and non-Scheduled Areas. If the land has been put to non-agricultural use, the SDO has to fix the price of such land which it would fetch at the time of transfer and order the transferee to pay within a period of six months the difference, if any, between the price so fixed and the price actually paid to the transferor. This provision does not seem to be fair, as the payment received by the tribal transferor contemporaneously might be more than what he would have obtained at the time of transfer.

71. Section 170-B relates to reversion of land to members of 'aboriginal tribe' which was transferred by fraud. In fact, it says that every person (here presumably a non-tribal is meant) in possession of agricultural land which belonged to a member of 'aboriginal tribe' has to notify to the Sub-Divisional Officer within two years of 2 October 1980 as to the manner how he came in possession of such land. On his failure to do so, the presumption has been made that such person has come into the possession without any lawful authority and the agricultural land would revert to the

person to whom it originally belonged on the expiration of the aforesaid period. Thirdly, taking into consideration the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996, sub-section 2A of Section 170-B places the responsibility of restoration of possession of the transferred land on the Gram Sabha in the Scheduled Areas; should the Gram Sabha fail in this regard, the matter has to be referred to the Sub-Divisional Officer who should make requisite enquiries and restore possession of the land within three months of the date of receipt of the reference. It is felt that a time limit should operate for the Gram Sabha and Panchayat bodies also.

72. Sub-section 3 relates to the provisions where (a) no building or structure has been erected on the agricultural land by the transferee, in which case the land has to be re-vested in the transferor and (b) where building or structures have been erected, in which case the transferee has to pay the difference between the price fixed by the SDO and the price actually paid to the transferor. It is not clear why this provision has been sought to apply to agricultural land only. As we have stated in respect of Orissa, it should be made applicable to ST non-agricultural land like homestead, common land.

73. It will thus be seen that, on the whole, the provisions contained in the Madhya Pradesh Land Revenue Code are fairly protective. A small formal matter relates to the use of the term 'aboriginal tribes'. In current parlance, as per the Constitution, 'Scheduled Tribes' is used.

74. A particularly important provision inserted in the Code relates to the role which a Gram Sabha can play in the matter of restoration of alienated lands, mentioned in one of the foregoing paragraphs. This has to be correlated to section 4 (m) (iii) of the PESA Act, according to which the Panchayats and the Gram Sabha in the Scheduled Areas are endowed with the power of preventing alienation of land in the Scheduled Areas and taking appropriate action to restore any unlawfully alienated land of an ST. It may, however, be noted that in section 170-B only the Gram Sabha has been brought into the picture and not the other Panchayats. To this extent, the Code needs amendment.

75. It may be mentioned that the Madhya Pradesh Land Revenue Code 1959 has been brought into force in the State of Chattisgarh also with certain formal amendments known as "Chattisgarh Land Revenue Code (Amendment) Act 2003. The comments foregoing will apply there also.

76. One problem that every tribal and, indeed, a tribal family faces is that, invariably, he or they do not possess a written authoritative document of rights they have over land and other resources. Nor are they satisfactorily made aware of the transactions between them and the official agencies. This is a serious lacuna which generally handicaps them, and even can become critical for their livelihood at times. The M.P. and Chattisgarh Land Revenue Code in section 114-A prescribes

“Bhoo Adhikar Avam Rin Pustika” in two parts. Part I consists of rights over holding and encumbrances thereon and Part II consists of rights over holding, recovery of land revenue, encumbrances on the holding and such other particulars as may be prescribed. In other words, the Pustika is a basic authoritative document which should stand in good stead whenever the tribal family is called upon to prove rights and accounts. In Chattisgarh, it has been designated as “Kisan Kitab”. We feel it is a good example to be followed for tribal areas by states in the country which do not have such a practice.

### **Maharashtra**

77. In 1987, the Tribal Research and Training Institute Pune conducted a study to determine the extent of tribal land alienation in the state. A survey of 1,339 tribal families drawn from 23 villages spread over 6 districts of Dhula, Yavatmal, Thane, Nashik, Bhandara and Chandrapur was undertaken. The surveyed families belonged to Bhil, Mahadeo Koli, Gond, Raj Gond, Andh, Malhar Koli, Ma Thakar, Katkari and Warli scheduled tribe communities. A majority of the families earned incomes ranging Rs.1001 to Rs. 6,000 and spent most of it on food 68% and clothing 13%. Their meagre income precluded savings. On the other hand, it obliged borrowings often by alienating part or the entire holding. It was found that the popular mode of transfer of tribal land was Kabuli Tabegahan i.e. oral agreement permitting de facto possession of land by a non-tribal, allowing de jure ownership to the tribal transferor. In some cases, the tribals were disinclined to get their land back for reasons like smallness of the alienated plot, its distance from residence. Of those who asked for restoration, 35% were given possession on paper only, 65% got physical possession and physical possession along with mutation and entries occurred for 32% households. A significant finding of the survey was an estimated 1.30 lakh hectares of tribal land alienated by 1.5 lakh tribal families to non-tribals. It is surmised that with advancing urbanization and industrialization over the succeeding decade and a half, the position has worsened.

78. It appears that in Maharashtra, three chief laws prevail i.e. Maharashtra Land Revenue Code, Tenancy Laws (Amendment) Act 1974 and the Maharashtra Restoration of Land to Scheduled Tribes Act 1974.

79. According to the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act 1974, with effect from 6 July 1974 transfer of tribal land to a non-tribal by way of sale (including sales in execution of a decree of a civil court or an award or order of any tribunal or authority) gift, exchange, mortgage, lease or otherwise without the previous sanction of the Collector, in case of a lease or mortgage for a period not exceeding 5 years, and in other cases



of the Collector with the previous sanction of the State Government. It appears that these two laws deal with the question of alienation. The third law i.e. The Maharashtra Restoration of Land to Scheduled Tribes Act 1974 deals with the question of restoration of alienated land. However, section 4 of this Act restricts the application of the law of restoration to those transactions or approaches which took place between 1 April 1957 and 6 July 1974. Restoration can be effected by the Collector either suo moto at any time or on an application by the concerned tribal made within 30 years from the commencement of the Act (1 Nov 1975) and after making such enquiry as the Collector thinks fit. A noteworthy aspect of the Act is that the tribal transferor has to make payment in certain cases, such as improvements made by a tribal transferor to the land. We feel that, in the first instance, no time limit should be prescribed for restoration of alienated land belonging to the members of scheduled tribes and, secondly, payment of compensation should not be considered.

#### **Manipur**

80. The Manipur Land Revenue and Land Reforms Act 1960 does not apply to the hill areas of the state which are, in fact, tribal areas. Ownership of land in five tribal hill districts vests, in most cases, with the village chiefs and in some cases with the community. The chiefs and the community allot land to individual farmers for cultivation for a specified period. The system of Pattas does not exist. It is understood that land survey work has been done in some areas of Chandel and Churachandpur districts and, in some other districts, survey work is on. What land system should prevail in the hilly districts, is a matter which will depend on the decisions that the tribal communities in the hill areas take. Three aspects are, however, relevant in this context. Firstly, the land tenure system should enable an individual farmer to make investment for land development and higher production. Secondly, that credit should be legally and administratively become available. Thirdly, under section 158 of the Manipur Land Revenue and Land Reforms Act 1960, no land belonging to STs can be transferred to non-STs without the permission of the Deputy Commissioner, but since the Act does not apply to hilly areas and, as such, hill area tribals are not covered there should be an identical legal provision for hill areas.

#### **North Cachar Hills District, Assam**

81. From the note dated 11 Dec 2003 given us by the Revenue Officer of the North Cachar Hills Autonomous Council, we understand that District Council adopted the Assam Land Revenue

Regulation 1886 by enacting the North Cachar Hills Revenue Act 1953 and 1982. Except land under reserve forest, railways and urban areas, all lands in interior areas of the district have been known as village common land. Such land is parceled out and allotted to a particular village for establishment of the village and cultivation by villagers. The Council does not, however, issue any Patta or order for such occupation. Only the villager has to pay Rs.10 per annum as house tax for use of the village community land. The villagers enjoy the right of occupation, but they have no other right. Hence, if the family shifts to some other village, they cease to have any right to occupy the land.

82. It is further reported that the villagers have started permanent occupation of the village land by taking up wet paddy cultivation and horticulture. In such cases, the Council grants settlement of land to such occupants with the consent of the village authority on annual Khiraj Patta which is renewed every year. It implies that the right of occupation and inheritance is enjoyed during the currency of such annual Pattas only. The Council seems to have taken up settlement operations for mapping the area of land occupied permanently and also for preparation of records on rights of the occupants. It means that periodic Pattas will be given to annual settlement holders. Under periodic Pattas, the Patta holders enjoy all rights over the land i.e. the right of occupation, inheritance and transfer. Rights are valid for 30 years in the first instance and automatically renewable for further period, unless the Pattadar violates the specified conditions.

### Orissa

83. Orissa Regulation No.2 of 1956 known as the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation 1956 has been designed to control and check transfers of immovable property belonging to STs in the Scheduled Areas of the State of Orissa. It has been amended in 1997 and in 2002. The main provision is contained in clause 3(1). According to the 1956 Regulation, any transfer of immovable property situated within a Scheduled Area by a member of a scheduled tribe is absolutely null and void and of no force or effect whatsoever unless made in favour of another member of a Scheduled Tribe or with the previous consent in writing of the competent authority; however, transfer by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution for agricultural purposes is in order. This provision was modified in the 2002 Amendment whereby the underlined words have been omitted. This means that in the Scheduled Areas of the State transfer of immovable property by a member of a Scheduled Tribe is possible only to (a) another member of a ST (b) a public institution by way of mortgage. The amendment puts a dampener on all other transfers. While this

expresses the intent of the legislators to instil a de rigueur discipline in the matter of transfer, it needs to be considered by the State authorities whether the inflexibility will not ensue in hardship, as for example to distressed tribal families desperately in need of cash, a circumstance which, earlier, could be considered by a competent authority.

84. The Amendment 2002 has inserted a new provision to the effect that a member of a Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer is reduced to less than two acres in case of irrigated land or 5 acres of unirrigated land. The intention behind this provision, that is to ensure that the holding of the transferee is not reduced to less than subsistence level, is laudable. But, again, there might be exceptional cases where a transfer may be warranted by hardships.

85. In Explanation I(b) of Section 3, it has been indicated that the transfer of immovable property shall include a transfer of immovable property to a person belonging to a ST for consideration paid or provided by another person not belonging to any such tribe. This provision seems really to relate to benami transaction. In section 2(f), the definition of transfer of immovable property includes transfer by sale. Perhaps, it has been added to make matters abundantly clear.

86. Section 3(2) deals with the manner in which contravention of the main provision is to be dealt with by a competent authority for restoration of possession of the property to the transferor or his heirs. In the proviso thereto, it is mentioned in the 1956 Regulation that in case restoration to the transferor or his heirs is not reasonably practicable, the competent authority may, subject to the control of the State Government, settle the property with another member of a ST or, in the absence of any such member, with any other person in accordance with the provisions contained in the Orissa Government Land Settlement Act 1962. A new proviso has been added by the 2002 Amendment whereby the prior approval of the concerned Gram Panchayat accorded with the concurrence of the Gram Sasan has been substituted for the control of the State Govt. This seems to be in order.

87. Section 3-A deals with eviction of person in unauthorized occupation of tribal property. A new sub-section(3) has been added which prescribes that the competent authority has to make a report to the concerned Gram Panchayat about the order of ejection passed in respect of any person in unauthorized occupation of a tribal's immovable property and its restoration to the original owner or his heirs as well as reasons for failure if that be the case. This will enable the Panchayat authorities to remain informed.

88. A new provision in Section 3-B has been added by the 2002 Amendment. It deals with reversion of land of STs which was transferred by fraud. Any person in possession of agricultural land which belonged to a member of a ST at any time between 4 Oct 1956 and 20 August 2002 has

to notify to the Sub-Collector within two years of the later date the information as to how he came in possession of such land. This is in line with section 170-B of the Madhya Pradesh Land Revenue Code 1959. The section was inserted in 1980. The moot point is why the provision has been confined to agricultural land and why it should not be extended to ST non-agricultural land like homestead, common land.

89. Section 4 is to the effect that no deed of transfer of any immovable property executed in contravention of the provisions of the Regulation will be accepted in registration. The law of Andhra Pradesh stipulates that a certificate by the transferee that he is a member of a ST should accompany the documents for registration. Such a provision may be considered by the Orissa Govt. also.

90. One more issue arises in Section 3-B(3)(b) relating to the difference in cost of land, that is between prices prevalent at the time of restoration and the price paid actually paid to the transferor. The context of this sub-section relates to buildings and structures erected on the agricultural land. It is not clear from the provision whether difference in the cost of land only has to be taken into account and, if so, how the cost of the buildings and structures has to be reckoned.

91. The Amendment 2002 replaces the original sections 7 and 7-A with one consolidated section 7 in it. The penalty for contravention of the provisions of the Regulation and continued occupation of the property by the unauthorized occupant has been enhanced. But, even in the Amendment it is imprisonment or fine in both cases. In one case the fine is up to Rs.5,000 and in the other up to Rs.10,000. It is felt that in the current economic conditions, the penalty of the fine indicated is too light. Imprisonment is a higher deterrent.

92. It is worth noting that through section 7D of the 1956 Regulation, the limitation of 12 years in the Limitation Act 1963 has been increased to 30 years in relation to immovable property belonging to a member of ST in the Scheduled Areas.

## **Rajasthan**

93. The total quantum of land declared surplus in Rajasthan as on 31.3.2002 was 6.11 lakh acres out of which 5.70 lakh acres were taken possession of by the Government and 4.62 lakh acres were distributed to 81,806 beneficiaries, the number of ST beneficiaries being 11,586 (14 %) who were allotted 49,957 acres (10%).

94. The Rajasthan Tenancy Act 1955 (RTA) imposed restrictions on transfer of land by STs under sections 42, 43, 46A and 49A. As per the former two sections, transfer by sale, gift, bequest or mortgage to a person who is not a member of Scheduled Tribes has been prohibited. As per the latter two, sub-letting or exchange between members of ST and non-ST is not permissible. Sections

183B and 183C enable summary ejectment of trespassers on land held by members of STs on pain of eviction and monetary penalty. Thus, there is a complete ban on alienation to non-STs of ST land. The remedy against illegal transfers is provided under Section 175 which calls for ejectment of both the tenant and the transferee from the land. Nevertheless, it seems that non-STs have adopted various methods to defeat these provisions.

95. The statistics of ST land alienated, number of cases filed in the court, number disposed of, area restored and area given possession of that restored, are not available in full. It has, however, been observed that a small number of cases of alienation i.e. 84 involving 112 hectares under section 175 of RTA and 38 involving 66 acres under section 183-B in Scheduled Area have been pending, as the tribals are not aware of the legal protection available to them, and they are neither able to defray lawyers' fees nor withstand prolonged litigation. According to the Central Ministry of Rural development 411 cases involving 1526 acres were pending in courts. Studies showed that despite the afore-mentioned legal provisions, alienation of tribal land has been continuing through land-grab, encroachment and state acquisition. Most of the land-grab and encroachment occur in collusion with the low-level revenue officers through manipulation of land records. Hardly any action is taken against such officers notwithstanding the provisions of Rajasthan Tenancy Act 1955 calling for it.

96. The total quantum of tribal land acquired by the state for the Mahi Bajaj Sagar Dam project in the district of Dungarpur, Kadana Dam project in the district of Banswara and Sagar Dam in the district of Sirohi as well as other dams, roads, canals, public and private mines and industries, educational and health projects does not appear to have been worked out. But the figures which are available indicate that such quantum and number of families displaced would be substantial. There have also been cases even of multiple displacements. Further, the Government of Rajasthan has acquired ST land for passing it on to non-tribal holders of mining leases, converting ST land-owners into refugees on their own land to work as daily labourers in the mines on paltry wages. Significantly, the ban on grant of mining leases for masonry stone was imposed after extending the current leases in favour of the non-STs for twenty years! The concerned STs should get annual fees from the lease-holders as part of compensation for loss of land, which should be restored to him in healthy condition on exhaustion of mineral deposit.

97. Secondly, while, on one hand, the Rajasthan Tenancy Act is absolute in the sense it does not permit transfer to non-STs land belonging to STs, it is strange that there exist two sets of rules that make it legally possible for all land-owners (STs and non-STs alike) to convert their agricultural land into residential and commercial categories and be able to sell it to a third party. The rules are Rajasthan Land Revenue Allotment, Conversion and Regularization of Agricultural Land for

**Residential and Commercial Purposes in Urban Areas Rules 1981 and the Rajasthan Land Revenue Conversion of Agricultural Land for Non-Agricultural Purposes in Rural Areas Rules 1992.** It is plain that the latter nullify the former. Their contradictory nature should not have escaped the attention of the State Government. We feel that these two sets of rules allowing conversion of agricultural land into residential and commercial land should contain provisions which bar transfer of the converted lands belonging to the scheduled tribes to non-scheduled tribes, on par with the Rajasthan Tenancy Act 1955.

98. There is a commonly held belief in which we concur, that illegal fraudulent transfers occur on a large scale, though it may not be possible to adduce hard data therefor. Several field studies organized by individuals and institutions have gone into this question. Several committees and groups, official and unofficial, have deliberated on it. Their number being so large that it would be difficult to reproduce all their findings here. However, we would like to refer to the conclusions of the Dhebar Commission (1961). They summarised the reasons for alienation as follows:

- a) Ignorance of tribal people
- b) Lacunae in the laws. They examined the Chota Nagpur Tenancy Act, 1908, which was shot through with a number of loopholes enabling shrewd merchants and money-lenders to secure transfers in their favour and, further, which enabled transfer for "reasonable and sufficient purpose" (Section 49) which was misused through fraudulent legal proceedings.
- c) Utilisation of the machinery of the courts before which the tribal is more or less powerless
- d) Temptation to the tribal of financial inducement
- e) "Bazdawa" by which the tribal is persuaded to suffer a decree passed by a court of law against himself
  
- f) Admission by a tribal before a court of law of adverse possession held by an opponent
- g) Voluntary surrenders engineered by landlords taking advantage of the victims' ignorance.
- h) Lack of adequate knowledge of conditions in tribal areas on the part of the authorities.
- i) Complicated legislation.
- j) Lack of sources of credit, an alternative to the money-lenders' usury.

#### **Some reasons for alienation**

99. We have reproduced in preceding para the Dhebar Commission's analysis of the circumstances leading to tribal land alienation. In their recommendations, apart from scrutiny of legislations with a view to plugging the loopholes, the Dhebar Commission recommended that :

- a. There should be a general prohibition of all transfers, whether by sale, mortgage, gift or lease under any kind of agreement or contract entered into by tribals in favour of non-tribals without the permission of the Deputy Commissioner or the Collectors.
- b. There should be a bar against suits or applications against any order made by a Deputy Commissioner or a Collector and the courts of law should be precluded from taking cognizance of such transfers by sale, mortgage, gift or lease or any other agreement or contract unless such arrangement has been entered into with the previous permission of the Deputy Commissioner or the Collector.
- c. The Deputy Commissioner or the Collector should have powers suo motu or at the instance of the aggrieved tribal land-holders within a period of 12 years, to institute enquiries and restore possession of the land with or without payment of any compensation to the transferee, making this provision applicable to all transfers of land of tribals to non-tribals with retrospective effect from 26 January 1950.
- d. Surrender of all lands should be only to the State and the surrendered lands should be held by the State as a trustee.
- e. A campaign should be launched to educate the tribals preferably through non-official agencies regarding laws or regulations made for their benefit.
- f. Requisite financial and legal assistance should be given to the tribals to take advantage of the concerned laws.

100. Many of the recommendations have been accepted and incorporated in the states' anti-land alienation laws. Many states have accepted the period of limitation as 30 years instead of 12, in amendment to the Law of Limitation.

101. In case of legal transfer, we have felt that, in not inconsiderable number of cases, the administrative agencies like the Collector of a District have not, as a matter of course, exercised adequate care and vigilance in permitting transfer. The tribals being the weaker party, economically and awarery, the administration has, perhaps, tended to ignore this vital factor. In any event, the

State Governments need to infuse degree of sternness and discipline in the administration for implementation of policy and laws.

102. We would also like to refer to the observations in the context of assessment in 1974 of the tribal situation in the Chota Nagpur and Santhal Parganas region by a Study Team of the Ministry of Home Affairs in regard to the following ways of land alienation

- (i) Legal transfer facilitated by casual and routine approach adopted by the authorities
- (ii) Benami transactions in the name of servants
- (iii) Transfers through collusive civil proceedings
- (iv) Transfers in the name of tribal women taken as wives or concubines by non-tribals
- (v) Informal transactions in which land remains in the name of original land owner, but he is reduced to the status of a share-cropper.

103. We covered in our tours almost all the states in the country which have Scheduled Areas and even those which do not have Scheduled Areas but have sizeable tribal population. Our observation showed that tribal land alienation takes place, inter alia, in the following ways

- (1) Rejection of applications filed by STs for restoration of alienated lands routinely and on flimsy technical grounds by trial courts
- (2) Grant of official permission routinely for transfer of tribal lands to non-tribals for certain purposes such as those specified in section 49 of the Chota Nagpur Tenancy Act and its exploitation by non-tribals
- (3) Coercive and forcible occupation of tribal land by non-tribals.
- (4) Exploitation of the fact of non-possession in many cases of Pattas or other relevant documents by tribals in the context of a predominant oral tribal culture.
- (5) Manipulation of land records at the time of settlement operation or at other times without the knowledge of the original tribal owner. Some village officers play a nefarious role in manipulation. One Chief Minister mentioned that even some tribals do "Dalali" for sale of land
- (6) Elapse of a long time between a court judgment in favour of STs and actual hand-over of land to the ST owner, enabling the dispossessor to employ subterfuges to prolong matters and go in for appeal



- (7) The twelve/thirty years time-bar clause often operating against the tribal, the more so since generally the tribal is not able to produce documentary evidence of his possession
- (8) Revenue courts rulings generally in favour of the STs but loss of the case in High Court and Supreme Court on account of lack of understanding on the part of STs of the dynamics of the higher courts
- (9) Ill-affordability in terms of time and money by STs of pursuit of cases particularly in appellate stages
- (10) Since restrictions had been imposed in Jharkhand on registration on transfer of tribal land in favour of non-tribals, recourse to registration in West Bengal of land transfer deeds, the complaints particularly having surfaced in Jamshedpur.
- (11) A novel method of land appropriation devised in some districts of Jharkhand, that is non-tribals marrying ST women, thereby gaining access and ownership of tribal land. Incidentally, children born out of such union have been declared as STs by the Ranchi High Court.
- (12) Land alienation laws should be strictly enforced.

We have repeated some of the observations here, despite the fact that we have made them under the states chapters. Our recommendations in this context are contained in a later part of this chapter. We have no doubt that the State Governments will undertake measures to plug the loop-holes and effect such other modifications as might make the laws fool-proof. Nevertheless, fraudulence is ingenious and the State Governments need to be ever vigilant.

#### **Urban tribal land**

104. To be able to size up and come to grips with the urban land problem in Scheduled and Tribal Areas, we have to appreciate the situation as it obtains today. We have to contend with the fact that while in 2000, 47% of the world's population was urban, by 2008 more than half of the world's population is expected to be living in urban areas. In 1999, 36.2% of the Asian population was urbanized, the growth-rate being in the region of 3.77%. The Indian censuses relating to 1961, 1971, 1991 and 2001 exhibit the decadal urban percentage growth-rate as 26.41, 38.23, 36.46, 31.13. For reasons into which it may not be necessary to enter here, the growth-rates of the decades 1941-51 and 1971-81 have been abnormally high, being 41.40 and 46.14. Considered annually, the growth-rate of about 3% compares with that of the figure of 3.77% for Asian population mentioned. In the tribal areas of the country also, urbanization has been taking place at a rapid rate in the past two or

three decades and it is, indeed, expected to pick up momentum even further. In fact, the twin processes of industrialization and urbanization acutely impact the tribal areas of the country due to the concentration therein of natural resources like land, minerals, forest, water etc. At the same time, the people of these areas are not in a position, by themselves, to exploit the resources and the technological deficit is compounded by non-tribal influx into these areas. Even the products of mining, industrial and water sectors are, in bulk, exported to outside areas. The local tribal and non-tribal population is, thus, doubly deprived i.e. in the matter of their natural resources (particularly land) and the benefits of industrialization and urbanization.

105. We had the opportunity to look at these problems closely on the ground in several regions of the country. Here, we cite two examples of burgeoning townships in the states of Rajasthan and Jharkhand. In the area around Mount Abu in Rajasthan, commercial activities springing up due, inter alia, to tourism and industry, have been sucking up land belonging to the scheduled tribe people. The transfer has become possible in terms of Rajasthan Land Revenue Allotment, Conversion and Regularization of Agricultural Land for Residential and Commercial Purposes in Urban Areas Rules 1981 and the Rajasthan Land Revenue Conversion of Agricultural Land for Non-Agricultural Purposes in Rural Areas Rules 1992. The total effect is that the tribal population is being displaced and ejected, with no prospect of any economic return or social fall-back.

106. The situation in Santhal Parganas division of Jharkhand is even more stark. Here, land mafias have started operating, coercing the poor hapless tribals to give up possession of their land for a pittance and selling it at profit for mining and industrial purposes. In fact, many of tribal land-owners, small or big, have been forced to sign Dan Patras (gift-deeds) in favour of third parties shown as close friends or kin.

107. As in the rural areas, in urban areas also, alienation of tribal land needs to be plugged. The relevant suitable anti-alienation laws should apply in the urban areas also, as they do in rural areas. A law based on the recommendations of the Bhuria Committee relating to urban tribal bodies should be enacted. If there is any other legal hurdle in the way, it should be

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#### RECOMMENDATIONS

The alienation of tribal land in both the rural and urban areas has become a serious problem. The main reason for this is the rapid growth of the cities and towns and the influx of non-tribal into tribal areas facilitated by easier communications and the growing demand of land, inflating prices. We have gone into the different reasons and recorded the modus operandi of alienation of tribal land. Here, we only need to stress that, notwithstanding the

provisions of anti-alienation laws, dispossession of tribal land has not only been continuing but also accelerating.

109. In this context we refer to the Fifth Schedule of the Constitution, as per para 5(2) of which the Governor may make regulations for the peace and good Government of any area in a State which is, for the time being, a Scheduled Area; such regulations may relate to prohibition or restriction on transfer of land by or among members of scheduled tribes, regulation of allotment of land to members of scheduled tribes and regulation of business of money-lending. Rather exceptionally, the Governor has been conferred the power, with the assent of the President, to repeal or amend any Act of Parliament or of the Legislature of the State or any existing law applicable to the Scheduled Area in making such regulation. It would have been helpful if, in keeping with the guardian role devolved on the Centre by the Constitution, the Central Ministry of Tribal Affairs had drafted a model overarching general law for the peace and good government of a Scheduled Area in the country as well as model anti-land alienation laws. Even now, these steps may be taken since they would obviate persisting handicaps of the concerned state governments.

110. In considering the land question, one faces the dilemma: should the present anti-alienation laws be continued, whether in the present or reinforced forms, with the diktat and in the hope that they can and will be enforced stringently to bring relief to the traumatized tribal people with the sword of Damocles constantly hanging over their head or, in the alternative, fine-tune such laws to liberalize them to meet the prevailing situation where transfers take place willy-nilly and the poor tribal land-owners are deprived of fair exchange prices on account of the forced exploitative underhand dealings. In the states, we perceive a whole range of situations. The laws of certain states may be rigorous and they may be applied strictly, the administration being capable of enforcing them. At the other end of the spectrum, there may be states whose laws may be neither firm nor administration capacitated enough to implement them uncompromisingly. In between may be states whose laws may be exacting, but the administration too weak to back them up. The fourth situation may be one in which scope exists for tightening of the laws and the administration quite capable of fulfilling the desiderata. It is difficult for the Commission to lay down rigid prescriptions in the scenario, beyond the tenet that the tribal should not be deprived of his land. To that end, one of the measures we suggest is that the anti-alienation law should provide that for transfer of tribal land to a non-tribal, permission of the state government is necessary, instead of the Collector or the Deputy commissioner, as at present.

111. Other requisite measures should be adopted by the states. Among others, an important step is updating land records, by holding fresh survey and settlement proceedings at periodic intervals. In fact, the revenue laws of the States in the country provide for a re-survey every thirty years. But this fiat is not followed systematically, notwithstanding the provision of funds by the Ministry of Rural Development to States under the scheme of Revenue Administration and Updating of Land Records on 50:50 sharing basis for undertaking base on revisional survey, by employing latest technology and equipment like total stations, theodolite. For projection of picture and consequent corrective action, the inter-settlement period may be reduced to twenty or twenty-five years. This would present a clear picture of tribal ownership of land through recent entries made in the records. In itself, this step would be helpful. Further, in accordance with tenancy laws, the status of tribals should be entered clearly and correctly in the record of rights. Hard copies of the relevant portion of a land record should be made available on application by an ST. Further, there is no reason to stop short at this step. Technological advances make it possible to computerize the land data and make them accessible to any one who cares to scan them. Elsewhere, we have suggested e-empowering tribals by means of information technology. Computerisation and IT knowledge together will go a long way in equipping the tribals to see through and withstand fraudulence and malpractices.

112. While, no doubt, laws have to be in place both for deterrence and penalty, we feel the best safeguard against fraudulent alienation is an appropriate socio-political ambience, having the general society's sanction and support. The general society should instil respect for tribal rights in land and forest, the first dictum of Jawaharlal Nehru's Panchsheel. In the absence of such respect and an ambience promoting it, no one can guarantee that the rules and regulations would operate in the innocent tribals' favour, rightfully; even an iron-clad law is likely to be breached and the sternest law likely to be flouted.

## **LAND ACQUISITION**

### **Land acquisition under LAA 1894**

113. We have dealt hereinbefore with alienation of land of tribals through transfer. Some transfers may have been in accordance with rules, regulations etc.; others may have been discovered on examination as fraudulent. Yet another method of dispossession of tribals of their land has been totally legal, yet unjust. We refer to official acquisition of private land and common land as per the provisions of the Land Acquisition Act 1894 (LAA) and transfer to the

state. This Act, one of the principal instruments for take-over of land, whether belonging to tribals or non-tribals, is of colonial vintage and was used by the British Government extensively for appropriation of land required for various purposes. However, it has been remarked that the total extent of land acquired under the Act during the five decades after independence has far exceeded that taken over by the colonial power during an equal period preceding independence.

114. In post-independence times, the pressure to acquire land at various places all over the country has been building up even as the pace of planned development has been gaining momentum. The brisk-sprouting new modern temples e.g. dams, hydels, industries, mines along with their settlements and townships, have devoured and continue to consume huge chunks of land. Tribal areas and tribal people have had to provide the land for the major part, for the reason that through a natural coincidence the tribal people have been sitting on top of reservoirs of mineral resources and playing in the lap of catchments of streams and rivers possessing enormous irrigation and power potential. Their land having been acquired under the LA Act, the simple, innocent tribals living and plying their livelihood have been displaced to make room for development projects.

115. Experts have distinguished partial displacement and total displacement, the former implying the loss of either the house or means of livelihood and the latter signifying a situation where the tribal loses both house and livelihood. Displacement has affected persons, owning or not owning land. Further and equally importantly, displacement may cover not only the rayaiti land but also waste lands, common lands, forest, rivers and water resources, habitat and the eco-system, all of which vitally contribute to the tribal life-support system.

116. In assessing the extent of displacement consequent on various factors like construction of dams, location of industries, opening of mines, a number of problems arise. In the first instance, records have been scanty and record-keeping and maintenance have been poor. If records had been maintained in the country for each and every project of say above a certain magnitude, collation of the relevant data would have been possible at the district, state and national levels. It appears that other dimensions of projects have over-shadowed the initial step of land acquisition, relegating it to the back-burner. Only in the recent years, the states have got down to create some data-base. But there has been no commonly accepted methodology for computation of the different parameters involved. The awareness and realization of the various concerned dimensions have been and are still being grasped slowly and gradually. The available records show only those land-owners who have been directly affected, that is those whose lands have been taken. Those indirectly affected have failed to attract notice. The concepts of partial and total displacement, apprehension beyond rayaiti and residential land to common lands, habitat and eco-systems have remained blurred. Particularly galling to the tribal communities has been the ignorance or insensitivity or both on the

part of implementors of the law, of psycho-sociological milieu of the tribal communities leading to the scattered tribal diaspora, snapping up social bonds and cutting at the roots of tribal moorings. Many, if not most, individual ousted tribal families have come to grief, adrift in strange uncharted seas.

117. Such calculations as have been made on the basis of incomplete data of the extent of displacement by different agencies has led to varying results. Since displacement and rehabilitation have not been viewed as strictly falling within the purview of the Act, and untouched by the plight of the oustees, the official records, such as exist, show generally the names and number of land-owners and the area acquired. Neglected at the earlier stage, the scattered diaspora may, at a later stage, hardly enable a correct head-count of the persons displaced. It needs reiteration that, a usual lacuna in the official figures is that they do not recognize and include those whose land may not have been directly acquired, but who, nevertheless, may have been adversely affected by the acquisition, as by construction of water courses, tree-felling etc. The susceptibilities of revenue officials who implement the land acquisition process have been limited to direct interest of the land-owner. It has been beyond them to be alive to the loss sustained and impact suffered on account of take-over of the common land and the eco-system which constitute the life-support system of the tribals. The lack of understanding has been damaging. Hence, the official statistics can, at best, be regarded as indicative. On the other hand, there are a number of more exhaustive studies by individual researchers, scholars, institutions and study groups. But such studies are not too numerous. The government and the non-government figures differ considerably. We reproduce in the Table below a set of data compiled by an independent researcher since it may not serve much purpose to quote the various sets of data traceable to different sources. It is possible that the figures in the table suffer from usual infirmities. But, in the circumstances available, it seems to be a good approximation. The Tenth Plan document of the Planning Commission cites the same figures.

Table

Displacement of Tribals (1951-1989)

Project	Total DPs (in million)	No. of DPs in tribal region (in million)	Percent of DPs in tribal region (in million)	No. of tribal DPs (in million)	Percent tribals among		Tribal DPs (in lakhs ----- Rehabi-Back- litated log
					All DPs	DPs of tribal region	

Mines	2.55	1.9	74.51	1.330	52.16	70	3.30	10.00
Dams	16.4	8.68	52.92	6.321	38.54	72.82	15.81	47.40
Industries	1.25	0.42	33.6	0.313	25	72.52	0.80	2.33
Sanctuar- -ies	0.6	0.5	83.33	0.45	75	90	1	3.5
Others	0.5	0.25	50.00	0.125	25	50	0.25	1.00
Total	21.3	11.75	55.16	8.539	40.09	72.67	21.16	64.23

Source: Subrata De; The Administrator Vol.XLIII, January-March,1998, pp.33

118. The table above shows that the total number of displaced persons (DPs) in mines, dams, industries and sanctuaries of the tribal region was 11.75 million, while the total number of tribal persons displaced came to 8.539 million, that is 40.9 percent of all DPs between 1951 and 1989. Including an estimated figure of tribal displacement from Sardar Sarovar Project, the total figure may come to 9.81 million, that is nearly 48 percent of the total persons displaced. This figure may be compared with the percentage of ST population in the country i.e. about 8 percent and the anomalous situation becomes apparent. These figures do not take in to account smaller development projects which are more numerous and cause a bigger impact in the displacement, since no information is available in this regard. We recommend that mechanisms should be evolved for enabling a full-data base in this context.

119. Apart from studies on individual projects, since no cogent picture is available of the total tribal land acquired, it is necessary that such records should be maintained at the state level compiling the data from the districts. It should show the extent of tribal land acquired indicating the purpose for which acquired. The state level statistics should be collated at the national level, showing total land acquired in the country, its second part belonging to STs and the third part belonging to SCs. Purpose-wise break-up should be kept for each of these categories.

#### **Public purpose**

120. From Table 4, an incidental observation emerging is that while tribal land alienated by private parties is presented in terms of area (as for instance the total area alienated has been indicated as 8.55 lakh hectares) and cases filed in court (indicated as 3.75 lakhs), so far as state acquisition of land is concerned, the country-wide statistics are available in terms of persons displaced 8.5 million and, in a smaller number cases, of area involved. A comparison of private land-grab with state acquisition can be purposeful only in terms of the two parameters (a) number of

households whose land has been transferred to private persons and agencies and the number whose land has been acquired by government (b) area involved in both the cases. Common parameters facilitating such a comparison have not been forthcoming. Prima facie, land acquisition by the state has occurred on a large scale during the five decades after independence and seems to have exceeded private land-grab during the last more than ten decades. This should cause one to reflect on the issue.

121. As explained earlier, a major instrument of acquisition by state authorities of land in this country has been the Land Acquisition Act, 1894 promulgated by the British Government for take-over of land for what is mentioned in the Act as "public purpose". Its provisions enable the land-owner to contest, inter alia, the quantum of compensation proposed, but leave no choice to him to question other grounds like the validity and justification of the "public purpose". In other words, the land-owner has been precluded from interrogating the fundamental one of why and wherefore of the acquisition. Thus, it appears that, while, apparently, the Land Acquisition Act fits in the frame of rule of law, it does not allow the more relevant and substantial basic concerns to be juridically raised. This seems to be a flaw.

122. A vital dimension in the matter has been that in considering "public purpose", the marginalisation and trauma of those who have suffered the consequences of acquisition have seldom engaged the serious attention of the authorities. "Public purpose" has been interpreted merely as one which enhances the good of the general public, but those who fall on the wayside in the process have not been thought worthy of a second look.

123. Another crucial aspect of Act which merits repetition is that its purview does not extend beyond rayati lands. It pays attention to compensation payable for land individually held, but common land, village forest land and other common property resources, do not attract any recompense. This step in law may be steeped in the philosophy of the "eminent domain", as per which a resource that is not privately owned belongs to the State. But in its application in tribal areas, it bears harshly on the communitarian ethos of tribal societies. As already mentioned, community and individual land ownership exist side by side in tribal areas. A tribal household lives on not only on the agricultural produce of the land they cultivate, but also on commons like pastures where cattle, goats and sheep are raised, village forest which provides them fuel, timber, minor forest produce etc., streams and nullahs which give them water etc. All add up to a whole life-support system. The dispossession of one or more of the collateral resources aggravates their pre-existing vulnerability. As such, in ignoring it, incalculable damage is done to the human being.

124. It needs to be appreciated that strong bonds subsist among members of a tribal village community than observed among non-tribal village societies. Its genesis may be traceable to



their isolated existence for centuries in far-off locations in forests and plateaux. The tribal village communities learnt and evolved their own governing and administrative systems, in which social relations played a significant part. More or less egalitarian and democratic, they created the governing elite and, as such, their system grew. For big hydel, mining, industrial etc. projects, whole villages may fall within the sweep of acquisition and, as a result, a village community may be decimated, its elaborate social-political structures dismembered and individuals and households scattered. Thus, a cohesive tribal community may undergo a double trauma, one economic on account of loss of land and other resources, and the other psycho-social.

### **Rehabilitation of displaced persons**

125. Since, in certain situations, state acquisition of land may be unavoidable, it is necessary to lay down guidelines for the purpose of relief, rehabilitation and resettlement (R&R) of those involuntarily displaced. The National Human Rights Commission in its 2000-2001 annual report have taken the view that resettlement and rehabilitation of persons displaced due to acquisition of land for various projects should form part of the provisions of the Land Acquisition Act itself, or be the subject of an appropriate separate legislation. Further, that the Government should, while adopting a comprehensive policy, provide for that policy to be incorporated in the appropriate legislation within a specified time-frame. In their view, such a step is necessary for the reasons that the R&R package incorporated in the law will ensure systematic rehabilitation and resettlement of the affected people, help avoid litigation, cut down project time and cost over-runs, provide uniformity in dealing with the cases by courts, enable provision of R&R facilities before actual acquisition of land. Generally speaking, we are in agreement with these views. It should, however, be appreciated that a piece of legislation may not, generally, be expected to include details of the processes involved. Should it do so, it might tend to become rigid. On the other hand, couched in generalities, it might not serve the purpose of boundaries-marker. Hence, initially, a policy statement, followed by a via media law may have to be thought out.

126. A Central policy on R&R has been a long time, about a quarter of century, on the anvil of the Government of India. We have not been able to obtain a copy of it, but we understand that the draft policy acknowledges the trauma caused by the displacement process and that it provides for rehabilitation to undo disruptive effects of displacement for attainment of higher quality of life for the oustees.

127. From the reply to our questionnaire received from the Planning Commission, we quote the "special package for tribal families over and above the package available to all project affected persons" incorporated in the draft policy statement on rehabilitation and resettlement:

- (i) Tribal families will be given preference in allotment of land for land.
- (ii) Loss of grazing rights and customary rights to gather forest produce etc. will be compensated by providing 500 days minimum wages.
- (iii) Tribal families to be resettled out of the district/taluka will get higher R&R benefits to the extent of 25% in monetary terms.
- (iv) Tribals will be resettled close to their natural habitat in a compact block so that they can retain their ethnic, linguistic and cultural identity.
- (v) Tribal land alienated in violation of the laws and regulations in force on the subject would be treated as null and void and the R&R benefits would be available only to the original tribal land owner.

128. In regard to item (ii) above, it is not clear in what way i.e. in cash or otherwise, the families will be compensated for loss of grazing rights and customary rights to gather forest produce etc. In item (iii) above, 25% extra benefit in monetary terms is to be given to tribal families resettled out of the district or taluka. We have lived through the experience of lack of awareness of tribal people of the value of money and how it is mis-spent. It would be better if something in kind, as say a house or a hut or even a bank account specifically for education of a child or children, is arranged for. Vide item (iv) above, a holistic community approach to rehabilitation is welcome from socio-cultural point of view. However, the crucial prescription that one looks for in the draft Policy statement seems to be missing: The land acquisition should be strictly need-based, in the context of preference for "no-displacement" and "least displacement" alternatives. As we have observed, the need for locating a project situated in a tribal area involving take-over of land, should be decided by a responsible body at an appropriately high level (tehsil, district, state, national) including therein Panchayat representatives relative to the size and nature of the project. The matter should not be left to the bureaucratic agencies only. Here, we reiterate again our anxiety in the matter of proper

interpretation of public purpose. Further, the different laws bearing on the different provisions of the R&R Policy will require to be examined for consistence particularly with reference to PESA Act 1996 and, if necessary, reorientation. Lastly, a policy is as good as its faithful implementation. We lay great store by implementation.

### **The Land Acquisition Act**

129. On the various grounds mentioned above, persuading us to scrutinize the matter more closely, the Land Acquisition Act 1894 could be called a draconian law, in as much as its provisions appear to be loaded against land-owners and "persons interested". Its 1984 amendment tended to soften its severity by the slightly expanded definition of "persons interested", i.e. by including those who have interest "in easements affecting the land". Further, its following features call for notice:

- (1) Fundamentally, the ambit of "public purpose" remains an official preserve and past experience does not testify to its entirely restrained and discriminate application in the context of consequential expropriation of livelihood resources of tribals and non-tribals.
- (2) It allows any officer or government's agents to enter upon, survey, set out boundaries of the land proposed to be taken, cut down and clear away any part of any standing crop, fence or jungle etc. merely on publication of a preliminary notification indicating the intent to acquire the land. Though such damage as may occur in the process is liable to be compensated, the actions permitted give the colour of high-handedness.
- (3) Under section 11, after inquiring into the objections, the Collector has to give an award of "compensation which in his opinion should be allowed for the land" and "apportionment of the said compensation among all the persons known or believed to be interested in the land ....." Sections 23 & 24 state that the basis on which the compensation amount is to be arrived at would be the market value of the land on the date of publication of the preliminary notification under section 4. It should be realized that, in tribal areas, land transactions being few on account of low economic levels and anti-alienation laws, land prices in the market are usually depressed.
- (4) The Act lays down a time-limit of two years from the date of publication of declaration under section 6 for making an award, failing which the acquisition proceedings lapse. In

the first instance, this keeps the affected persons and families in a state of suspense too long. Secondly, no time-limit has been prescribed for payment. In accordance with section 16, the Collector may take possession of the land after he has made the award under section 11, free from encumbrances. This may mean take-over of the land before payment of compensation, which, in fact, happens in many cases. Compensation amounts may be paid long afterwards. No concern is shown as to how the family will eke out a living in the interregnum, causing untold hardships. There should be a provision to the effect that possession may be permitted only after payment of compensation amount and receipt of R&R benefits.

- (5) As per section 23 (1A), in addition to the market value of the award, the court shall, in every case, award an amount calculated at the rate of 12 per cent per annum on the market value of the land for the period commencing on and from the date of the publication of the preliminary notification to the date of award of the Collector or the date of taking possession of the land, whichever is earlier. Here also, the "person interested" is at a disadvantage. The interest payment should be from the date of preliminary notification to the date of payment of compensation, which may be later than the date of award of the Collector or the date of taking possession of the land.

130. A snag in the Act is that the "persons interested" have no voice whatever in deciding on the question of the justification and rationale of acquisition and ancillary matters. The authority vested in official hands may be exercised arbitrarily. Not unoften, the people have been rough shod. To counteract this tendency, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996 [PESA Act 1996] stipulates that:

The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.

Moreover, section 5 of the PESA Act says clearly that any provision of any law relating to Panchayats in force in the Scheduled Areas, which is inconsistent with its provisions can continue to be in force until amended or repealed or until the expiration of one year from the date on which PESA Act came into being. This implies that after 23 December 1997, all related laws have to be in

conformity with the PESA Act. Hence, the provisions of the Land Acquisition Act 1894 as amended in 1984, have also to be in tune with the letter and spirit of the PESA Act. In other words, no acquisition of land in Scheduled Areas should occur without consultation with the concerned Gram Sabha or the Panchayats at the appropriate level. It is understood that amendment of the LA Act is presently under the consideration of the Central Government. This should find a place in the amended LA Act. Amendments proposed to the LA Act have not been made available to the Commission; nevertheless, the following suggestions are offered for consideration :

- (i) Since every citizen of the country has the fundamental right to reside and settle in any part of the country under Article 19 as also the right to livelihood under section 21 of the Constitution, as interpreted by the Supreme Court, decisions on displacement should not vest merely in the official, specially lower, hierarchal agencies of the State.
- (ii) The horizon of "public purpose" should be demarcated clearly and restrictively, as its becoming the subject of unduly wide interpretation hurts tribals greatly.
- (iii) Displacing projects may be acceptable only if "no-displacing" or "least - displacing" alternatives are not available.
- (iv) Acceptance of the recommendations of the Gram Sabha or the appropriate Panchayats made in consonance with the PESA Act 1996 should be obligatory. This is in consonance with Article 16 of the ILO Convention 169 (though the Convention has yet to be ratified by India) which says: Where relocation of these (tribal) peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.
- (v) In terms of the Samata judgement of the Supreme Court, the State has to be considered a non-tribal when it acquires land for a non-tribal requisitioning body.
- (vi) Compensation should be comprehensive i.e. for loss of livelihood, basic resources, habitation, eco-system etc. and the onus for making it to the project-affected persons should lie on the requisitioning organization directly or working through governmental functionaries.

- (vii) **Disbursement of compensation amount should precede possession of land.**
- (viii) **Relief and rehabilitation should be made mandatory. Displaced persons and people affected by the project should not be asked to stake their claim individually.**
- (ix) **The displaced persons should be given land for land. In this connection, attention is again invited to Article 16 of the ILO Convention. Its clause 3 is to the effect that, wherever possible, these peoples (tribals) shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist. Further, clause 4 says that when such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples should be provided in all possible cases with lands of quality and legal status equal to that of lands previously occupied by them, suitable to provide for their present needs and future development. When the peoples concerned express a preference for compensation in money or kind, they should be so compensated under appropriate guarantees.**
- (x) **If land for land is not possible, they should be entitled to partnership (equity shares, share in profits etc.) in the public or private sector units (say in industries, mining, hydel fields) located in the acquired land.**
- (xi) **If land is acquired in tribal areas for mining purposes, mining leases should be given to the displaced families. On expiry of the lease period, the land should revert to the original owner or owners.**
- (xii) **The laws should ensure that compensation relates to replacement value and not merely market value.**
- (xiii) **Only the High Court should have the appellate power and no appellate authority should intervene between the Collector and the High Court.**

131. We have referred above to section 4(i) of the PESA Act 1996 which makes consultation with the Gram Sabha or the Panchayats at the appropriate level obligatory before making acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons

affected by such projects in the Scheduled Areas. The implementation of this provision has to be monitored properly. We would like to place here, in juxtaposition, a provision of the Sixth Schedule of the Constitution i.e. Para 3(a) which spells the power of the district councils and regional councils to legislate on :

(a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town :

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes [by the Government of the State concerned] in accordance with the law for the time being in force authorizing such acquisition.

Thus, while the recent PESA Act allows land acquisition proceedings in the Fifth Schedule Areas only in consultation with the Gram Sabha or the Panchayats at the appropriate level, the five-decades old Sixth Schedule confers for the Sixth Schedule areas unbridled power on the State Government to acquire land over-riding the powers vested in elected autonomous district and regional councils of allotment, occupation, use or setting apart of land. The proviso reproduced above seems to have become anachronous. It is not difficult to imagine that it would have caused suffering to the people displaced on acquisition of land in the Sixth Schedule Areas. The autonomous district councils of the Sixth Schedule have been meant to be people-oriented bodies and consultation with them should democratize the Sixth Schedule.

### **The Coal Bearing Areas (Acquisition and Development) Act 1957**

132. The Coal Bearing Areas (Acquisition and Development) Act 1957 [CBA (A&D) Act] seems to be a companion to the Land Acquisition Act 1894. Though it is marked by differences for meeting the contingencies of coal mining, its basic frame-work is similar to the latter. It is also oriented towards acquisition of land of existing prospecting and mining right-holders. A closer look reveals a slightly more authoritarian tilt in it than even in the LA Act.

133. In the critique of the LA Act 1894, we have expressed the view that on mere publication of preliminary notification, that is at the stage of mere notification and no decision, it is unfair to

deploy servants and workmen [as provided in clause (2) of section 4] for the purpose of digging or boring in the sub-soil and such other acts which cause damage to the land, and then provide for compensation later. Similar provisions are contained in the CBA (A&D) Act and call for the same comments. As per 11A of the LA Act, if the Collector does not make an award within two years from the date of publication of the declaration under section 6, the entire proceedings for the acquisition of the land stand lapsed. We are not happy with this provision, since it keeps the 'interested parties' in suspense for the long period of two years. The CBA (A&D) Act elongates this period in section 7 to a maximum of three years. This is even more iniquitous.

134. As per section 17 in the LA Act, in case of urgency the Collector has been empowered to take possession of any land needed for a public purpose on expiry of 15 days from the date of publication of notice under section 9(1); consequential steps have also been mentioned in the section. There is no doubt that such sudden action can inflict untold suffering and misery to the 'interested parties'. Sadly, a corresponding provision has been made in the CBA (A&D) Act.

135. In the LA Act, the Collector has the power under section 16 to take possession of the land when he has made an award under section 11; no other conditions have been inscribed. But section 12 of the CBA (A&D) Act calls upon "any person in possession of any land acquired under this Act to surrender or deliver possession of the land within such period as may be specified in the notice, and if a person refuses or fails to comply with any such notice, the competent authority may enter upon and take possession of the land, and for that purpose may use or cause to be used such force as may be necessary". In its authoritarian temper, the CBA (A&D) Act goes even farther than the LA Act 1894.

136. Other comments which we have made in the LA Act 1894 apply mutatis mutandis here.

137. We refrain from touching the topic of rehabilitation since our observations on this subject elsewhere in this chapter apply equally here.

138. We would, however, like to emphasize that most of the coal-bearing areas fall in tribal areas. Hence, we visualize that the tribal land-owners have to bear the brunt of the provisions of the CBA (A&D) Act. The experience is that sufferings do not end with acquisition of their land. After exhaustion, if the mining land is returned to the tribal, it is so dug-up and pock-marked that it is unfit for agriculture. Hence, though in name the lease may be for a temporary period, in actuality the tribal's loss is permanent. Hence, the measures contemplated in the CBA (A&D) Act are unjust. A humane approach is needed, even though the intended development may benefit a larger number of people than the number of "interested persons".



139. Finally and importantly, the contents of the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 need to be juxtaposed with those of the CBA (A&D) Act. The former contains in its section 4 the following

- (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of prospecting license or mining lease for minerals in the Scheduled Areas.
  
- (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

The provisions of the Panchayats (Extension to the Scheduled Areas) [PESA] Act of 1996 vintage is a special Act relating to the Scheduled Areas and Scheduled Tribes, while the CBA (A&D) Act is a general Act having been enacted in 1957. Further, the PESA Act in section 5 says clearly that any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date from which the Act receives the assent of the President, which is inconsistent with it can continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which the Act received the assent of the President. It received the assent of the President on 24 December 1996. As such, the provisions of the CBA (A&D) Act need to be harmonized with those of the PESA Act. Specifically, the provisions of section 4 (k) & (l) of the PESA Act have to be treated as mandatory.

### **National Mineral Policy 1993**

140. A general rough estimate is that about 80% of minerals are found in tribal areas, particularly in Scheduled Areas. It is not out of place to record that before the formation of Jharkhand State in 1999, South Bihar (presently the area of Jharkhand State) contributed a preponderant percentage to Bihar's receipts in the form of royalties, duties, taxes etc. As we have remarked in the note on the State of Jharkhand in Volume II of this report, Jharkhand State is an affluent State owing to royalties, duties etc. on minerals, possessing within its domain may be 40% of the country's mineral wealth. Similar is the case of tribal areas of Orissa, Chattisgarh, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra. A large variety of minerals is found in this region like iron ore, coal, bauxite, kyanite, copper and manganese ores, asbestos, quartz, mica,

chrome ore, lime-stone, dolomite, noble metals besides minerals required for electronic and other hi-tech industries.

141. The petrographic opulence has, however, not meant any degree of prosperity to the regions' population, predominantly tribal. On the contrary, it has, more often than not, brought suffering, misery and impoverishment. The mining operations could take place after the duress-evacuation of the tribal people from their homes and hearths. They have had to move away from their agricultural and forest lands, resulting in loss of livelihood. Mineral mining did not offer alternative employment as dignified as agriculture they were pursuing earlier. At the most, the able-bodied were taken on board often as unskilled labour, less commonly as skilled labour. Hence, the story of mining and mineral extraction in tribal areas has generally been a tragic story of forced displacement, loss of life-support systems and drift in life. We do not have reliable statistics to show the numbers which have been sacrificed thus on the altar of general or national development which, in other words, has meant economic development of the other sections of the society.

142. Like for the Land Acquisition Act 1894, the Coal Bearing Areas (Acquisition and Development) Act 1957, we need to look at the National Mineral Policy 1993 with a view to ascertaining what it calls for for mineral exploration and development. It says clearly that the best use should be made of the available resources through scientific methods of mining, beneficiation and economic utilization, besides laying down objectives, strategy and various other aspects. It does recognize the need for development of infrastructural facilities, regional development, rehabilitation of individuals including members of the weaker sections displaced on account of acquisition of land, orderly and systematic closure of mines to help workers and the dependent community rehabilitate themselves without undue hardship, prevention and mitigation of adverse environmental effects, reclamation and afforestation pari passu with mineral extraction etc.

143. In so far as provision of infrastructural facilities and regional development are concerned, the following extract from para 7.10 of the Policy is relevant:

A major thrust needs to be given for development of infrastructural facilities in mineral bearing areas following an integrated approach for mineral development, regional development and also social and economic upliftment of the local population including tribal population.

144. Thus, the need for infrastructural and socio-economic development of the population has, no doubt, been recognized. But it lacks focus in implementation, so far as the tribal population is concerned.

145. In para 7.12 of the Policy, it has been mentioned that in grant of mineral concessions for small deposits in Scheduled Areas, preference shall be given to the scheduled tribes. It is a welcome provision. But it is not clear what 'small deposits' connote. This should be made clear and, importantly, enforced.

146. Para 7.16 relates to rehabilitation of displaced persons:

Mining operations often involve acquisition of land held by individuals including those belonging to the weaker sections. While compensation is generally paid to the owner for the acquisition of his land, efforts shall be made to ensure suitable rehabilitation of affected persons especially those belonging to the weaker sections who are likely to be deprived of their means of livelihood as a result of such acquisition.

The policy does not ensure that rehabilitation of displaced persons will be undertaken as a mandatory measure. It only speaks of "efforts" in that direction. We have seen during the past half a century the havoc caused to the tribal people thrown out of their homes and hearths and rendered destitute. It is difficult to rely on the vague assurance of efforts at rehabilitation. In the first instance, tribal land acquired for mining should revert back to him in a healthy condition. Elsewhere, wherever the tribals are likely to be displaced, we have insisted that displacement should be regarded as a step of last resort and, in case it becomes essential, cast-iron modes of rehabilitation should be implemented. We suggest the same approach here too.

147. In para 7.13 relating to mineral development and protection of environment, it has been ruled that both these aspects have to be "properly coordinated to facilitate and ensure a sustainable development of mineral resources in harmony with environment". In the concluding sub-paragraph of this paragraph, it has been stated that "efforts would be made to convert old disused mining sites into forest and other appropriate forms of land use". In the first instance, the provision should be mandatory and tribal land should revert back to the tribal owner. Secondly, it is found that quite often land acquired from tribals and mined is, after extraction, left in a state unfit for either agriculture or habitation or any other fruitful use. It is necessary that the old disused mining sites be converted into forest or agriculture and into a state fit for human use otherwise.

148. In para 7.7, the need for review and upgradation of the existing facilities for basic and specialized training to ensure that adequately trained manpower at all levels is available for development of mines and minerals industries, has been emphasized. It overlooks the fact that the

existing local population in the mining areas, more commonly the tribal population, has not been given adequate attention in the matter of technical training for absorption either in the mining sector or in the mineral-based industry. The result is that the ST land-owners and landlords have been proletarianised and made menial, unskilled labour in the mining areas. The need is to plan and implement the training of these people well in advance of the establishment of the mines and industries with a view to their employment therein.

149. An important development needs to be taken cognisance of. In furtherance of the objectives of the National Mineral Policy, the Mines and Minerals (Development and Regulation) Act 1957, the Mineral Concession Rules 1960 and the Mineral Conservation and Development Rules 1988 have been modified. Some of the salient features of the amended legislation include removal of restrictions on foreign equity holding in mining sector companies registered in India, prescription of minimum period of twenty years and maximum period of thirty years for a mining lease, removal of thirteen minerals from the public sector list throwing them open for exploitation by private sector etc. These have serious implications for tribal areas and tribals. The apprehension is that profit motive may drive out the human dimension in the mining arena more and more.

150. On the whole, the mineral policy does take into consideration some facets which we feel are germane. But, it does not advert to specific measures to meet the specific requirements of such aspects. We hope that our observations above will receive due consideration for such action in respect of the policy and legislation as is necessary, in so far as the tribal population is concerned.

151. We would like to illustrate the predicament of the scheduled tribe people in mining areas by referring to their plight in Santhal Praganas division of the State of Jharkhand. Despite the Supreme Court Samata judgement which has restricted mining operations in Scheduled Areas through private tribal cooperatives only and despite petitions to the Ranchi High Court for stay on renewal of old and grant of new mining leases in the light of the judgement, grant of leases is reported to have continued apace. It is learnt that royalty revenues from Dumka district recorded a high of Rs.2.12 crores during 2002-03. The stone-quarry contractors and owners have mostly been non-tribals, while the land belongs to the tribals. The poor tribals have been made to sign affidavits according to which, in return for some cash, they hand over their land to the contractors. In most cases, the affidavits euphemistically say that the land is stony for which they seek help from the contractor to clear it of stones and make it cultivable. A lot of land is being taken over by quarry contractors through such private agreements, that are not only illegal as per the Santhal Praganas Tenancy Act 1949 (SPTA) but which also deny the owner a fair

compensation for the use of the land which is likely to become unfit for agriculture in a few years time. A concomitant fall-out is that the earth dug out of the quarries and mines is heaped on Gochar or common grazing land rendering it unusable in course of time. Thus, both private and common lands are being lost.

152. In so far as coal mining is concerned, flouting (a) the Samata ruling, (b) section 4(k) & (l) of the PESA Act and (c) the provisions of the SPTA, mining operations have been carried on and, indeed, more are in the offing as the central block of the Pachwara project envisages 44 years of open-cast mining to extract 289 million tones of coal bringing to the Jharkhand Government an annual royalty of Rs.100 crores. As usual, the displacement of tribal families is apprehended to bring in its train untold misery and suffering.

### **Forest Land**

153. In addition to the loss of agricultural and habitational land, tribals have also been losing forest land. According to one estimate, while 187 tribal districts in the country span 33.6% of the total geographical area of the country, the forest cover therein constitutes 60% of the total forest cover in the country. In other words, the tribal areas provide the bulk of forest cover boosting the average. A balanced perspective would dictate that pushing tribals out of forests for further forestry operations therein may neither be equitable from the human point of view nor make good economics. There are uncultivable and degraded cultivable lands elsewhere in non-tribal areas which demand urgent forest cover both from the production and ecological angles. Efforts need to be made in that direction. We revert to this topic in our chapter on forest.

### **Some suggestions and recommendations**

154. We have reviewed in the foregoing pages the situation of alienation of tribal land in general in the country and with reference to specific states in respect of which we have been able to obtain materials. The analysis which we have made leads us, very broadly, to the following suggestions:

- (1) The laws legislated for prevention of alienation need to be subjected to review in every state both at present in the context of the current circumstances and from time to time as they arise in future. As will be seen, we have made specific suggestions in respect of states we have reviewed. These may be taken into consideration.

- (2) In our view, the laws should be made more stringent than what they are today. Some state laws contain the provision that transfer of tribal land to a non-tribal should take place with the sanction of the competent authority. The competent authority usually designated is the District Collector. Quite often, the power of sanction in this respect is delegated to an SDO by the Collector. In our experience, as we have already remarked, sometimes the sanctions are issued as a matter of course, without adequate application of mind entailing serious repercussions to the tribal. Hence, we suggest that the permission-granting authority for transfer of land should vest in the State Government.
- (3) We feel that, generally speaking, the laws as they exist, imperfect though they may be in certain particulars, have not been implemented adequately and in the right spirit. Whereas the implementers should have applied them to deliver redress to the aggrieved ignorant and unlettered tribal land-owners for whom the instruments were made, the balance has, not infrequently, tilted against them. The imperative need is to orient the administration in tune with the underlying intent, purpose and spirit of the legislation.
- (4) Apart from the executive, the role of judiciary is vital. In States like Andhra Pradesh, separate courts have been constituted to deal with the tribal land alienation cases in Scheduled Areas. At the ground level, Sub-deputy Collectors function as presiding officers of these courts. Through the result has not been encouraging, the measure can yield dividends. In the first instance, the concerned personnel, should be properly trained and motivated. Secondly, they should be given a good grounding of administrative, financial and judicial subjects and knowledge. Thirdly, the supervisory level should be strengthened. In this connection, we would particularly like to suggest that, in the judicial field, a high court judge should be appointed for exclusively dealing with and supervision of legal work pertaining to scheduled tribes in States having large concentration scheduled tribe population.
- (5) It has been found that a sizeable ST population lives outside the Scheduled Areas in bigger states like Andhra Pradesh, Gujarat, M.P, Maharashtra and Orissa. They are as vulnerable to exploitation and need protection as their brethren living within Scheduled

Areas. We feel that the question of extension of protection of relevant laws to them should be taken up.

155. In recapitulating, we make our recommendations as follows.

- (1) The paramount objective should be to ensure no further erosion of tribal land holdings. Steps should be taken for restoration of land which has been unduly lost.
- (2) There should be a general prohibition on all transfers, whether by sale, mortgage, gift, or lease or on any ground of agreement or contract entered into by tribals in favour of non-tribals, without the permission of the State Government, who should act in consultation with the Gram Sabha and Gram Panchayat. Copies of the State Government orders should be sent to the Gram Sabha and the Panchayats.
- (3) The Andhra law places ban on registration of land transfer documents except where the person presenting the document furnishes an affidavit by the transferee (in the form where prescribed) to the effect that the transferee is a member of a scheduled tribe or a registered society composed solely of members of scheduled tribes. This provision should be incorporated in all states laws.
- (4) In a case where transfer of land from a tribal to a non-tribal is processed in accordance with law, it should be ensured that the resultant depleted tribal holding does not fall below a viable (un-irrigated and irrigated) holding limit. The Orissa law mentions two acres in the case of irrigated land and five acres of un-irrigated land.
- (5) Transactions of land transfer have been taking place between members of scheduled tribes without any legal restrictions. We feel that even where a transfer takes place between one scheduled tribe and another, it should be subject to the same conditions, namely that the resultant depleted holding of the transferor does not fall below the viable holding limit, depending on whether it is irrigated or un-irrigated land.

(6) The State Governments should, through executive instructions, discourage grant of official permission routinely for transfer of tribal lands to non-tribals and it should be allowed strictly in bonafide cases.

(7) In the Andhra Pradesh, MP and Orissa laws, until the contrary is proved any immovable property situated in the Scheduled Areas and in possession of a person who is not a member of scheduled tribe, is to be presumed to have been acquired by the person or his predecessor in possession through transfer made to him by a member of scheduled tribe. Such person has been made responsible for production of evidence of valid transfer on pain of penalty. Other states may consider.

(8) The provision in some state laws that the Deputy Commissioner or Collector should have the power suo moto or at the instance of the aggrieved tribal, to institute enquiries and restore possession of the land, making this provision applicable to all transfers of land of tribals to non-tribals with retrospective effect from 26 January 1950, may be considered for adoption by other states.

(9) The M.P. and Chattisgarh Land Revenue Code 1959 lays down in Section 170-B(2A) that if a Gram Sabha in a Scheduled Area finds that any non-tribal is in possession of the land of an ST without lawful authority, it shall restore possession of such land to the original ST land-holder. This provision is in accordance with Section 4(m)(iii) of the PESA Act 1996. Should the Gram Sabha fail to restore the possession, it has to refer the matter to the SDO who has been enjoined to restore the possession within three months of the date of receipt of the reference. This is a wholesome provision, flowing from the PESA Act and should be adopted by the States. The Orissa law goes only to the extent of saying that the competent authority has to make a report to the concerned Gram Panchayat about the order of ejection and restoration of the land to the original owner, or reasons for failure, if that be the case. This much can only keep the Panchayats informed and may not suffice. The M.P. and Chattisgarh LR Code has wholesome provision and may be adopted by other states.

(10) Reports indicate and our field visits confirmed evidence of manipulation of land records at the time of settlement operations or at other times, without the knowledge of the original tribal owner. Further, taking advantage of the



ignorance of tribals, their clear and correct status regarding land is, not unoften, not entered in the land records. To meet the contingency, survey and settlement operations should be conducted by the State Governments regularly and at reasonably short intervals, say within 10 to 15 years; preceded by wide publicity in the tribal areas. The record of rights and other related books and papers should go on the internet to enable the public to scan them.

- (11) Experience shows that an unconscionably long time elapses between a court judgement in favour of an ST and actual hand-over of the land to the ST owner, enabling the dispossessor to employ subterfuges to delay matters and go in for appeal. The state laws should clamp a time-frame, say two or three months, within which possession should be given over to the ST land-owner.
  
- (12) The ignorance and innocence of tribals are exploited by clever non-tribals dragging them into prolonged litigation. The STs ill-afford it in terms of knowledge, time and money and, as such, they are often losers. Some State Governments have made provision for legal aid to tribals. But its competence and timeliness are open to doubt. The State Governments should ensure competent legal aid accessible timely to tribals at all stages of litigation.
  
- (13) As recommended by the Dhebar Commission, there should a bar against suits or applications against any order made by a Deputy Commissioner or a Collector. There is a tendency for non-tribal transferees to take recourse to hierarchal courts of law as dilatory tactics. The Orissa law provides appeal only to one revenue court. This provision may be considered for being incorporated in other state laws, if not already existing.
  
- (14) Normally, jurisprudence places reliance on documentary evidence. Tribal culture is oral culture. Tribals are not good at obtaining and preserving records. Quite often, the administration does not take care to convey documents to the respective tribal land-holders. As such, the courts would have to be advised to consider credibility of tribal oral evidence in Scheduled Areas.

(15) We have referred earlier to the novel method of land appropriation, particularly prevalent in Jharkhand, whereby non-tribals marry ST women gaining access to tribal land, specially on the strength of the orders of the Ranchi High Court to the effect that children born out of such union are STs. Requisite measures to defeat ills arising in this context need to be taken either by appeal to higher judiciary or legislation.

(16) The anti-alienation law should be got translated in regional languages and disseminated widely in tribal areas.

156. Since land is one of the two most crucial and vital resources of tribals, their economy being predominantly limited to land and forest, we feel called upon to suggest recourse to some constitutional measures. In the first instance, the possibilities of inadequate or unsuitable laws being framed or apposite laws being wrongly interpreted or indifferent implementation of appropriate laws have to be kept in view. We have cited the case of Kerala in the pages of this chapter indicating how, for several years, the Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands ) Act 1975 could not come into force for want of framing of rules. The amended Act of 1999 has not come into operation yet, on account of litigation. In the context of such and other hurdles, some device is needed to place matters on right track. At least in two places viz. in Article 339(2) and para 3 of the Fifth Schedule, the Union Government has been entrusted the responsibility of giving directions to the States in ST interests. So far as we are aware, this executive power has been used sparingly, if at all. It appears to us that its use in the matter of land resource would be quite legitimate, should a situation of jeopardy of tribal land resource arise.

157. It is not generally remembered that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 deals with offences committed by non-STs on STs. The following extract is relevant:

3(i) Whoever, not being a member of a scheduled Caste or a Scheduled Tribe –  
xxx            xxx            xxx            xxx            xxx

- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

XXX    XXXX    XXXX    XXXX    XXXX

shall be punishable with imprisonment for a term which shall not be less than 6 months but which may extend to 5 years and with fine.

The difficulty arises from the fact that since little knowledge exists of this Act, hardly any use is made for its appropriate application. It is felt that in case the offenders are punished in accordance with this law, it will serve as a serious deterrent.

158. It has been generally observed that the objectives of several Land reforms enactments have been frustrated, inter alia, by indiscriminate and unduly long stays under Article 226 of the Constitution. In Scheduled Areas, to thwart implementation of the provisions of anti-alienation laws, the better-off, deeply entrenched exploitative elements approach High Courts under Article 226 of the Constitution and obtain long stay orders. Further, when a decision is handed down in regard to a provision of anti-alienation law, the same piece of land is made the subject matter of dispute under some other Act or provision and another stay order is obtained. These are legal tactics resulting in enormous delays in cases where tribals obtain favourable decisions in lower courts, neutralizing the effectiveness of the protective legislation. In one case, the Andhra Pradesh High Court granted a stay not in regard to one piece of land or a particular village, but a blanket order was passed covering about 50 villages in which numerous persons had been coercively impleaded. The result was that the land of the petitioners could not be touched under any regulation or Act. These facts lead to the question whether it is feasible to amend the Constitution for preventing courts from prolonged adjudication on anti-land alienation legislation.

159.1. The question as to whether the authority of the High Court in the matter of tribal land alienation cases should not be abridged in order to fulfill the objectives of the Fifth Schedule requires consideration. Two alternatives are available: (a) inclusion of the protective legislations in the Ninth Schedule of the Constitution (b) amendment of the Constitution to suitably recast Article 226 of the Constitution.

159.2. In so far as the alternative of the Ninth Schedule is concerned, even on its adoption land alienation may still remain the subject matter of a High Court under Article 226 of the Constitution, since the inclusion only ensures that the validity of the legislation is not questioned on the ground that it affects fundamental rights. But under Article 226 the jurisdiction of the High Court is not confined only to issues relating to or affecting fundamental rights; it extends to "and for any other purpose". Thus, mere inclusion of protective enactments in the Ninth Schedule of the Constitution may not help as litigation may be launched for myriad contentions, intrinsic or extraneous. Further, amendment of Article 226 may be beset with complications as numerous other issues may fall within the purview of the words quoted.

159.3 The question arises whether intervention of the Fifth Schedule can be sought to place a ban on any person from invoking a High Court for writ under Article 226 of the Constitution. Two questions arise in this context. First, whether it is possible to limit the power of the High Court in this regard. The answer lies in the understanding that the suggestion is to curb the right of the individual to approach the Court indiscriminately and not the power of the Court itself given to it under Article 226 of the Constitution. This view is supported by the observation of the Supreme Court in the MISA case wherein they stated that by placing restrictions on individuals, the power of the High Court is not curbed. The measure is directed only against an individual. Secondly, in its plenary amplitude, the Fifth Schedule enables such a step, full and proper. For, Para 5 of the Fifth Schedule relating to law applicable to Scheduled Areas opens with the words "notwithstanding anything in the Constitution.....". This gives the authority to the Governor, in consultation with the Tribes Advisory Council, to legislate on tribal land, particularly in the context of clause (a) of Para 5 which enables the Governor to make regulations to prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in Scheduled Areas. Court rulings to the effect that the words "notwithstanding anything in the Constitution..." empower the executive widely and support this suggestion.

160. Prone to euphemistic usage, the state must interpret "public purpose" in acquisition of land not only equitably but also restrictively. For more than a century, its unrestricted application has led, more often than not, to harrowing experience for the common mass. Whereas Article 21 in the chapter on Fundamental Rights in the Constitution guarantees the right to livelihood [as interpreted by the Supreme Court in the Narendera Kumar vs. the State of Haryana IT (1994) 2 SC 94 ], and Article 39 in the chapter on Directive Principles of State Policy enjoins on the State to direct its policy towards securing to the citizens adequate means of livelihood, the state land acquisition has brought within its trail displacement of millions of tribal people, loss of the

means of their livelihood and disruption of their economic and social life. Apart from the constitutional imperatives, the basic question is moral elongating into human rights: Is it ethical on the part of the state to inflict sacrificial impoverishment on one section of the people for the sake of economic advancement of some other sections? In our view, the proposal for establishment of any project involving ousting of village and tribal communities, dismantling life and its support-systems and destroying their culture, values, identity and ethos, should be given the most earnest and careful consideration. Even the most well-conceived plan of rehabilitation cannot match the agony and misery of disintegration of tribal communitarian living and loss of life-support and eco-systems. We cannot exaggerate the importance of this issue. Depending on the extent of area involved, deliberative hierarchical authorities, including the Panchayat bodies, should be set up. They should weigh each proposal carefully, particularly in terms of human costs involved, for giving clearance.

161. A related question is whether industrialization based on the availability of natural resources of tribal areas could be effected with concomitant benefit to the tribal population of those areas. One view is that, with accelerating industrialisation, benefits will percolate tribal areas and tribal people automatically. Our experience is that, generally, that does not happen. On the one hand, they lose their land and other resources and, on the other, they are denied employment in the new enterprises except in the unwanted unskilled and menial jobs. While subscribing to the view that both underground and overground immense wealth of these areas cannot lie untapped for a length of time, we would like to call for equitable shared development experience as well as its equitable shared fruits.

162. In this context, the land-mark Samata Supreme Court judgment (1997) is relevant. The tribals in Borra Panchayat in Vishakhapatnam district of Andhra Pradesh, the denizens of hills of the Andhra Agency areas for centuries, were denied title deeds relating to their lands. But mining companies were given leases since 1960s on tribals' lands and forest. A public interest litigation was filed in the Andhra Pradesh High Court in 1993 by Samata, an NGO, working in the area, on the ground that Government also was a 'person' and, as such, could not lease out tribal lands in a Scheduled Area to non-tribals. In 1995, the High Court dismissed the case. In 1997, the Supreme Court declared that grant of the mining leases in Scheduled Areas militated against the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 and, hence, the leases were null and void. The State Government were directed to issue title deeds to tribals in occupation of the land. More important, it was ruled that government as a 'person' did not have the right to grant mining leases of land in Scheduled Areas. However, the Andhra Pradesh State Mineral Development Corporation or

a cooperative of tribals could take up mining activity in the Scheduled Areas without infringing provisions of the Forest Conservation Act 1980 and Environment Protection Act 1990. In reference to the PESA Act 1996, the Supreme Court reiterated the competence of Gram Sabhas to safeguard and preserve community resources, upholding the right of self-governance of tribals. They called for allocation of 20% of net profits flowing out of mining operations by the State as a permanent fund for establishment and maintenance of water resources, hospitals, transport facilities like roads. Thus, the Court was translating constitutional provisions in favour of STs contained in its Fifth Schedule and elsewhere into promotion of their social, economic and political empowerment.

163. There is need for a strategy that enables both the tribal people and the tracts they occupy to develop step-in-step. We feel this can happen only if the strategy, however big or small in concept and intent, is worked out by the local self-governing bodies -- Panchayats hierarchies that we have spoken of in an earlier paragraph -- in concert with the planners. The terms and provisos should largely be set by the former. For instance, they may lay down the tempo of industrialization which suits them; it may be made compatible with the competence and capacity of STs' own organizations (like cooperatives) as well as the pace of the vocationalisation of the local youth to enable their participation. Another condition they might specify is that the local people be made partners in the ventures projected, with explicit rate of accrual to them of annual returns. A third may relate to limitation on lease periods along with the proviso that, on expiration of the lease, the land should revert in a usable form to the original owner or his successors-in-interest. Doubtlessly, a variety of situations can spawn a large variety of terms and conditions which may satisfy both the interest of the people and the needs of industrial development. In any event, remote state administrations enforcing their own agenda of development with their own set of rules and regulations spell arbitrariness, development failure and graft.

164. Lastly, we find that the subject of land resources is being dealt with by the Ministry of Rural Development (MRD) including land alienation, land acquisition, laws, enactments etc. Being the subject-matter of Ministry, normally these items, despite some part relating to STs, should continue to fall within the province of MRD. However, three facts are relevant. One, a separate Ministry of Tribal Affairs has come into existence since 1999. Second, land is the single most important resource of the tribal, he is highly vulnerable in regard to it and, in fact, land has been passing out of his hand. Thirdly, the general perception is that unrest in tribal areas could, in no small measure, be related to erosion of the land resource. As such, it may be in the fitness of things that the Ministry of Tribal Affairs should handle the subject and should be made responsible for all aspects and issues relating to tribal land particularly pertaining to anti-alienation laws. We are quite aware that this may

be an unusual recommendation, as a subject should normally be dealt with by the subject-matter department or ministry and the nodal department or ministry should have a coordinative liaison with the subject-matter authority. Nevertheless, we are constrained to make the recommendation in view of the special circumstances.

## **RECOMMENDATIONS**

**1. In many tribal societies, both community ownership and individual ownership of land exist side by side. While in past, community ownership may have been the dominant mode, presently private holdings seem to be preferred. The community land may comprise of common land, grazing land, wooded tracts, service tenures, religious lands, burial land, commemorative land etc. Statutory laws should accord with customary laws.**

**2. Land reforms enacted by the state hardly resulted in ceding lands to tribals for various reasons, including poor land records maintained in the Zamindari areas and manipulations of unscrupulous lower revenue officials. As per figures available, as in March 2002, of the 73.73 lakh acres declared surplus and 65.01 lakh acres taken possession, the land allotted to 8.3 lakh ST beneficiaries was 7.79 lakh acres, being disproportionately small as compared to what they should have been allotted considering their land-holding status. Further, of the 14.7 crore acres distributed under the programme of distribution of Government land, the quantum settled on tribals is not known. [Para 10]**

**3. The 44<sup>th</sup> round of NSS conducted in 1988-89 showed that, at the all-India level, the average holding of the tribal household was 1.15 acres and that owned by a non-tribal household was 1.16 acres, belying the general presumption that an average tribal holding is larger than that of a non-tribal holding. The tribal land is generally slopy and rocky with a thin soil cover. Observations generally conform to the above presumption. Further, the percentage of landless households among tribals, according to the NSS, was higher than among non-tribals, the respective figures being 20.5% and 16.3%. [Para 13]**

**4. The NSS estimates showed that 46% of the rural tribal households earned a major share of their livelihood from self-employment, while 47% made a living from wage-employment as rural labourers. Hence, land is their main-stay, directly as cultivators and indirectly as agricultural labourers. [Para 17]**

5. Even in British times, several provincial Governments took a hand in legislating laws to prevent alienation of tribal land. Presently, nearly all states having a sizeable concentration of ST population have made laws to prevent alienation of tribal land. [Paras 22-24]

6. A look at the figures furnished by the Ministry of Rural Development on court proceedings in regard to land alienated, restored etc. in the different states of the country indicated in Table 4 [Para 25] in reply to the Commission's Questionnaire shows that roughly 50% of the cases filed by the STs in courts have gone in their favour. The general impression is that STs resort to legal action only in case of extreme necessity and in genuine cases and, from that point of view, the results of court cases seem rather discouraging. Apart from that, we feel that a large number of cases of ST land alienation occur outside the legal orbit. As such, the Table reproduced from the records of the Ministry of Rural Development does not furnish a full picture. The states need to look into the matter carefully. [Paras 25-27]

7. The following issues arise in respect of the laws of the concerned states. Requisite action may be taken as necessary.

**Andhra Pradesh:** Protection of LTR is not available to members of scheduled tribes outside the Scheduled Areas. The bigger and economically stronger tribal groups have been able to obtain benefit of the laws, but not the smaller and weaker tribes. Pattas should be assigned on a permanent basis. Wherever possible, advantage of the Agency Rules of 1870, which permit oral testimonies and summary trial, should be taken. [Paras 28-31]

**Gujarat:** The alienated tribal land should be restored removing the bar of limitation. Land in possession of a non-tribal may be presumed to have been acquired by transfer and the onus of proving it to have been legally acquired should rest on the non-tribal concerned. Special attention should be paid to incidence of land alienation around industrial towns and growing urban centres. [Para 40]

**Jharkhand:** The interpretation of the High Court that surrender of land within the meaning of section 46 of the CNT Act is not a transfer, needs to be looked into. Reference section 20(2) of the SPT (SP) Act 1949, the suggestion that the application for registration of transfer should be accompanied by an affidavit of the transferee to the effect that he is a member of a scheduled tribe, may be considered. [Paras 41-48]

**Kerala:** According to the Act 31 of 1975 as amended in 1999, on restoration of immovable property of an ST, he is required to make payment of the actual amount of consideration received by him at the time of transfer plus an amount determined for improvements effected by the transferee. Generally, such a demand is not made on the



ST transferor, as the transfer is regarded as illegitimate. The Act allows transfers between 1960 and 1986 of ST land not exceeding two acres to a non-ST and its indefinite retention by a non-ST. Considering that most STs in Kerala are either small or marginal land-holders or are landless, this is hurtful. In any event, the law is presently inoperative, as it is sub judice in the Supreme Court. We shall watch the proceeding with interest. The State has determined about 22,000 persons as landless tribals. High priority should be accorded to endowing land on them if possible or, in the alternative, engaging them in self-employment. [Paras 59-65]

**M.P. & Chattisgarh:** The provisions of the M.P. Land Revenue Code 1959, applicable to both the states, seem satisfactory. In fact, the Code is the only one among the various state anti-alienation laws, which contains reference to Gram Sabha for its role in the matter of restoration of alienated tribal land, co-related to section 4(m)(iii) of the PESA Act. The only snag is that it omits the role of other panchayats i.e. the Gram Panchayat, the intermediate Panchayat and the Zilla Panchayat. We have commended the "Bhoo Adhikar Avam Rin Patrika" of M.P. and "Kisan Kitab" of Chattisgarh, as examples for other states to follow. [Paras 66-76]

**Maharashtra:** The State has three chief laws i.e. Maharashtra Land Revenue Code, Tenancy Laws (Amendment) Act 1974 and the Maharashtra Restoration of Land to Scheduled Tribes Act 1974. It will be desirable to make one consolidated law incorporating the various aspects contained in the three laws. Secondly, it is not clear whether the Maharashtra Land Revenue Code relates to only period April 1957 and July 1974 or extends to later period also. Thirdly, in certain cases, at the stage of restoration, the tribal transferor has to make payment for improvement carried out in the land by the transferee. The laws of some other states do not call for such payment. The Maharashtra Government may consider omitting the condition of compensation by the tribal transferer. [Paras 77 - 79]

**Manipur:** Since land survey work has been taken up in some districts and has yet to be taken up in some other districts, the following three aspects may be kept in view. First, the individual farmer should be enabled to make investment for land improvement and higher production; secondly, the credit should be legally and administratively available thirdly, there should be general prohibition on transfer of tribal land to a non-tribal without permission of the Deputy Commissioner or such other authority as the State Government thinks fit. [Para 80]

**Orissa:** Section 3A (3) of Orissa Regulation 2 of 1956, as amended, prescribed that the competent authority has to make a report to the concerned Gram Panchayat about the order of ejection of unauthorized occupation of a tribals' immovable property. This is comparable to the recent amendment of M.P. Code. However, reference to Gram Sabha and other Panchayats is lacking. Again, as in the M.P. Code, a non-ST has to explain how he came in possession of agricultural land in a Scheduled Area between October 1956 and August 2002. Otherwise welcome, the moot point is why the provision has been confined to agricultural land. The example of Andhra Pradesh Regulation stipulating that a certificate by the transferee that he is a member of a scheduled tribe community should accompany transfer documents for registration, may be considered by the State Government. Only fine as a punishment has been prescribed in section 7 of the 2002 Amendment Act for contravention of the provisions of the Regulation and continued unauthorized occupation of the property; imprisonment as a punishment may be considered. [Paras 83 - 92]

**Rajasthan:** The ban on grant of mining leases for masonry stone was imposed recently, but after extending the current leases in favour of non-STs for 20 years. This is prejudicial to tribal interest and should be reviewed. While, on the one hand, the Rajasthan Tenancy Act does not permit transfer of tribal land to non-STs, the rules for urban areas make it legally possible for all land-holders (STs and non-STs alike) to convert their agricultural land into residential and commercial land and sell it to third party, nullifying the effect of the Rajasthan Tenancy Act. The State Government might look into it. [Para 93 - 97]

8. The generally understood causes for alienation are ignorance of tribal people, coercive and forcible occupation of tribal land by non-tribals, fraudulent means adopted by non-tribals for transfer, manipulation of land records to the adverse interest of tribals, devious and prolonged litigation, rejection on flimsy and doubtful grounds of restoration petitions etc. [Paras 90-95]

9. As in the rest of the country, in tribal areas i.e. both Scheduled Areas and non-Scheduled Areas, urbanisation has been taking place at a rapid rate during the past two or three decades. Due to the twin processes of industrialization and urbanization related to concentration of natural resources like land, minerals, forest, water etc., legal and illegal alienation of tribal land in urban areas has increased. Surprisingly, Rajasthan rules permit it, though rather deviously. In Jharkhand, urban land mafia has been active. Firstly, the states in which Scheduled Areas anti-land alienation laws are applicable to urban areas also, should

implement them stringently. Secondly, where such laws have not been brought into operation in urban areas steps should be taken therefor. A law based on the recommendations of the Bhuria Committee relating to urban municipal bodies should be enacted. Destitution of tribals should be stemmed.

10. In the Scheduled Areas of Rajasthan, lands converted from agricultural to residential and commercial categories under the Rajasthan Land Revenue Allotment, Conversion and Regularisation of Agricultural Land for Residential and Commercial Purposes in Urban Areas Rules 1981 and the Rajasthan Land Revenue Conversion of Agricultural Land for Non Agricultural Purposes in Rural Areas Rules 1992 should be subject to the same restrictions as are applicable under Rajasthan Tenancy Act 1955.

11. Though estimates vary, the Tenth Plan document of the Planning Commission quotes the figures of 8.539 million tribals as having been displaced on account of acquisition of land for various development projects i.e. 41% of all displaced persons between 1951 and 1989. ST population in the country is about 8%. [Para 108]

12. Since no reliable records of tribal land acquired exist, steps should be taken to prepare a reliable data-base. In this respect, figures of tribal land acquired with a break-up for the purposes acquired, should be obtained from the districts and compiled at the state headquarters. The state level statistics should be furnished to the Centre for maintenance of corresponding record at the national level.

13. The interpretation of "public purpose" should take into consideration the views of the party or parties which suffer the application of the Land Acquisition Act 1894.

14. Land acquisition should be strictly need-based in the context of preference, as a matter of policy, for "no-displacement" and "least displacement" alternatives. The decision for location of a project situated in a tribal area should be entrusted, in lieu of just official agencies as at present, to bodies constituted at appropriately high levels at tehsil, district, state, national tiers, including therein Panchayats representatives, relative to the size and nature of the project.

15. High priority should be given to allotment of land for land to displaced tribal families. Socio-cultural community relocation should be regarded as indispensable for tribals. [Paras 116 and 117]

16. The Land Acquisition Act needs to be amended in the light of suggestions made by us. Further, its provisions should be tailored to the requirements of the PESA Act 1996. [Para 119]

17. The Samata judgment should be respected in acquisition proceedings in Scheduled Areas.

18. The provisions of the proviso to Para 3(a) of the Sixth Schedule relating to acquisition of land by State Government in the tribal areas, defined in Article 244(2), should be re-oriented to accord with the spirit of the provisions of the PESA Act. [Para 120]

19. Similarly, the provisions of the Coal Bearing Areas (Acquisition and Development) Act 1957 and National Mineral Policy 1993 should be harmonized to conform to the PESA Act 1996. We have suggested other amendments also. [Para 129-141]

20. All steps necessary should be taken to ensure that the tribal is not deprived of his land. Briefly, our recommendations are as follows.

- (i) It should be ensured that there is no further erosion of tribal land holdings. There should be a general prohibition on transfer of tribal land to a non-tribal, except with the permission of the State Government. Consultation with the Gram Sabha and Gram Panchayat should enable the State Government to take a proper view in each case. Copies of the orders of the State Government should be sent to the Gram Sabha and Panchayats. Steps should be taken for restoration of land already lost. Existing anti-alienation land laws should be stringently implemented.
- (ii) The anti-alienation land laws should be subjected to review from time to time for amendments, as necessary. Our specific suggestions in respect of states may be taken into consideration.
- (iii) Separate courts should be established in the Scheduled Areas to deal with cases of tribal land alienation, as done in Andhra Pradesh. The presiding officers and other personnel should be properly trained and motivated. The supervisory level should be strengthened. A high court judge should be appointed for exclusively dealing with and supervision of legal work pertaining to scheduled tribes in states having large concentration of ST population. [Para 154(4)]

- (iv) A sizeable ST population living outside Scheduled Areas in bigger states like Andhra Pradesh, Gujarat, Madhya Pradesh, Maharashtra and Orissa, also is vulnerable to exploitation and needs protection. The question of extension of protection of relevant laws to them should be taken up. [Para 154(5)]**
- (v) There should be a ban on registration of land transfer documents except when accompanied by an affidavit of the transferee to the effect that the transferee is a member of a scheduled tribe or a registered society composed solely of members of scheduled tribes. [Para 155(3)]**
- (vi) In case where transfer of land is processed in accordance with law, it should be ensured that the resultant depleted holding does not fall below a viable holding limit. [Para 155(4)]**
- (vii) Until the contrary is proved, any immovable property situated in Scheduled Areas and in possession of a person who is not a member of a scheduled tribe, is to be presumed to have been acquired by the person or his predecessor in possession through transfer made to him by a member of a scheduled tribe. Such person has to be made responsible for production of evidence of valid transfer on pain of penalty. [Para 155(7)]**
- (viii) Land records should be updated regularly at periodic reasonably short intervals. The status of tribals should be entered in the land records correctly i.e. in accordance with the land laws. Land data should be computerized for wide accessibility.**
- (ix) Ways and means have to be devised to ensure that tribals are not dragged into prolonged expensive litigation. There should be one appellate stage. Competent legal aid accessible timely to tribals at all stages of litigation should be provided.[Para 155(13)]**
- (x) Possession of land back to the tribals should be legally ensured within a specified time-frame, say two to three months.[Para 155(11)]**

- (xi) **The possibility of investing tribal oral evidence in courts with credibility may be considered. [Para 155(14)]**
- (xii) **Specious methods to gain control of tribal land by non-tribals made possible through marriage with tribal women need to be discounted by appropriate methods. [Para 155(15)]**
- (xiii) **The letter and spirit of the PESA Act 1996 should permeate anti-alienation laws and other laws in the way that Madhya Pradesh Land Revenue Court 1959 provides for involvement of the Panchayats.[Para 155(9)]**
- (xiv) **The anti-alienation laws should be got translated in regional languages and disseminated widely in tribal areas.[Para 155(16)]**

21. **As per the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, any non-ST who wrongfully either occupies or cultivates any land belonging to a member of a Scheduled Tribe or gets land allotted to such member transferred to him, or wrongfully dispossesses the member of the Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water is liable to imprisonment for a term not less than six months up to 5 years as well as with fine. Little application has been made of this provision. It could be resorted to as often as necessary and could serve as a deterrent.[Para 157]**

22. **Intervention of the Fifth Schedule should be sought to place a ban on any person invoking a High Court for a writ under Article 226 of the Constitution in tribal land alienation cases. This would enable curb the right of the individual to approach the Court indiscriminately without abridging the power of the Court itself under Article 226. This view is supported by the observation of the Supreme Court in the MISA case wherein they stated that by placing restrictions on individuals, the power of the High Court is not curtailed.[Para 157]**

23. **We recommend that the subject of tribal land, Particularly in respect of alienation, should be handled by the Ministry of Tribal Affairs, instead of by the Land Resources Department of the Ministry of Rural Development for the reasons we have cited in the report.[Para 164]**

## Annexure I

State-wise Percentage of Scheduled Tribes and total Population Below Poverty Line  
For 1993-94 and 1999-2000

Sr.No.	States	1993 - 94				1999 - 2000			
		Rural		Urban		Rural		Urban	
		STs	All	STs	All	STs	All	STs	All
1	2	3	4	5	6	7	8	9	10
1.	Andhra Pradesh	25.66	15.92	46.68	38.33	23.82	11.14	44.99	26.53
2.	Assam	41.44	45.01	7.11	7.73	38.73	40.20	2.70	7.47
3.	Bihar	69.75	58.21	35.76	34.50	59.68	44.22	39.47	32.95
4.	Gujarat	31.20	22.18	35.47	27.89	29.11	13.17	36.66	15.59
5.	Harayana	41.55	28.02	0.00	16.38	--	8.27	--	9.99
6.	Himachal Pradesh	63.94	30.34	0.00	9.18	5.73	7.94	--	4.63
7.	Karnataka	37.33	29.88	62.05	40.14	25.49	17.36	51.37	25.25
8.	Kerala	37.34	25.76	1.08	24.55	24.20	9.38	--	20.27
9.	Madhya Pradesh	56.69	40.64	65.28	48.38	56.26	37.09	52.59	38.54
10.	Maharashtra	50.38	37.93	61.06	35.15	43.56	23.82	42.98	26.91
11.	Orissa	71.26	49.72	64.85	41.64	73.93	48.13	59.59	43.13
12.	Punjab	27.00	11.95	0.00	11.35	17.99	6.44	12.95	5.80
13.	Rajasthan	46.23	26.46	13.21	30.49	25.27	13.65	20.71	19.85
14.	Tamil Nadu	44.37	32.48	30.08	39.77	43.20	20.55	5.22	22.17
15.	Uttar Pradesh	37.11	42.28	36.89	35.39	34.06	31.22	13.27	30.90
16.	West Bengal	61.95	40.80	19.41	22.41	50.02	31.82	31.88	14.86
17.	All India	51.94	37.27	41.14	32.36	45.86	27.11	34.75	23.65

N.B.

- (i) \*=STs: Scheduled Tribes; \* All: All Population
- (ii) The Poverty Line for all population is used for SC's and ST's
- (iii) All India poverty ratio is worked out from the NSS distribution of persons and (implicit) all India poverty line.
- (iv) The estimates are based on the methodology outlined in the Report of the Expert Group on Estimation of Proportion and
- (v) Poverty ratio of Assam is used for Sikkim, Arunachal Pradesh, Meghalaya, Mizoram, Manipur, Nagaland and Tripura
- (vi) Poverty ratio of Tamil Nadu is used for Pondicherry and A&N Island
- (vii) Poverty ratio of Kerala is used for Lakshadweep
- (viii) Poverty ratio of Punjab is used for Chandigarh

Source: Planning Commission reply (Nov. 2003) to this Commission's questionnaire of November 2002.

**Annexure II**

**LAWS AGAINST TRIBAL LAND ALIENATION CURRENTLY  
IN FORCE IN THE CONCERNED STATES**

<b>Sl.No.</b>	<b>State</b>	<b>Legislation in Force</b>	<b>Main Features</b>
1.	Andhra Pradesh	The Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959 as amended.	The Act applies to Scheduled Tribes in Scheduled Areas only. Protection to be extended to Scheduled Tribes living outside Scheduled Areas.
2.	Bihar	(a) Chota Nagpur Tenancy Act, 1908 (b) Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949. (c) Bihar Scheduled Areas Regulation, 1969.	These Acts apply to Scheduled Tribes in the State. Chota Nagpur Tenancy Act applies to North & South Chota Nagpur Divisions. The Second Act applies to districts of Santhal Pargana Division. The Third Act applies to all Scheduled areas in the State.
3	Assam	Assam Land Revenue Regulations 1886 amended in 1981.	The Chapter X of the Regulation create Tribal Belts & Blocks. Transfer exchange and lease of land in these blocks & belts is restricted in the interest of tribals.
4.	Gujarat	The Bombay Land Revenue (Gujarat Second Amendment Act, 1980).	Prohibits transfer of tribal land and provides for restoration.
5.	Himachal Pradesh	The Himachal Pradesh Transfer of Land (Regulation) Act, 1969.	The Act prohibits transfer of land from tribals to non-tribals.



6.	Karnataka	The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978.	The Act covers only land assigned by the Government should extend to cover all lands held by the STs.
7.	Kerala	The Kerala Scheduled Tribes (Regulation of Transfer of Land and Restoration of Alienated Lands) Act, 1975.	The Act has been made applicable from 1 <sup>st</sup> June, 1982 only by a notification brought in January, 1986.
8.	Madhya Pradesh	1. The Madhya Pradesh Land Revenue Code, 1959. 2. Madhya Pradesh Land Distribution Regulation Act, 1964.	The Section 153 of the code protects Scheduled Tribes against alienation of land. In the Scheduled Areas of Madhya Bharat region, the 1964 Act is in force.
9.	Manipur	The Manipur Land Revenue and Land Reforms Act, 1960.	Under Section 158 of the Act, no land belonging to STs can be transferred to non-STs without permission of Dy. Commissioner. The Act, however, does not apply to hill areas and as such hill area tribals are not covered.
10.	Maharashtra	1. The Maharashtra Land Revenue Code, 1966 as amended in 1974. 2. The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.	The period of application by tribals for restoration of illegally alienated land under these laws is only 3 years. This period expired in 1977. Though suo-moto provisions for filing cases by revenue officers exist under the laws, the State Government has been requested to permit STs themselves to apply even beyond the limited period of 3 years.

11.	Orissa	<p>(a) The Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956.</p> <p>(b) The Orissa Land Reforms Act, 1960 as amended.</p>	<p>Prohibits transfer of ST land in Scheduled Areas.</p> <p>Prohibits transfer of land of Scheduled Tribes living outside Scheduled Areas.</p>
12	Rajasthan	<p>(a) The Rajasthan Tenancy Act, 1955.</p> <p>(b) The Rajasthan Land Revenue Act, 1956.</p>	<p>The Act of 1955 prohibits transfer of land of STs by way of sale, gift, mortgage, subletting, exchange etc.</p> <p>State Government is proposing to amend Section 91 of this Act to authorize Tehsildar to suo-moto proceed against trespassers into ST land.</p>
13.	Sikkim	Revenue Order No. 1 of 1977.	<p>The Revenue Order of 1977 is in force. The Sikkim Agricultural Land Ceiling And Reforms Act, 1977 in Chapter 7 provides for restriction on alienation of lands by Scheduled Tribes. This Chapter has not yet been brought into force.</p>

14	Tamil Nadu	Standing Orders of the Revenue Board-BSO, 15-40.	The BSO 15-40 apply not only to Malayali and Sholage tribes of Tamil Nadu. They prohibit transfer of land assigned to these tribes without approval of Divisional Commissioner. The State has no legislation prohibiting transfer of ST land as yet. The draft bill has been prepared and is under process.
15	Tripura	Tripura Land Revenue and Land Reforms Act, 1960 as amended.	Section 187 of the Act prohibits transfer of ST land to others without permission of the Collector. Transfers after 1.1.1969 only, however, are covered under restoration provisions by an amendment.
16	Uttar Pradesh	U.P. Land Laws (Amendment) Act, 1982 amending Uttar Pradesh Jamindari Abolition and Land Reforms Act, 1950.	The amending Act has never been applied being locked up in a writ case in Allahabad High Court (Swarn Singh Vs. State Government) since 23.9.81. State Government has been requested to move the court for vacation of stay order.
17	West Bengal	West Bengal Land Reforms Act, 1955 as amended.	Chapter 11-A of the Act prohibits alienation of tribal land and provides for the restoration.

Source: Reply of the Ministry of Rural Development, Deptt. of Land Resources  
(May 2003) to the Commission's questionnaire (Nov. 2002)

# Tribal Economy

- A 1. Tribal economy** traditionally and even in modern times is based on "jal" (water), "jungal" (forest), "zamin" (land) which the tribals consider as God given. Tana Bhagats of Chotanagpur during their revolt against the British Rule in 19<sup>th</sup> Century asked a pertinent question:-

"God Created the Earth

We are Children of God

Pray, Wherefrom has the Government Appeared?"

We have described the situation arising out of the tribal-forest interface and about traditionally established community command over land resources in the tribal areas in the Chapters on land and forest in this report.

2. The entire World population 12000 years ago were hunters and food gatherers. Today they are fewer only about 0.001%. There are a few tribal groups in India still having their economy based on hunting and food gathering. The Commission had a chance to interact with number of Primitive Tribal Groups and nomadic tribes in the States/UTs. Jarawas, Sentinelese and Shom Pens tribes of Andaman & Nicobar Islands are still dependent on hunting and food-gathering. Onges and Andamanese tribes are being introduced to simple horticultural practices and at the same time they continue to retain their hunting and food gathering avocation. There is a need to have a survey done of such tribal habitats which have their economy still at the stage of hunting and food gathering.
3. There are, in the modern times also, some tribes still having pastoral economy, characterized by keeping herds of animals such as cattle,

sheep, goats and camel in India. Pastoral economy is found predominantly in the mountains and in the hill slopes where the land is used as pasture which is not suitable for agriculture for climatic reasons. Also there are some dry lands in the country where pastoral economy is predominant. The Commission had interacted with the pastoralist tribal groups about the sustainability of the pastoral economy in the wake of green revolution and operationalisation of the Forest (Conservation) Act, 1980 etc. Many of such pastoralists are nomadic having to move in search of good grazing grounds – some of them living in scattered areas most of their life. These pastoralists use their sheep and goats, cattle and other pack animals like donkey, mules and horses to transport goods. In the past some of these highlanders of the Himalayas – from Ladakh, Himachal Pradesh, Uttaranchal, Sikkim – Darjeeling District to Arunachal Pradesh – had international trade with Tibet (China) which has now been revived by opening some of the traditional silk routes to Tibet (China). Many tribal groups combine pastoralism with agriculture as the base of their economy.

4. Agriculture with animal husbandry as its subsidiary is the main-stay of tribal economy. To supplement the agricultural economy the tribals all over the country heavily depend on gathering minor forest produce which has been their traditional right. In some cases, such rights are duly recorded in the revenue records of the Government. While in others, these rights are available conventionally in which case, in the recent years, as a result of implementation of the provisions of the Forest (Conservation) Act, 1980 there has been wide-spread forest – tribal interface some of which have reached the stage of confrontation. Agricultural Land traditionally held by the tribals have become the forest land in the process of implementation of the provisions of the said Act. The tribes of modern India, in the process heavily paid for holding on to the traditional oral land tenure system which is responsible for the present malaise.

5. Agriculture supported by horticulture and animal husbandry continues to be the main-stay of the tribal economy. The support of the forestry sector for the tribal economy is dwindling faster as a result of the operationalisation of the provisions of the Forest (Conservation) Act, 1980.

## **B. Agriculture**

1. The tribal areas are located in different climatic zones – the temperate zone in the Himalayas – the tropical and sub-tropical zones in sub-Himalayas, North-Eastern States, hill areas in the rest of the country, and – the tropical zone in all the tribal areas of the country barring the higher Himalayan ranges.
2. Agro-climatic conditions in the tribal areas of the country are quite suitable for the production of the food-grains, pulses, fruits and vegetables, oil-seeds, medicinal herbs etc. Important crops raised in the tribal areas of the country are – barley, wheat, pulses & oilseeds, maize, millets, potatoes and beans. Some of these crops are grown commercially in many tribal areas particularly in the Central India. In the North-Eastern States paddy, maize, millets are produced but paddy is raised in the valley areas where settled cultivation is prevalent with irrigation facilities. But, in the jhumland major crops raised are maize, pulses, potatoes and beans etc. However, the trend is now for food production on commercial lines. In the Himalayan belt from Ladakh through Himachal Pradesh/Uttaranchal, Sikkim to Arunachal Pradesh wheat, barley, peas, beans, pulses, mustard and medicinal herbs are grown not only for domestic consumption but also on commercial lines. Temperate as well as tropical fruits and vegetables are grown on commercial lines. The productivity has increased and production quantum has gone up in the Himalayan belt where most tribal areas depend heavily on irrigation with the aid of minor irrigation channels (kuhl) taken from the snow-fed rivulets, streams and rills except in the rain-fed

areas of Arunachal Pradesh. Food crops grown in the Southern India are paddy, maize, cardamom, tea, coffee, pepper, ginger, spices, banana, coconut and vegetables etc.

3. While in the Himalayas the agricultural farmers take two crops a year with minor irrigation through the traditional water channels (kuhl) by channelising water from the snow-fed rivulets, streams and rills. In North-Eastern States, the tribal areas are rain-fed. It is only the paddy fields which are irrigated. In the tribal areas of Central India the farmers heavily depend on the rains and in some plain areas irrigation is done by channelising water from the tube wells/wells and the canals drawn from medium and major irrigation projects wherever these canals pass through the tribal areas. In Southern States, very few tribal areas have major or medium irrigation projects. The Karapuzha Irrigation Project in Wyanad District of Kerala was started many years ago and it has not yet been commissioned. Many tribal farmers have been displaced from this project area and have been settled in places without any means made available for them for agricultural production. The Commission had visited this project area and heard the displaced tribal families who reported that the compensation paid to them was inadequate and there was no land assignment made for these displaced tribes for agricultural purposes. In the North-Eastern States the cropping pattern is mainly based on traditional, cultural, geographical and economic factors. In most tribal areas in different States in the region with settled cultivation double cropping is the pattern for growing paddy, maize, wheat, millets, potato and mustard etc.
4. The Ministry of Agriculture, Government of India supports the Scheduled Tribes under various schemes and programmes for raising their production and productivity in agricultural sector, which is a key to improve their socio-economic conditions. Under these schemes efforts have been

made to increase the quantum of benefits to the Scheduled Tribes and special efforts have been made for infrastructural development in tribal areas. The Ministry has also advised the State Governments to ensure that the benefits flow to the Scheduled Tribe farmers at least in proportion to their population. The special programmes listed are – Oil-seeds Production Programme, National Pulses Development Projects, Oil Palm Development, Accelerated Maize Development Programme, and the programmes under Technology Mission on Cotton etc. where the assistance provided range from 8% to 10% of the total expenditure under these programmes. In the States having larger population of Scheduled Tribes allocation of Scheduled Tribe components is enhanced proportionately and for the schemes like drip irrigation system and distribution of sprinkler sets subsidy to the tune of 50% of the cost is provided to the ST farmers limited to Rs. 1500/- per farmer for the sprinkler sets and between Rs. 11300/- and Rs. 26000/- for the drip irrigation system.

5. The Ministry reported that under the scheme - Documentation of Indigenous Technology - Birsa Agricultural University, Ranchi is provided with financial assistance for identification of the available indigenous technology deployed by the tribal farmers based on their experience and local conditions, and document them on agro-climatic zone basis for validation.
6. **The National Agriculture Policy** recognizes that agriculture is the mainstay of the tribal economy. The policy emphasizes rapid growth of agriculture to build food security for the tribal households and to reduce the poverty levels. A special emphasis has also been given under the policy on institutional reforms, land reforms and updating and improvement of land records, farm credit and easy flow of loans to the poor tribal farmers.



The Ministry through the administrative approval of the schemes ensures that the benefits accruing from the schemes flow to the Scheduled Tribes farmers at least are in proportion to the population in the respective States.

7. Not all the States have firmed-up data about the size of the tribal population subsisting on agriculture and allied sectors. Some States which have firmed-up data and these data/statistics amply prove that the tribal economy is mainly agrarian.
8. As per 1991 census\* the percentages separately of agricultural cultivators and agricultural labourers out of the total tribal work force in respect of some States is given as under:-

<b>State</b>	<b>Agricultural Cultivators</b>	<b>Agricultural Labourers</b>
Andhra Pradesh	41.19%	46.57%
Karnataka	36.82%	42.98%
Kerala	16.65%	55.47%
Madhya Pradesh including Chhattisgarh	63.21%	29.48%
Himachal Pradesh	63%	N.A.

For the rest of the States, break-ups in terms of the percentage of the tribal agricultural work force are not available. On an average 87% of the tribal work force is dependent on agriculture.

9. According to 1995-96, agricultural census, there were 9.52 million tribal land holdings which is 8.24% of the total of 115.58 million land holdings in the country. The total area under the land holdings in the country was 163.35 million hectares with an average per capita holding at 1.41 hectares. Whereas the total area under tribal land holdings was 17.52 million hectares i.e. 1.84 hectares per holdings which is on an average

\* The figures in respect of the tribal work force for the year 2001 census were not published by the Registrar General of Census by the time this Report was completed.

slightly higher than that for the country as a whole. The size of the tribal holdings is given in table 4 as under:-

**Table - 4**

<b>Size of holding</b>	<b>No. of holdings (in million)</b>	<b>Percentage</b>
Upto 1 Hect.	4.38	46.0
2 to 3 Hect.	3.54	37.7
4 to 5 Hect.	0.92	9.7
6 to 10 Hect.	0.54	5.7
Above 10 Hect.	0.14	1.4
<b>Total</b>	<b>9.52</b>	<b>100</b>

The table above reveals that 46% of the Scheduled Tribes owned marginal holdings upto 1 hectare and another 47% owned upto 2 to 5 hectares. The size of the tribal land holdings worked out in respect of the North-Eastern States may not be truly representative as most lands in the tribal areas there are in the ownership of the community as a whole and they have land tenure system based on assignment of land for cultivation made periodically by the communities. The Agriculture Ministry in its Agricultural Census Report has admitted that in the North-Eastern States only 20% of the villages were brought under the agricultural census, where major part of the land is in the ownership of the community and that the cultivators are assigned land by the community on a tenure basis, though in most cases the land assigned to the individual cultivators are heritable and have passed through inheritance from generation to generation. The individual cultivators have the possessory rights under the customary laws.

10. In comparison to agriculture census carried out in 1980-81, there has been an increase in a number of land holdings held by the STs from 6.8 million in 1981 to 9.52 million in 1995-96. This could be attributed to the fragmentation of the holdings through partition, sale or transfer of land. The average size of holding has come down from 2.44 hectares in 1981 to 1.84 hectares in 1995-96. The total area of land holdings has increased by

0.82 million hectare from previous agricultural census. The agricultural census analysis also revealed that in Bihar, Meghalaya, Nagaland, Sikkim, Tamil Nadu and Tripura the overall area of ST land holdings has decreased. The reason attributed can be – acquisition of land by the Government and land alienation or transfer of land etc. However, agricultural census has not done any analysis to find the reason for decrease in the land holdings in the States mentioned above.

#### **11. TSP allocations to the Sector**

Flow of funds out of the Tribal Sub-Plan to Agriculture and Allied Sectors during the year 2002-03 in different States with Scheduled Areas have been meagre. The leading State of Madhya Pradesh had a flow of only 6.49% out of the TSP. Himachal Pradesh had 13% and Chhattisgarh had 5.19% flow.

In the North-Eastern region, Arunachal Pradesh, Nagaland, Mizoram, Meghalaya are the tribal States and therefore, they do not have separate Tribal Sub-Plan. In respect of other three States – Assam, Tripura and Manipur funds flow to this sector from Tribal Sub-Plan has always been meagre.

12. The ground realities are that the green revolution has not touched most tribal areas, adequate irrigation facilities have not been provided beyond the traditional community-run minor irrigation channels (kuhl) and some areas are totally dependent on the rains. Soil fertility has not improved, modern agricultural extension services are not being provided by the sectoral departments in adequate measure. For all these reasons, the agricultural productivity has not increased to an optimum level which is posing a serious threat to the subsistence base of the tribal economy.

13. As per the assessment done at the end of Ninth Five Year Plan, the agricultural sector contributed 24.2% to the Gross Domestic Product (GDP) for the country as a whole. It provides livelihood to about 2/3rd of the country's population, and it provides employment to 56.7% of the country's work force. Although there are no separate figures available for the tribal areas. But, the investment in this sector under the planned development, as it appears, is very low.
  
14. The agricultural sector has a crucial role in maintaining food security. The Tenth Plan has recognized that agricultural development is central to economic development of the country. After remaining a food deficit country for a number of years India has now become self-sufficient in food-grains and has surplus stock of food-grains. But, the situation in the tribal areas of the country is different from that obtaining for the whole country. Agriculture and allied sector provides livelihood support to over 80% of the tribal population, yet most tribal areas are food deficit. It is important that the primary object of planned development is to provide food security in the tribal areas. Agriculture and allied sector should receive impetus. The green revolution has not yet touched the tribal areas significantly. Land resources (zamin) have not been gainfully utilized to build tribal economy on scientific lines. Water (Jal) scarcity is a major problem in some tribal areas. The tribals have been deprived of traditional forest resources (jungal) in most tribal areas of the country consequent upon the operationalisation of the Forest (Conservation) Act, 1980.
  
15. In some tribal areas of the North-Eastern States, Southern States and Central States emphasis is laid on the production of organic manure and there are schemes introduced for production of enriched compost and use of farmyard manure, as a solution found to counter the adverse effects of the increased use of chemical fertilizers. The farmers opined that they would like to have the increased use of chemical fertilizers to optimize

productivity and maximize the production to increase the family income from agricultural sector but they have come to realize that in the long run increased use of chemical fertilizer has its adverse effect and therefore, they have decided to use organic manure as well as chemical fertilizers depending upon the type of soil in a particular area. The Department of Agriculture should provide technical assistance for the balanced use of organic manure/compost and chemical fertilizers to optimize the production.

16. Some structural changes in the pattern of growth of agriculture are needed. There is a need to step-up public investment in agriculture and allied sector for bringing additional acreage under agriculture for commercial crops like paddy, wheat, potato, oilseeds, cardamom, fruits and vegetables etc. This sector has tremendous potential for providing employment to the under-employed cultivators as well as unemployed people in the tribal areas. The TSP areas should get the projects for regeneration of degraded forest, watershed development and some highly labour intensive activities, development of infrastructural facilities – roads, transport etc. for employment and income generation which would help poverty reduction in the tribal areas. Unfortunately, the vital and basic inputs like seeds of high yielding varieties, improved plant material, soil testing, fertilizers – chemical fertilizers and organic manure, agricultural farm implements, agricultural extension services, plant protection and pest control and financial assistance through an easy access to the credit system and subsidies on the various inputs have not reached the tribal farmers in most places. The tribal economy has now reached a stage when there is a need to have proper blending of traditional and frontier technologies to maximize the production in the agriculture and allied sectors.

17. Incidentally, there are not many agricultural research stations, nurseries and progeny orchards set-up for plant material propagation in the North-Eastern States. Nagaland has State Agriculture Research Station in Mokakchung District which has sub-stations at number of places. Services of ICAR, IARI, CSRI and CPRI in the field of technology transfer are availed of in a limited way by the agricultural and horticultural universities and the agriculture Depts. in the States with tribal population. The Commission recommends that special measures need be taken to transfer research based technology from the lab to fields as a part of extension services.
  
18. An important question raised by the tribal farmers is about the marketing infrastructure. Most tribal areas do not have adequate infrastructural facilities like roads, transport, power supply and tele-communication etc. Food and fruit processing, agro-industry and post harvest handling facilities have not been developed for want of basic infrastructural facilities. Some of the tribal areas have developed these facilities under the planned development schemes where the agriculture/horticultural produce in sizable quantity is available for marketing. It has been found both in the tribal and non-tribal areas that with the increased production market forces come into operation automatically and the problems of post harvest marketing can be taken care of by both public sector and the private sector marketing agencies. In modern times, there is very little scope for any sort of exploitation by middlemen in post harvest handling and marketing of the agriculture/horticultural produce as the market forces have shown in recent years. The tribal areas also should be covered under minimum support price scheme for the food-grains and horticulture produce as well.

## **C. Horticulture**

1. The agro-climatic conditions of the tribal areas of the country are suitable for horticultural production and plantation of tea and coffee, rubber etc. There is a thrust given for horticultural development in the Tenth Plan which is applicable to the tribal areas also. The thrust areas particularly for the tribal areas are – the area expansion under horticulture covering degraded lands, hill areas and jhumlands; increasing the production and productivity; intensive agri/horticultural extension programme for production of plant material through nurseries and progeny orchards, the development of post harvest handling and marketing infrastructural facilities like warehousing, godowns, cold storages, processing plants, agro-industrial units both in public and private sectors etc. and finally all these would need investment requiring financial assistance by way of soft crop loans and subsidies. In the Tribal Sub-Plan of the States, most of them, have the provision made for subsidies on plant material, agri/horticultural inputs, nursery development, plant protection – insecticides, pesticides and fungicides, chemical fertilizers and agri/horticultural implements like sprinklers, sprayers and the implements required for the agriculture/horticultural operations.
2. The horticultural crops grown in the North-Eastern region are plum, peaches, banana, citrus, pine-apple and vegetables as well. Jute, cardamom and tea are commercially grown in some of these North-Eastern States. In the tribal areas of Himachal Pradesh, Uttaranchal, horticulture is fast-gaining ground. Temperate fruits like apple, pear and stone fruits like peaches, apricots, plum are being produced on commercial lines. Stone fruits, citrus and apple can be propagated on commercial lines in the States of Sikkim and Arunachal Pradesh also. In the tribal areas of the Central India, tropical fruits are being grown on commercial lines but it has not yet received necessary impetus. In Madhya Pradesh, the Tenth Plan provides for horticulture Rs. 77 crores out of

which a sum of Rs. 30 crores is earmarked for the tribal areas in the State which is about 39% of the total allocation for horticulture which is a welcome step.

3. In Tamil Nadu, the climatic conditions are suitable for production of coffee pepper, coconut, pine-apple, banana and these are grown in the tribal areas also. Grapes can be propagated in the tribal areas of Karnataka and Maharashtra. Lakshadweep, Andaman & Nicobar Islands grow coconut extensively. The State of Andhra Pradesh has reported that on account of introduction of high yielding varieties of fruit crops with the backup of extension services and technical assistance provided to the tribal farmers, the per capita income has increased from Rs. 3000/- to Rs. 10,000/- particularly in the podu/jhum cultivation areas after shifting the shifting cultivators from podu/jhum cultivation to cashew plantation on permanent basis.
4. Technology Mission for Integrated Development of Horticulture is working in the North-Eastern State and that all Centrally Sponsored Schemes have been made part of this Mission. The Mission is comprised of the programmes for research and development with backup from ICAR and Agriculture University for the transfer of technology and for providing plant materials etc. The target of the Mission is to increase the productivity of the horticultural products by introducing the fruit varieties suiting the climatic conditions in the State. Horticultural extension and technical assistance is provided under the Mission. The Mission also takes care of the post harvest handling, marketing technology and marketing management. But so far no study has conducted to, evaluate the impact of the Technology Mission in any of the North-Eastern States.
5. One important Central Sector programme known as Integrated Programme for Development of Horticulture in Tribal Areas, started in 6



Tribal Districts during the Ninth Plan is now being implemented during the Tenth Plan period in 20 Districts. List of Districts identified for implementation of central sector scheme on integrated development of horticulture in tribal/hilly areas during Xth Five Year Plan (2002-2007) is as under:-

S.No.	Name of the State	Name of Identified Tribal/Hilly Districts
1.	Andhra Pradesh	Adilabad (Tribal)* East Godavari (Tribal)
2.	Chhattisgarh	Bastar (Tribal)* Kanker (Tribal)
3.	Gujarat	Dahod/Panchmahal (Tribal)* Valsad (Tribal)
4.	Jharkhand	Ranchi (Tribal)* Hazaribagh (Tribal)
5.	Madhya Pradesh	Ratlam (Tribal)
6.	Maharashtra	Nanded (Tribal)
7.	Rajasthan	Banaswara (Tribal)
8.	Orissa	Keonjhar (Tribal)* Gajapati (Tribal) Koraput (Tribal)
9.	West Bengal	Darjeeling (Hilly)
10.	Himachal Pradesh	Kinnaur (Hilly)
11.	Uttaranchal	Almora (Hilly)* Pauri Garhwal (Hilly) Chamoli (Hilly)
12.	Tamil Nadu	Namakkal (Hilly)

The programme aims at production of quality plant material of improved cultivars and of improved high yielding varieties; transfer of technology and for setting-up post-harvest handling and marketing infrastructural facilities etc.

\* Districts also covered during IX Plan

6. The outlays provided should be made available to the state agencies as 100% central grant. The schemes covered are – establishment of nurseries; area expansion under horticultural fruits, vegetable, mushroom, floriculture and medicinal and aromatic plants; transfer of technology; irrigation facilities, horticultural tools and implements for the farmers etc. Subsidies to the farmers shall be @ 50% on various items.
7. It appears that the Horticulture Division of the Agricultural Ministry has not done any impact study in respect of the programme implemented in 6 Districts in the Ninth Plan. However, this is an additional programme launched apart from those under TSP and other CSS for the horticultural development in the tribal areas.
8. The States with the tribal population have not done any survey of production and acreage covered under the horticultural crops/fruits grown on commercial basis in the tribal areas.

**9. Agricultural/Horticultural Produce Marketing**

The Directorate of Marketing and Inspection (DMI) has been implementing 3 Plan schemes for integrated development of marketing for agricultural and horticultural produce in the country primarily to safeguard the interests of the producers as well as the consumers. Special provisions made for promotion of marketing infrastructure for the tribal communities in the tribal dominated States of the country are as under:-

- i) **Marketing Research and Information Network** under which States are free to seek assistance from the Central Government for supply of computers to the tribal markets. Such computer facilities have been provided to Arunachal Pradesh where 50 out of 96 markets have been covered. In Mizoram, Meghalaya and Nagaland

very few markets have been covered during the Ninth Plan. During the Tenth Plan it is proposed to cover more number of markets for networking for these North-Eastern States.

ii) **Capital Investment Subsidy Schem of Grameen Bhandaran Yojna** under which the Central Government provides a subsidy @ 33.3% of the capital cost for the tribal areas and the North-East States for the construction or renovation of rural godowns and this is implemented under NABARD scheme.

iii) **Capital Investment Subsidy for Development of Market Infrastructure such as Grading and Standardization** under which Central Subsidy @ 33.3% of the project cost is provided to the North-Eastern States and to the tribal areas in the country.

The States have the post harvest infrastructural facilities developed under general plan and TSP for the tribal areas. Major part of the marketing is taken care of by the private sector though the State has major role for regulating the market to ensure fair deal for all including the tribal farmers.

10. The question of value addition comes when there is a comparative advantage in doing that. The food-grains must find place in the food-grains markets whether it is through FCI procurement or through purchases made by private agencies. In the case of food crops fresh and quality fruits properly graded following the grades and standards and packed must reach the fruit markets ranging from local markets to the terminal markets quickly through marketing channels by using forwarding, transport services and auction services and sales, cold storaging etc. which process/system is the same for the agri/horticultural produce whether the produce is from the tribal area or from elsewhere. Only thing to be ensured is the accessibility to the system and services for a produce from interior tribal areas.

## **11. Agricultural Credit**

Agriculture Ministry has reported that the total ground level credit for agriculture and allied activities disbursed by the Tribal Sub-Plan Areas/ST farmers who availed of credit was not available with the Ministry. However, it was mentioned that the total crop loan disbursed by the cooperative structure during the year 2000-01 was Rs. 1250.71 crore and in the year 2001-02 it was Rs. 1512.58 crore. The break-up of it separately for the Scheduled Tribe farmers is not available. We cannot say for certain about the share of tribal farmers in it, but the sum of crop loan disbursed seems to be quite substantial. The total projected credit flow during the Tenth Five Year Plan is to the tune of Rs. 7,36,570/- crore but its flow to the Tribal Sub-Plan areas and the number of ST beneficiaries to be covered have not been indicated separately.

12. **NABARD** had done study in 2002 to assess the economic impact of credit supply plans in which SC/ST and Backward Classes constituted 83% of the study sample. The brief findings of the study were that

- In the States of Chhattisgarh, Orissa and Jharkhand there was significant increase in assets and income levels of the members.
- 45% of the households registered increase in assets – up by 30% between pre and post SHG (Self Help Groups) situations and that consumption oriented loans were replaced by production oriented loans during the post SHG situation, 23% increase in income level etc.
- Employment per sample households increased by 34%.
- Availing of loans from money-lenders were significantly reduced due to SHG interventions.

There are no separate figures for the Scheduled Tribes in these findings of the samples study by NABARD. Agriculture Ministry has also reported that Self-Help Group (SHG) has met with tremendous success in the tribal dominated areas. Out of a total number of 717360 SHGs linked to banks as at the end of 31<sup>st</sup> March, 2003, 255957 SHGs were linked to the predominantly tribal districts. 90% of these SHGs are exclusive women groups and the on-time repayment of bank loans by SHGs was over 95% which is a positive feature.

13. In the tribal areas, where the ownership of the land is with the community, the cultivators do not have any access to soft-loan facilities from the financial institution and the banks for making necessary investment in the agricultural holdings and that has come in the way of optimizing productivity.
14. While country has made tremendous progress in this sector resulting in food surplus but the tribal areas still remained food deficit despite the fact that this sector contributes over 80% to the tribal economy. It appears that the Planning Commission, Government of India and the State Governments have not given adequate impetus to this sector. In the Tenth Plan document the Planning Commission says that "India is in the midst of transforming an agrarian economy into multi-dimensional economy powerhouse". The state of tribal economy is far from it.

#### **15. Land based Programmes**

The Department of Agriculture reported that an area of 54.86 lakh ha. has been treated under the CSS in the States/UTs enhancing productivity of degraded lands in the catchments of River Valley Projects and Flood Prone Rivers till the end of Ninth Five Year Plan. The scheme covered the tribal areas also but the State-wise tribal area treated is not available with

the Ministry. The reports revealed that Arunachal Pradesh, Jharkhand, Manipur, Meghalaya, Nagaland, Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep all these having tribal habitats have not been covered under these CSS schemes which are mainly the River Valley Projects and that there were no such major River Valley Projects in these States/UTs covering tribal areas as per the statistics available with the Ministry.

#### **16. Jhum/Shifting Cultivation**

Jhumming or Shifting cultivation has been the first human endeavour in evolving a method used for agricultural production. It has been prevalent for thousands of years in the rain-fed areas under tropical climatic conditions. Why shifting was necessary? Answer lies in the fact that after taking two successive crops fertility of land is reduced and that compost was not available in the absence of cattle rearing which is feasible only under the settled agriculture. The chemical fertilizer is of recent origin.

17. Under the system a new land is broken by removing the forest and vegetative growth in an area demarcated for jhumming during the season and such jhumlands in a State are scattered and occur on the landmap of a State sporadically. The land selected and assigned for jhum cultivation is set-on fire for clearing the vegetation. There is fire smoke all around in March/April in the North-Eastern States when the new land in patches is broken for cultivation. The helicopter by which this Commission's team travelled over the hill areas of Manipur was engulfed by fire-smoke rising from the forested area below set-on fire for jhumming.
18. In the North-Eastern region the preparation of the jhumland for cultivation starts in the month of January and with the on-set of Monsoon the seeds are sown in the months of April and May followed by weeding activities. Harvesting of crop starts from October and continues till the November

end and December. This practice has been there since time immemorial. It is also called shifting cultivation, slash and burn cultivation as the jhumia shifts from plot to plot. It is generally known as jhum in the North-Eastern region, Podu in Andhra Pradesh, Bagad, Davar in Madhya Pradesh etc.

19. The crops grown are wheat, barely, maize, other cereals, pulses, potatoes, beans, soyabean and some vegetables like pumpkin etc. The land put under jhum, after the crop is harvested at the end of the season, is kept as fallow land for a period of years which in the past was invariably on a 10 year cycle denoting 10 fingers including thumbs found easier to count, communicate and remember. Now, the jhuming cycle is reduced to 4 or 5 years due to pressure on land on account of growing population. Now, there is a new pattern of cropping in jhumland. Three crops are taken before the land is kept fallow. First, it is of maize and on harvesting it buckwheat and vegetables are grown. Third crop taken is paddy in less steep slopes.
20. In ancient time jhuming was done in the plain areas with flat land. Today such lands are used for settled cultivation on a sustainable basis particularly by growing valuable crops of paddy, wheat, barely and cereals. There are minor irrigation channels and in a couple of States some major canals have been provided for irrigating the agriculture land.
21. Land put under jhum/shifting cultivation is under the command of the community with individual cultivators having possessory rights which are heritable and transferable from generation to generation. In some areas the village chiefs (normally families of the founding clan) are the custodian of the jhumland. There are some individual land-owners whom the community or village chiefs may have sold or transferred the land for any reason. In some cases, there are some land-owners who have come to acquire in some way major parts of the community land. Land in the

ownership of the community or held by the village chiefs is further assigned to the individual cultivators for jhuming on yearly basis and for settled cultivation also for a period decided which is renewable periodically.

22. No chemical fertilizer is used though they would like to make use of it to increase the productivity, but the jhum cultivator is usually a poor farmer and does not have the means to buy chemical fertilizers. Jhum cultivation is done in rain-fed areas, mostly in the hill slopes. While passing through the jhumland areas one can find these jhum lands dotted with small huts.
23. In respect of community land put under jhuming, there are no returns made by the jhuming families. In some cases, there are returns made by the jhuming families by way of tax in cash or kind. They only pay house tax in some jhuming areas. In respect of the land of the village chief/estate holders assigned for jhuming the individual jhumia family pays at the end of the harvesting to the village chief/estate holder one standard basket of food-grain produced which is known as 'changso' in Manipur and by some other names in other States. In Naga areas, there are no payments made to the community for jhuming except the house tax. In Arunachal Pradesh the shifting cultivators do not have to pay anything to the community. In fact, here even jhumland is heritable.
24. It was reported that the Forest (Conservation) Act of 1980 has taken away most part of the land put under jhum tradition and made part of the forest land. Even where such a forest land is not in the ownership of the Forest Department, permission is necessary for non-forest use which invariably is refused. In Arunachal Pradesh the Forest Department has treated jhumland as forest land and there is now a forest tribal interface on account of conflicting claims. It appears that the Forest Department has not taken care to recognize the traditional, customary and possessory



rights of the tribals over the land which is technically a forested land in terms of the Forest (Conservation) Act and the Supreme Court's directives of 1996, but traditionally the jhumland has always been agricultural land because it is used for growing food-grains and fruits etc. under a periodic cycle system which is why it is called shifting cultivation, the Commission observed.

25. In all human activities there is an element of socio-cultural-spiritual values attached whether it is agriculture practices or any other avocation. Jhuming or Shifting cultivation is an economic activity and that spiritual values are attached to it as is done for the settled agriculture or even in trade and commerce by the tribals and non-tribals equally. It should be seen that way only for taking an objective approach to the tribal development. The fact of the matter is that jhuming/shifting cultivation is an economic activity primarily to meet the food requirements of the community/families involved. They continue with the jhuming practice mainly because this alone gives them an access to the community land where land is in the ownership of the community or tribal chief who assign the land for agricultural production through jhuming which the community perhaps consider safer way of land assignment which is a kind of land tenure. The cultivators cannot alienate the land to anybody even to himself. It is a kind of a safeguard applied by the community to have command over the community land. There are community lands assigned to the individual for settled cultivation which is renewed periodically and the possession is transferred from generation to generation and such lands under settled cultivation were one time jhum lands. If a land is fit for jhum cultivation, it is fit for settled cultivation as well though land development would require some investment. Due to pressure on land with the rising population jhuming is attempted even in difficult upland terrain having steep slopes. Such a terrain can infact be converted into woodland as has been done in Nagaland where social forestry and fruit

tree plantation tea, rubber, bamboo cultivation are being undertaken profitably with some investment which is feasible if the land tenure system is improved by assigning such land to the cultivators for settled cultivation with necessary backup provided through financial assistance, technical assistance and delivery of agricultural/horticultural extension services made available to the cultivators.

26. Traditionally there was no record kept in respect of the land assigned for jhum cultivation. Assignment of land for jhum was done verbally. Today, some documentation process has been started in most tribal areas in the North-Eastern States about the land brought under jhuming/shifting cultivation.
  
27. 10<sup>th</sup> Plan document estimated that over 6 lakh tribal families in the North-Eastern States, Orissa, Madhya Pradesh in some other tribal areas practice shifting cultivation on a continuous basis. Most of these jhumia families are in the North-Eastern States. 54000 families in Karbi-Anglong and over 30,000 families North Cachar Hills Autonomous Councils in Assam alone have done jhum cultivation in all these years. Reports say that the area under the jhum/shifting cultivation in the North-Eastern States is estimated to be 19.01 lakh hectares – around 2 million hectares which is 83% of the total land covered under shifting cultivation in the country. In Manipur over 900 Sq. Km. land with vegetative growth is cut-down for jhum cultivation every year with a cycle of 3 – 4 years. In Mizoram over 35000 hec land has been under jhuming which is 34% of the total cropped area. In Nagaland traditional jhumlands are being converted into woodlands with social forestry and fruit tree plantation on commercial lines. In some States jhumlands on the hill slopes are put under the cultivation of rubber, tea, coffee etc. on commercial lines.

28. As per the status report, an ecological imbalance has been caused due to destruction of forest resources – trees, medicinal plants, bamboos etc. under the jhuming. The practice of jhum cultivation has caused massive soil erosion and loss of moisture in the soil and depleted the green coverage of fragile Hill Areas particularly in the Autonomous Council Areas. The top soil is removed due to the adverse affect of rainfall on the soil. There have been a drop in rainfall at an alarming rate over the years. All this is attributed to jhuming/shifting cultivation. As per the report of the Department of Land Resource, Ministry of Rural Development, Government of India, shifting cultivation has caused deforestation that has reached an alarming proportion. Under the shifting cultivation or jhum, there is an indiscriminate cutting and burning of forest, improper land use which lead to resource degradation, ecological imbalance and that the system accelerates degradation due to erosion, loss of bio-diversity and deterioration of water-shed hydrology. The shifting cultivation practice has caused loss of valuable wild-life, flora of diverse gene pool, grasses and edible vegetation useful for animal nutrition. The studies done by the Indian Council of Agriculture Research on shifting cultivation have indicated a soil loss to the tune of 40.9 Tonnes per hectare. The report further revealed that the size of the area covered under shifting cultivation in the North-Eastern States is estimated to be 19.91 lakhs hectares which is 83.7% of the total land covered under shifting cultivation in the country.
29. **The Integrated Jhumia Development Programme** aims at control of shifting cultivation and rehabilitation of jhumia tribal families for sustainable economic activities such as planting of trees, raising of orchards, terracing and bunding the land already put under the jhum cultivation. There are other projects such as Mini Jhum Control Projects (MJCP) and Waste Land Development Schemes and Watershed Development Projects. The object of these projects have been to wean away the jhumia families from shifting cultivation and settle them with

land-based sustainable occupation. There are a number of Centres set-up for the implementation of these programmes mostly in the hill areas and in the Autonomous Council Areas covering the Jhumia families.

Schemes undertaken are:-

- i) Soil conservation and the land development work which includes terracing and land reclamation etc. There are schemes for water harvesting and distribution through pipelines etc.
  - ii) In animal husbandry sector, schemes under these projects for jhumia development programme are on piggery, poultry development and distribution of milch cattle – cow and buffalo. Under the Cottage Industry and Handloom Sector, the schemes include distribution of knitting machines, tailoring units, carpentry tools, distribution of looms and yarn.
  - iii) Major thrust is given to boost agriculture production through settled agricultural practices. Agricultural inputs like seeds, grafts and cuttings are distributed among the beneficiaries. Extension services in agriculture and allied sectors are provided to the jhumia families. Forest Departments of the States are implementing the schemes for natural re-generation.
30. Watershed Development Programmes for the control of shifting cultivation area is a vital scheme aimed at an overall development of jhum areas on watershed basis for restoring ecological balance in the hill areas and improving the socio-economic conditions of the tribal community engaged in jhum cultivation. The jhum control measures taken through these projects have had little impact in the absence of perennial and sustainable activities provided to the jhumia families. The strategy now adopted is for intensive cash crop production like tea, rubber, coffee, cardamom with the help of Rubber Board, Tea Board, Coffee Board and in some cases as joint ventures. During the financial year 2003-04, an amount of Rs. 3.50

crores was allocated for the rehabilitation of jhumis cultivators under the jhumia control programmes/projects in the State of Assam.

31. Watershed Development Programme for the control of shifting cultivation area have been launched all with the object of providing an alternative to the traditional jhum cultivation on a sustainable basis by encouraging settled cultivation through terracing and agriculture land development and also by promoting self-employment in allied sectors such as animal husbandry, dairying, piggery and poultry farming, cottage and agro-Industrial, business sector, handloom and handicraft sector. These schemes are expected to provide employment and income resources on a sustainable basis.
32. The physical and financial progress made under the scheme of Watershed Development Projects in shifting cultivation areas for the seven North-Eastern States aimed at overall development of jhum areas on watershed basis till the end of the Ninth-Plan as reported by the Ministry of Agriculture is given hereunder:-

<b>State</b>	<b>Financial Progress (Rs. In crores)</b>	<b>Physical Progress (Areas in lakh hec.)</b>
Arunachal Pradesh	7.62	0.19
Assam	6.80	0.12
Manipur	18.80	0.40
Meghalaya	11.63	0.18
Mizoram	28.21	0.61
Nagaland	30.56	0.55
Tripura	9.89	0.17

The Watershed Development Project under implementation since 1994-95 have the following objects:-

- 1) To protect the hill slopes of jhum areas and to reduce further land degradation process.

- 2) To settle jhumia families by providing developed productive land and with improved cultivation packages.
- 3) To improve socio-economic status of tribal families.
- 4) To mitigate the ill-effects of shifting cultivation and preserve the eco-environment.

The Ministry reported that so far nearly 1,30,000 jhumia families have been benefited in the North-Eastern States. The scheme is proposed to be extended to the States of Orissa, Jharkhand, Bihar, Madhya Pradesh, Chhattisgarh and Andhra Pradesh.

33. It is said that in the North-East States where jhum cultivation is still in practice the tribals are not keen on continuing with the practice and would prefer to opt for the settled cultivation. The poor and small farmers have been depending on shifting cultivation because they do not individually own agricultural land. They take the area on lease for shifting cultivation from the tribal chiefs who are the owners of most of the lands and also from the community land pools where village community has their own common land. There are, however, some farmers with the ownership of cultivated land in the valley areas. However, in some tribal communities the jhumland is heritable and the jhumias have the possessory rights which helps them to return to same land at the end of the cycle of 5 years or so.
34. The main reason for continuing this devastating practice of shifting cultivation is the absence of land tenure system as the Commission has observed in the North-Eastern region also. The settled cultivation is possible only with investment on land development, terracing of the land, harvesting water for occasional irrigation and in fact most places in the tropical North-East do not require any irrigation particularly for the horticultural crops and for the social forestry. The investment on land

development and cultivation/farming with modern technology require financial resources. Since the farmers do not have the land in their ownership it will not be feasible for them for any kind of investment made on an area taken on lease from the community or tribal chiefs as the jhumland assigned is subject to a periodical renewal.

### **35. Recommendations**

- (1) The Commission recommends that there should be a comprehensive survey undertaken of tribal habitats which have their economy still at the stage of hunting and food gathering, and also of those tribal communities having the pastoral economy. Such a survey, in our opinion, is an essential pre-requisite to the tribal development, planning and programming.**
- (2) The Commission is of the view that the land traditionally put under agricultural cultivation, which is now listed as Government forest – by the Deptt. of Forest in the States should be properly documented and measures taken to declare such land as agriculture land and that possessory rights should be passed on to the farmers who actually have been cultivating such land in most cases from generation to generation.**
- (3) We recommend that sustainable development of the land, water and forest resources in the tribal areas of the country should be the major thrust of the economic development policy. The strategic policy for agricultural development in tribal areas must aim at optimizing the productivity and maximizing the production in the agricultural sector which in our opinion is essential for making the tribal areas self-sufficient in food grains and for the eradication of poverty.**
- (4) Recognizing that the traditional practices cannot be abandoned/given up which still remains relevant, some pro-active**

measures need be taken to blend the traditional technologies/practices with the modern frontier technologies. The tribals cannot be deprived off the benefits of modern technology and practices in this sector. Important thing to be done is to launch green revolution in the areas untouched by it. Measures need be taken to build necessary infrastructure facilities such as nurseries and progeny orchards for raising plant material and for the development of improved varieties of food crops. And that necessary extension services be provided to the farmers.

- (5) The Commission observed during its field visits that in most tribal areas the Food Corporation of India or the State Agencies do not have the arrangement for the procurement of food-grains. The tribal people have demanded that whatever little production of food-grains which is surplus for marketing should be procured by the FCI or the State Agencies to provide remunerative returns to the farmers. The farm produce procured can be put in the public distribution network in the areas of procurement itself. There is a need to build-up storage facilities/cold storages in the tribal areas. The Technology Mission for the horticultural development in the North-Eastern region can make investment on post-harvesting handling infrastructure such as cold storage, grading and packing facilities and fruits and herbal processing units wherever it is found economically and commercially viable.
- (6) The Commission recommends that agriculture and allied sector should be given top priority in tribal development, it being the mainstay of tribal economy particularly in the tribal areas where settled agriculture has not yet taken-off. The Central Government and the State Governments should ensure that agriculture/horticulture and allied sector receive impetus under the Planned Development. The TSPs must provide adequate flow of funds to these sectors. Analysis



made by the Commission during the field visits revealed that flow of funds from TSP to the agriculture/horticulture and allied sector on an average has been less than 20% of the total TSP budget which is minimal considering the fact that over 80% of the tribal families subsists on this sector it being the main-stay of the tribal economy. The contribution of agriculture and allied sector to the family budget in the tribal areas is as high as 80% which is quite substantial.

- (7) The Commission is of the view that in the Five Year Plans as well as in the Annual Plans flow of credit to Tribal Sub-Plan areas to benefit tribal farmers should be clearly indicated in the Plan provisions budgeted. There should be a survey done of the credit needs of the tribal farmers in different regions of the country and that credit plan should be based on the demand assessed through periodical surveys. It is only through this institutional credit flow to the Tribal Sub-Plan Areas that apart from meeting the credit needs of the tribal farmers, they would be saved from the vicious circles and the crisis syndrome of indebtedness/debt bondage that the tribals are very often subjected to mainly on account of exploitation by the private money-lenders.
- (8) The Commission observed that the gap between country's developing economy and the traditional tribal economy is widening further. The purpose of Tribal Sub-Plan primarily is to abridge this gap but the ground realities are different. The question is: Can the country achieve the nation's vision of an India free from all poverty, illiteracy, and homelessness given the present state of tribal economy?
- (9) The Commission also recommends that the land surveys and land-reform measures initiated particularly in the North-Eastern region should be expeditiously completed.

- (10) Considering the facts revealed by the agricultural census of 1995-96 discussed as above in this report, the Commission recommends that measure should be taken to check the fragmentation of land holdings so that it does not go down to an unviable size of holding by half an hectare. There is a need to augment the size of the holdings held by marginal farmers belonging to Scheduled Tribes so as to make the agricultural holdings economically viable. This can be done by undertaking land assignment schemes wherever it is feasible.**
- (11) Subsidies on agricultural inputs, plant material, insecticides, pesticides, chemical fertilizers, agricultural implements etc. for the Scheduled Tribes should continue. The tribal economy has not reached a stage as yet where subsidies can be cut-down. The tribal areas need huge investment on land development. They should be provided soft loans/concessional finance for investment in the land development. Priority should be given to the small and marginal farmers belonging to the Scheduled Tribes.**
- (12) The Commission further recommends that the Central Government and the States with tribal population together should build a pathway to help the traditional tribal food-gatherers and pastoralists for their smooth transition to a settled agriculture and allied sector which would require assigning land to them on priority basis for agricultural and allied sector's avocations.**
- (13) The Commission recommends that measures need be taken up to set-up public investment in agriculture and allied sector for bringing additional acreage under commercial food crops, fruit plantation and medicinal herbs development etc. in the tribal areas. Under the policy announcement made by the present Government to double the investment in this primary sector of the economy, the tribal areas**

**need be covered which would require additional plan allocation to the TSP.**

- (14) The Commission observed that the schemes and projects taken-up for the control of jhum cultivation and rehabilitation of jhumia cultivators on a sustainable basis are the measures in the right direction and are laudable. There are Centrally Sponsored Catchment Area Development Programmes, National Waste Land Development Programmes, Integrated Jhumia Development Programme, Compact Area Development Programme, Mini Compact Area Development Programme, and finally important among them, Watershed Development Programmes under execution in the tribal areas/tribal habitats in the North-Eastern States covering both areas under Autonomous District Council and also in other tribal belts. These projects are designed to help the jhuming/shifting cultivators to take up sustainable activities for a settled cultivation through agricultural crop husbandry, horticultural crop husbandry through tree plantation, social forestry and other cash crop plantation etc. The Commission recommends that the State Governments executing these Centrally Sponsored Schemes should enlist the cooperation of the tribal community leaders and the functionaries of the Autonomous Councils for getting the land surveys completed; building the land records and documentation of record of rights of the cultivators in land; assigning the land already put under jhum cultivation to the Jhumia families with possessory rights for a settled agriculture where the land would continue to be under the ownership of the community. Under this kind of agricultural land tenure system the concerned States should build a mechanism to help the cultivators pledge the land assigned to them against the loans taken from the financial institutions, commercial banks, cooperative banks etc. for agricultural land development.**

**(15) While implementing the provisions of the Forest (Conservation) Act, the administration may have to recognize the traditional customary and possessory rights of the tribals over the land particularly the jhumland which is technically a forested land in terms of the Forest (Conservation) Act and the Supreme Court's directives of 1996, but traditionally the jhumland has always been agricultural land because it is used for growing food-grains and fruits under a periodic cycle system which is why it is called shifting cultivation, the Commission observed. The Commission further recommends that the present interface between the forest and the jhum/shifting cultivators in the North-Eastern States should be resolved recognizing the age-old traditional agricultural practice of jhum/shifting cultivation for raising food-grains which even today continues to be the means of food security in the interiors of the tribal habitats.**

**(16) The Commission further recommends that bamboo cultivation on scientific lines under the Integrated Bamboo Development Programme of the National Mission on Bamboo Technology and Development launched by the Planning Commission should aim at generating employment and income on a sustainable basis for the shifting cultivators in the hill areas of North-Eastern States inhabited by the tribals. Under the social forestry schemes the bamboo plantation should receive impetus as this can generate employment and income on a sustainable basis for the jhumia families.**

**(17) The Commission observed that the State Governments and the Autonomous Council Authorities in the North-Eastern States do not have any specific land tenure measures planned for the assignment of the community land or land under the control of tribal chiefs to the cultivators or jhumia families for a settled cultivation on a sustainable basis so as to help the cultivators/jhumia families increase productivity and maximize the returns from the settled cultivation.**

- (18) The Commission observed that the fragile eco-system of Hills Areas of the North-Eastern States can be protected and that the soil erosion and depletion of the forest resources can be checked through the programmes like the development of Horticulture and of Bamboo plantation with the active participation of the farmers and with the help of modern technology as an alternative to the present practice of Jhum cultivation.**
- (19) Jhum cultivation as it appears is presently indispensable for tribal economy, the mind-set of the people should be changed to switch over to permanent cultivation that is eco-friendly. The Commission recommends that the land under Jhum cultivation should be brought under the social forestry, fruit-tree plantation and settled cultivation by the farmers who can be given the possessory rights in eligible cases so that they can invest on the development of their holdings by terracing the land for cultivation. Where the ownership of the land is with the community a legal instrument should be devised to enable the cultivators to pledge their agricultural land holdings against the loan taken from the financial institutions and commercial banks etc.**
- (20) Jhumland particularly in difficult upland terrain having steep slopes can be converted into woodland as has been done in Nagaland where social forestry and fruit tree plantation tea, rubber, bamboo cultivation are undertaken profitably with some investment which is feasible if the land tenure system is improved by assigning such land to the cultivators for settled cultivation with necessary backup provided through financial assistance, technical assistance and delivery of agricultural/horticultural extension services made available to the cultivators. This will assure full employment and income generation to hitherto under-employed jhumia which in turn will have multiplier effect on the tribal economy.**

- (21) There are a number of Centrally funded projects such as Watershed Development Projects, Wasteland Development Projects, Integrated Jhumland Development Projects etc. under implementation for helping the shifting cultivators to have settled agriculture/horticulture as an avocation on a sustainable basis. It appears on the ground, these projects have not made any impact as these programmes lack coordinational efforts. The planners and implementing authorities of these programmes perhaps have not been able to enlist the cooperation and support of the tribals in the areas these are being implemented. The Commission is of the view that there should be a short-term Commission or a Task Force floated to study the entire problem of jhum/shifting cultivation and rehabilitation of jhumia for a settled agricultural/horticultural avocation on a sustainable basis. There are many dimensions to the practice of jhuming/shifting cultivation, as such it would not be easier to find solution to the complex traditional practice of jhuming/shifting cultivation.
- (22) The Commission recommends that the Annual Report of the Ministry of Agriculture should have a separate chapter to report on the status of agricultural development in the scheduled areas and the tribal areas of the country with facts and figures and unless that is done, it is difficult to gauge the impact of agricultural development in the tribal areas of the country.

#### **D. Animal Husbandry**

1. As per the Tenth Plan document, contribution of animal husbandry and dairying to total GDP was around 6% in 2000-01 at current prices. The value of output of livestock and fisheries as estimated during 2000-01 was 30% of the total value of output from agriculture and allied sectors. The contribution of milk alone was higher than that of wheat. A decade

ago almost 18 million people were employed in livestock sector. Women labourers constituted 70% of the total labour force in livestock development. The growth rate in the livestock sector has been steady. However, there are no statistics separately available neither in the Planning Commission nor with the Agriculture Ministry in respect of the tribal areas of the country and in the absence of a data-base particularly relating to milk production, egg production, wool production and overall livestock resources in respect of tribal areas, the state of animal husbandry and allied sector cannot be known. It appears, even for the country as a whole, such a data base is not available. The Tenth Plan envisages setting-up a National Animal Health and Production Information System. Beginning may be made with tribal areas of the country for operationalising this system with the involvement of Panchayati Raj Institutions, Gram Sabhas/Village Councils in the tribal areas of the country and this will help build a credible national data base.

2. The major thrust of the Tenth Plan is – i) for the upgradation of indigenous native cattle; conservation of livestock to preserve those showing decline in numbers; ii) for building infrastructural network for animal husbandry by enlisting pro-active role of Panchayats, Gram Sabhas/Village Councils in the tribal areas.
  
3. The planners have given the least attention to the sheep and goat development among all major livestock. The emphasis should not merely be for increasing the population of goat and sheep, but also on productivity with the backup of extension services and marketing infrastructure. Pig husbandry is an important sector of economy of the North-Eastern region of the country inhabited by the tribal people. Already there is some progress made in the piggery development in the North-Eastern States and these states have around 25% of the country's pig population. The latest live-stock census 1997 in the State of Mizoram

shows that there were 2.56 lakh live-stocks. Of these, 1.63 lakh were pigs. The poultry population in the State at 18.76 lakh is impressive.

4. In the tribal areas some of the existing indigenous animal breeds are facing the threat of getting extinct, some of which are on the verge of extinction such as yak, chicku-goat, pashmina goat and Tibetan and bonpala sheep, highly useful as pack animal and for the production of wool, mutton and milk products. One of the reasons for the decline of population of these indigenous breeds is perhaps lack of immunization programme.
5. The Annual Report for the year 2002-03 of the Department of Animal Husbandry and Dairying, Ministry of Agriculture states that allocation of separate funds for the Tribal Sub-Plan is not feasible in view of the specific nature of activities and schemes implemented by the Department which is not directly implementing any beneficiary oriented programmes. However, there are some schemes which cover exclusively the Scheduled Tribes under the Central Mini-kit Distribution Programme, Foot and Mouth Disease Control Programme, and the development of fisheries and aquaculture which provide for subsidy assistance for the Scheduled Tribes under various programmes.
6. The State Governments have provided separate funds allocations for the animal husbandry sector under the Tribal Sub-Plan.
7. Some National statistics on animal husbandry are as under:-  
The National Agriculture Policy has the target for achieving the growth rate in excess of 4% per annum in the agriculture sector which recognizes importance of food, nutritional security issues and the importance of the animal husbandry and fisheries in generating employment and income as animal husbandry can help achieve growth rate of 6 to 8% in animal



husbandry sector, then only the growth rate of 4% per annum targetted for the agriculture sector as a whole can be achieved. Interestingly, the Annual Report does not have the statistics on animal wealth in the country except in respect of milk production where it says that country achieved milk production to the level of 84.6 million tonnes at the end of 2001-02 against the 17 million tonnes in 1950-51. India has become the largest producer of milk in the world. The per capita availability of milk has increased.

8. The Commission was told during its field visits to the tribal areas that the per capita availability of milk in most tribal areas is very low. In fact, some of the tribal areas particularly in the North-Eastern States have not developed animal husbandry as the subsidiary of the agriculture on commercial lines. The nomadic Gujjar Tribes which are totally dependent on cattle breeding for the milk production have not been able to increase the returns on their investment and in fact, livestock propagation is getting discouraged due to the grazing problems particularly after the operationalisation of the provisions of the Forest (Conservation) Act, 1980, the Commission observed. The goat and sheep breeding which is the major occupation of the Gaddi Tribes is also facing the grazing problems. The economy of the Gaddi and Gujjar are in the doll-drums. The question is what are the economically viable alternatives that can be made available to the Gujjar and Gaddi Tribes?
  
9. Fodder development has never received the attention of the planners. In the study report of Dr. Baba Saheb Ambedkar National Institute of Social Sciences, Mhow (MP) presented in 1998, it was highlighted that providing fodder for the cattle in the areas hit by drought was a severe problem faced by the tribals. It was suggested that fodder banks should be set-up to take care of the cattle deposited at the cattle centers by the tribal when

they migrate to outside places and they would get them back on their return. Commission agrees with the suggestions given.

10. In some of the tribal areas the livestock population is almost two times the human population where cattle, sheep and goats rearing is the main-stay of tribal economy. Poultry farming is gaining ground in the tribal areas. The entire agriculture sector including animal husbandry is a private sector enterprise but the Central Government and the State Government have the special responsibilities to shoulder under Article 48 to direct the States to organize animal husbandry on modern and scientific lines and take necessary steps for preserving and improving the breeds. Census of livestock including poultry and pig population etc. will have to be updated. There should be a special census taken on the livestock in the tribal areas based on that all plans and programmes for animal health-care and to conserve and improve the quality indigenous breeds can be developed and necessary infrastructural facilities can be developed. States have set-up veterinary dispensaries, sheep breeding farms, poultry units to propagate the livestock development and to provide animal health-care in the tribal areas of the country. But there are no credible studies done and necessary data base is not available right from Planning Commission down to the Animal Husbandry Departments in the States about the state of animal husbandry in the tribal areas of the country. Milk production has been subsidiary occupation of the tribal people apart from rearing cattle to meet their demands for agricultural operation and manure. Rarely in the tribal areas, milk production is taken up on commercial lines, which can in fact, be a sizable source of nutrition, employment and income. Most tribal habitats do not have the milk chilling centers not primarily because of budget constraints under the plan funds but mainly because of the lack of extension services made available in the tribal areas.

## **11. Recommendations**

- (1) The Commission recommends that the policy thrust of the Tenth Plan described as above should cover the tribal areas at faster rate. Under the Tribal Sub-Plan, animal husbandry and dairying, poultry, piggery and fisheries should receive priority for generating animal wealth and employment. Use of appropriate technology and marketing intervention in the production, processing of milk and dairy products should be given priority in the tribal areas. Animal husbandry is considered essentially a subsidiary to the agriculture but in many tribal areas it has not developed in full measure particularly in the North-Eastern region in the absence of settled agriculture as there has not been any significant headway made in the supply of pack animals, milk and production of milk, mutton, wool and compost etc.**
- (2) The Commission recommends that apart from providing extension services, R&D efforts should be stepped-up to improve the indigenous breeding to achieve higher growth and productivity. Some of the indigenous animal breeds are on the verge of extinction. A live-stock census should be conducted for the tribal areas of the country which has not been done in most of the tribal areas in the past, the Commission observed.**
- (3) The Commission recommends that the Union Government may issue necessary directions to the States under Article 339 (2) and the Fifth Schedule to the Constitution advising the State Governments to develop pastures and grazing grounds for the live-stocks of Gujjar and Gaddi Tribes for both summer and winter grazing as they are professionally nomadic under the compulsion to search for grazing grounds and until that is done States be advised to provide free and unhindered access to the pastures and grazing grounds which they have been using traditionally as recorded in the**

revenue records of rights in most areas and in some areas without any documented rights enjoyed conventionally.

- (4) We recommend that Department of Animal Husbandry, Ministry of Agriculture in their Annual Reports should provide national statistics on animal wealth apart from the live-stock census, data. It is not enough, in our opinion, for the Government of India to simply say that animal husbandry is a State subject and the States are primarily responsible for the growth and development of this sector. There should be a National Policy and a vision for the future of this sector of economy. Merely having a few central sector special programmes would not help overall development of this sector which is an integral part of the tribal economy as it provides the tribal families in most parts of the tribal areas of the country additional income as well as nutritional security and food in the form of milk, eggs, meat and wool for clothing etc.
- (5) The Commission recommends that the cattle farming in the tribal areas need upgradation the primary object of which inter-alia should be to increase the milk production. In most tribal areas per-capita availability of milk is as low as 90 gms. which is far below the recommended level of 250 gms. per head. To meet the optimum level of milk consumption in the tribal areas the State Governments should take-up Milk Village Schemes by the Dairy Development Wing of the Department of Animal Husbandry. This scheme has been started in the TSP areas and the tribal areas in Assam with some success.

## **E. Industry**

1. The Tenth Plan target is to achieve a growth rate of 10% per annum for the industrial sector. The tribal areas are industrially backward. The Tenth Plan targets fixed for the industrial sector has no relevance for the tribal

areas as the industrial development has not reached the take-off stage as yet in the tribal areas of the country. However, the consumption pattern in the tribal areas have undergone changes as we find that the use of manufactured consumer goods has increased in the tribal areas indicating a rise in the standard of living, but this cannot be taken as an indicator of economic progress in the tribal areas. Rural industries including cottage and village industries, handicrafts, handlooms and small scale industry provide employment outside the agriculture and allied sector. The development of these industries can change the employment scenario of the tribal areas. These industries comparatively are labour intensive providing opportunities for employment and income generation, the Commission observed.

2. Cottage and village industries are traditionally artisan based involving individual entrepreneurs, Self-Help Group (SHGs) which have widened the industrial activities at the village level. There are no data base separately prepared for the tribal areas in respect of cottage and village industries. Khadi and Village Industries Commission is expected to play the role of the nodal agency for the whole village industry sector in the tribal areas including the tribal areas.
3. The tribal areas in the country – most of it – are located in the hills, interior forested areas, high altitude mountainous areas, some of which still remain inaccessible. Infrastructural facilities – roads, transport system, communication etc. are inadequate. Now, the tribal areas have started opening-up with the planned development strategies, development schemes and projects executed. Due to infrastructural constraints, there are not many major and medium industries set-up in most of the tribal areas. However, some of the towering heights of the public sector industries are located in some of the tribal pockets of the country which have helped develop country's economic growth at a faster rate but have

displaced a large number of tribals, alienated their land holdings and some of them have been rendered destitute, if we are to believe the dark figures on displacement. We have discussed the problem of displacement and rehabilitation of tribal population elsewhere in this Report.

4. Whatever little industrial investment being made in the tribal areas all over the country are in the small industry sector. Village and khadi industries, handloom and handicraft, some forest and agro-based units have traditionally been there in the tribal areas supplementing the agricultural income of the tribals. Almost all the State have reported that the large and medium sector units as per the opinion of the tribals will have no positive impact on the socio-economic life of the Scheduled Tribes. They have reported that the village and cottage industries have the potential for development as the raw material, man-power and traditional art and skills are locally made available. The tribal areas in some States have become famous for their handloom products and handicraft items.

Some tribal Districts in the country have District Industries Centres set-up for the promotion of small scale industry, village and khadi industry, handloom and handicraft products development. These industries also provide extension services.

Khadi and Village Industries Board has been active now for many years and they have their separate activities right into interior tribal areas as well. They provide financial assistance for small and tiny industrial units in handloom and handicraft sector.

5. The plan expenditure made is for the promotional activities, training of weavers and craftsmen, training of individual entrepreneurs for running hotels and restaurants etc. There are ITIs run with the plan expenditure under the Technical Education Department of the States to impart

professional training in many trades and these institutions are not tribal specific. General impression is that the professional training programmes are not commensurate with the felt needs of the tribal areas. Extension services also are inadequate generally. Plan Expenditure made is very small on all these schemes for professional development, skill generation and the orientation training etc.

6. This sector has the strategic role to play for the promotion of employment and income generation to help (a) alleviate poverty amongst the Scheduled Tribes and lift them above the poverty line, (b) provide additional income for the cultivators in the agricultural sector, (c) open-up opportunities for seasonally unemployed labour and also to open-up avenues for the educated unemployed tribals. As per the statistical figures given by the Planning Commission in the Tenth Plan document, the tribal population below the poverty line in 1993-94 was 51.94% as against 37.27% of the country's rural sector. The percentage has come down to 45.86% in 1999-2000, yet it is substantially higher than that for the country's rural sector at 27.09%. With the rising population, the pressure on land particularly on agricultural land holdings is increasing. The agriculture cannot absorb additional unemployed force. Most of the cultivators with a small fragmented land holdings have become underemployed, as the income from the small agricultural holdings is not enough for their subsistence. The augmentation of income of the small and marginal farmers is necessary for helping them to meet the cost of living and to provide opportunities for increasing their standard of living at a reasonable level apart from meeting their family budget. They need income for education and health-care of their children. One major reason for higher drop-out rate at the elementary level and above is the lack of finances for higher education outside their habitat. The additional income is essential for human resource development which can help reduce unemployment among the tribals.

7. The village and cottage industry comprised of handloom and handicraft, agro-industry has a key role to play in generating employment and income. The secondary sector – industry, trade and commerce and tertiary sector – tourism, transport services can absorb substantially the unemployed. Migrations from the Himalayan belt which were the traditional practice particularly during the winter has now stopped after the opening-up of the area under the planned development. The tribals in the State of Himachal Pradesh, Sikkim and Uttaranchal now have the increased avenues particularly in the labour force, road building works, hydro power projects etc. The agriculture and allied sector in the tribal areas of these States have reached the stage of take-off and they find shortage of labours during the seasons. The shortage is mainly because of the fact that the traditional labour force, most of them, prefer to undertake self-employment as weavers and craftsmen, small entrepreneurs in the projects and are better engaged in post-harvest handling, shops and establishments, hotels and restaurants etc. which they find more remunerative. These areas were getting labour force traditionally from Nepal to meet the demand of the agricultural sector and for the construction of roads, hydel projects, building works etc. The demand is being met now by large scale migration of the labour force from the tribal areas of Orissa, Jharkhand, Chhattisgarh and Bihar. This has not only helped meeting the labour requirement of tribal areas of the Himalayan States, but also helped opening-up employment avenues for the unemployed tribals from the Central India tribal belts. In fact, a large number of these tribal migratory labour force is deployed in the tribal as well as non-tribal areas in the States of Himachal Pradesh and Uttaranchal. In the year 2002 over 10,000 tribal labour force migrated from the Central India tribal belts had their social congregation held for the first time at Shimla. The number is on the rise.



8. The States of Himachal Pradesh, Karnataka and Rajasthan have done an industrial survey of large, medium and the small scale sector i.e. SSI, cottage and village industries, handloom and handicraft sector. The figures in respect of these States are given as under:-

<u>State</u>	<u>Village, small and cottage industries</u>
Himachal Pradesh	970 units
Karnataka	13798 units
Rajasthan	13582 units

Other States have not done any industrial survey in this sector. It would be difficult to assess the impact of industrialization policy and industrial progress in the tribal areas, in the absence of a survey done to enumerate the units which include individual entrepreneurs.

9. Most States claim that industrial development of any kind or size has not led to the dispossession or an encroachment on a tribals survival system like land, forest, water, air, homes and hearths. The State Governments say that the District Industries Centres, industrial areas/estates have been developed on the Government land. Way out need be found to make land available for capital investment in the industrial sector by the tribals as well as the outsiders. A suitable land lease system need be developed to allow leasing land on rental basis or on lease basis for a specific period which should be reasonably longer to allow returns on the investment.

### **Small Scale Industry**

10. This sector is not confined to manufacturing activities only, but also includes all activities – trade, transport and financial services. This industry is labour intensive and hence employment generating. For this reason, this sector is given fiscal support by way of incentives such as excise, sale tax and income tax concessions/exemptions. Special credit

support and marketing support are provided under various schemes for this sector.

Agro-based industry, food and fruit processing units can help generate employment and income considering the fact the agriculture/horticulture is the main avocation in the tribal areas of the country. These industries are supported by a food chain starting from farming, post harvest handling and marketing and requiring in some cases the processing activities for utilizing the cull/processing grade fruits and also to export outside tribal areas as raw and value added products. Although, the tribal areas are being individually declared taxfree zones apart from other concession by way of interest subsidy and transport subsidy etc. yet there are a number of levies like market cess, Inter-State barrier tax and the taxes on packaging material etc. charged on the industrial goods from the tribal areas.

11. Some consumer goods industries like – floor mills, rice shellers, edible oil extraction units etc. which are in the small scale sector have the tremendous scope in the tribal areas. Sugar factories generally are in the medium sector requiring better production technology which is handled mainly by the cooperative sugar mills. Processing industries except for the juice extraction have not been found viable in small and tiny sector on account of low juice recovery percentage.

## **12. Handlooms**

The tribal areas traditionally depended upon handloom products for meeting the clothing needs. It also plays an important role in the economy which helps generate income and employment. The tribal handlooms are part of India's rich heritage. It provides employment to the millions of weavers, households which are engaged in weaving and allied sectors and quite a substantial size of it is in the tribal areas. However, it is facing

tough competition from the powerlooms and the mills. At the country level handloom sector contributes nearly 19% of the total cloth produced in the country and it also contributes substantially in the country's export earnings. But, in the tribal areas although there are no data base prepared, yet traditionally and even in the modern terms, this sector meets in a big-way clothing needs of the people. The handloom industry in the tribal areas is facing a number of problems like use of obsolete production technology, high cost on procurement of yarn and inadequate supply of inputs like standardized dyes and inadequate market intelligence. It being an unorganized sector consequently it has the weaker financial base. One thing important from the employment angle, traditionally and even in the modern times, this sector is in the hands of weaker sections of the society, women and the scheduled castes weavers in greater number. One good trend that as emerging is that a large number of women in younger age groups have taken up weaving handloom products. They are trained in Government run District Industries Centres and through training imparted by the traditional weavers in the villages. Another constraints is that an unorganized handloom sector is largely dependent on the mills in the organized sector for the supply of most of the raw materials and inputs. Procurement of the raw material at the reasonable prices has been a problem for the entrepreneurs and the individual weavers and craftsmen in the interior and inaccessible tribal areas. It has been noticed that in the areas which have comparatively better infrastructural facilities like regular transport services and communication facilities, market forces have helped improving the supply position.

13. Traditionally this sector did not have to depend on large scale import of raw material into the tribal areas for production. The Himalayan tribes have their habitat along the International land border. For handloom products, the basic raw material – raw-wool and pashmina wool came from Tibet and these areas had the flourishing trade with Tibet, which was

closed after Indo-China War of 1962. The handloom sector in the tribal areas and in the non-tribal areas as well in all these years have been procuring wool and cotton yarn from the mills located in the Plains. Raw wool and pashmina are used for weaving traditional shawls, saris and other fabrics and dresses now used occasionally during the festivals, marriages and on other social occasions. The tribals rear up Himalayan sheep and goats for a limited production of wool and pashmina wool. Now, with the opening-up of some of the traditional trade/silk routes, the tribal traders are enthused and are hopeful about the availability of wool and pashmina from Tibet. During the course of Commission's field visits to the tribal areas of Ladakh, Himachal Pradesh, Uttarakhand, Sikkim and Arunachal Pradesh, the tribals associated with the border trade reported that only wool is available for trade in Tibet. China has discouraged export of pashmina wool. The tribals do not expect any increase in the production and availability of pashmina wool thread/yarn for the handloom sector. This sector will have to heavily depend upon the marino wool yarn produced in the mills. In fact, the marino wool production in some of these areas has increased marginally as a result of wool development and strengthening of marino sheep breeding farms and the extension services being provided by the Department of Animal Husbandry in the tribal areas for the production of marino and pashmina wool.

14. The items produced are – hand woven shawls with traditional designs, blankets, weaved saris, woolen cloths for use as dress material, wood carving, carpet weaving, thanka painting, jewellery making etc. in the Himalayan Tribal Belts - Pottery, stone-carving, bamboo basket making, mat weaving, carpet weaving, lacquer-ware, beads, embroidery etc. in the Central South India Tribal Belts - In the North-Eastern Tribal Areas production in this sector with special art and crafts prevalent are - wood carving, beads and neckless manufacturing, painting on cloth, hand-made

paper cane and bamboo products pottery, colourful handloom shawls, garments and the fabrics etc.

15. This sector has although been able to ensure employment, yet it has not been remunerative to the weavers it being labour intensive and a time consuming production. There is not much incentive for the weavers to continue with this avocation. However, it guarantees the minimum they are getting as they are in big demand, because the shawls with designs and other fabrics are much in demand in the markets.
16. In the handloom sector, policy thrust is on preserving country's heritage and culture. As per the National data among the weaver, 65% are women, 32% belonged to Scheduled Castes and Scheduled Tribes categories. However, there are no statistics available as to what percent of the weavers belonged to the Scheduled Tribe. There has never been any separate profile prepared for the Scheduled Tribes, in the absence of which no appraisal, analysis of the impact of this sector on tribal economy can be determined.
17. In the North-Eastern region, handloom and handicraft and sericulture continue to be major source of employment and income generation after agriculture particularly in the tribal areas. This region has rich tradition in handloom and handicraft sector including cane/bamboo based crafts. The production of the handloom and handicrafts items on commercial scale has not been encouraging in the tribal areas due to constraints of inadequate infrastructural facilities like availability of soft financial support and weak marketing tie-up. All these have contributed to the low remunerative returns to the artisans and craftsmen. The Ministry of Textile has recognized the immense potential that the region has in the handloom and handicraft sectors. That is not enough. What is needed is building measures for the development of this sector removing all impediments to

the faster growth of the sector which can contribute a lot in building tribal economy resulting in employment and income generation. In the higher mountainous tribal areas in the cold climatic region woolen textiles in the handloom sector traditionally and in the modern times have greater share compared with the powerloom/mill manufactured clothes, garments and cardigans etc. Carpets weaving has the major share of the production in this sector. The carpets manufactured in the tribal areas of Arunachal Pradesh, Sikkim, Himachal Pradesh and Ladakh have found popularity in the carpet markets particularly in the export markets. But then, production of the carpet on commercial lines has not made much headway due to constraints of raw material, procurement and marketing at remunerative prices.

18. From the replies received from the States, it appears, not much has been done to explore the possibilities of reviving arts and crafts except that some of the States have started rural artisans programme under which local artisans are trained and given some exposure on different trades.
  
19. Karnataka has done some progress in the industrial sector for the tribal areas particularly in the development of Coir based industries. Karnataka State Coir Development Corporation has established production-cum-training centres in the Districts with the tribal concentration. The State reported that around 60 tribals are engaged in product manufacturing. Under the Prime Minister's Rojgar Yojna, loan assistance through commercial banks have been provided to the unemployed youth. So far 4100 ST candidates have been sanctioned loan for setting-up self-employment ventures and total loan sanctioned was to the tune of Rs. 26 crore. Khadi and Village Industries (KVI) Board has been assisting ST artisans by providing margin money.

20. The Gujarat State Handicraft Development Corporation is providing gainful employment opportunities to tribals by encouraging avocations like carpet weaving. The State reported that carpet weaving under old craft of Persia have been flourishing in the remote tribal areas of the State. Carpet weaving of old craft of Persia requires a skill formation at the young age. This has a tremendous potential for employment in the tribal areas and for remunerative returns. As reported most of the production centres being run are in the small thatched premises. The State has the programme to construct proper worksheds to promote this industry.
21. Many States have reported that the tribal people have artistic and creative temperament but there is a decline in arts and craft as they do not get enough income from the craft it being a labour intensive. There are a number of schemes sponsored by the Government of India and Khadi Village Industries Board also which provide financial assistance as 30% grants and 70% loan through nationalized banks to the local artisans and weavers.
22. Given proper hand on training and guidance young entrepreneurs can come up for self-employment. In the North-Eastern States weaving has been the way of life for the tribal women. The tribal textile designs have a rich heritage. Handloom has a vital role in the development of economy of the tribal areas in the North-Eastern region.

### **23. Handicraft**

Handicraft sector has tremendous scope for substantial contribution to the tribal economy in terms of employment and income generation. This sector can generate foreign exchange earnings. Not much promotional work has been done for the development of handicraft sector in the tribal areas. Again it is labour intensive industry involving lot of skills and artistry and the production is time consuming. In return craftsmen do not get

remunerative returns. Skill upgradation/skill development is not an easy task and that training of the artisans is a tedious problem. There are in most places no design and technical assistance provided to the craftsmen and the artisans. The local craftsmen face raw material supply constraints particularly in the interior inaccessible tribal areas.

24. Despite the fact that the craftsmen do not get remunerative returns, they would love to continue their avocation for the sake of craft even with lower income level. The major impediment which the craftsmen reported in the tribal areas is the emergence of middle-men at different levels in the marketing chain that take away the margin leaving a very little as returns for the craftsmen.
25. In the handicraft sector about 7% of the outlay in respect of identified Central Sector Schemes is earmarked for the benefit of the Scheduled Tribes and women artisans. The allocations made in the major schemes are Baba Saheb Ambedkar Hastashilp Vikas Yojna, design and technology upgradation, marketing support and services and export promotion etc. At the National level, women constituted a major segment of handicraft/ handloom workers i.e. around 46.8% of the total work force, as there are certain crafts which are practised predominantly by the women.
26. There are a number of schemes operated by the Ministry of Food Processing Industries which aim at providing facilities and incentives for promotion of food processing industries with an enhanced scale of assistance for difficult areas including the Integrated Tribal Development Project (ITDP) areas. The assistance is being provided for the supply of raw materials and for the people working in the plants and also for those engaged in the marketing activities.



27. In the tribal areas, the private sector investment from outside i.e. by the non-tribals in any type of industry has not been encouraging due to certain constraints. The Land Transfer Regulations come in the way of leasing private land of tribals to non-tribals. An industrial unit of a tiny size may need land/plot measuring around 300 Sq. mtrs. The leasing by the tribals of their land is restricted requiring the prior approval of the State Government authorities. In some States, it is totally banned.
28. The tribals do not have enough capital raised for setting-up industrial units as their first priority is always the agriculture and allied sector as far as the investment is concerned. Where credit/loan facilities are available, the tribal entrepreneurs need margin money which is normally 10% of the cost of the product. The projects/schemes funded by KVI have a built-in provision made for margin money assistance. Industrial Policy of the States also provides some industrial subsidy ranging from 15 to 25% subject to certain ceiling which is normally used as margin money and also as working capital. The units and activities financed by the National Scheduled Tribes Finance and Development Corporation has a provision to allow margin money along with the loan sanctioned. But, it has not ventured in practice into the industrial sector as its policy thrust has been the service sector where land is not involved and an entrepreneur seeking loan must have his family income less than 40,000 only per annum and with that kind of stipulation no tribal entrepreneur becomes eligible for loan even for tiny sector units. For any investment more than 10 lakhs would require higher margin money which renders many tribal entrepreneurs ineligible for loan. The State Financial Corporations and Industrial Development Corporation do not provide margin money assistance as a part of loan assistance.
29. The tribal entrepreneurs need margin money for initial investment on the pattern provided by the KVI for investment in the cottage and village

industries, handloom, handicraft, small hotels and restaurants. The National Scheduled Tribes Finance and Development Corporation may have to review its financing pattern with regard to the present eligibility criteria by raising the annual income of the family of the entrepreneurs seeking loan assistance from present ceiling of Rs. 40,000/- to a reasonable level at Rs. 80000/- per month or so. It may not be feasible for a person below the poverty line to make investment in any industrial unit for small or tiny sector for running a small enterprise like restaurant or a workshop. But, it should continue to finance persons below the poverty line for tiny enterprises like restaurant, cycle rickshaw service, taxi service etc. The priority should be given to them.

30. Industrial Policy of various States have provided certain measures to protect the interests of the tribals for capital investment particularly in the small, village and cottage industry. The industrial plots developed in the industrial areas/estates in the tribal areas are allotted to the tribal entrepreneurs on priority basis. A non-tribal in a Scheduled Area may not be able to invest on industrial venture, as they may not be entitled to the built-up industrial plots, yet the States have the policy to encourage investors from outside the tribal areas, in the sectors where tribal entrepreneurs are not forthcoming. Arunachal Pradesh predominantly a tribal State encourages investors from outside the State to invest in the State. An important condition for investment by the outsider in any industrial venture is that 100% equity ownership of individual units set-up by entrepreneurs from outside will be allowed for a maximum period of 30 years whereafter such equity holdings should be reduced to 49% to enable the State Government/Undertakings or the local Arunachal tribal entrepreneurs to hold 51% of the equity share. And, the entrepreneurs from outside will be allowed to hold land on lease for a period of 30 years which can be renewed for further period of 30 years. The lease may be used as security for the loan from the financial institutions. These type of

investment is intended primarily to protect the interest of the indigenous people of the Arunachal Pradesh. It appears that not many entrepreneurs from outside would be encouraged with these conditions. However, other States may experiment this pattern of investment by entrepreneurs from outside the tribal areas.

### **31. Trade and Commerce**

The trade and commerce in the Scheduled Areas and in the tribal concentrated pockets are generally in the hands of non-tribals, merchants and shopkeepers from outside the tribal areas except in the North-Eastern region wherein most places trade and commerce is mainly in the hands of the natives. Traditionally in the tribal areas marketing was based on barter system through the exchange of goods and services. Sales and marketing based on monetary system was in use for some limited items procured from outside the tribal areas. Involvement of the outsiders in trade and commerce originated on account of the monetary system, accountancy and banking etc. which was something new to the tribals and there were not many literate tribals in the trade. Some of the trades like running shops, hotels, restaurants are of the technical nature requiring professional knowledge and techniques. With the rise in literacy rate things have changed. Now, the tribals themselves can have the command over trade and commerce which is turning out to be a big avenue for employment and income generation. There are measures needed for the protection of the interests of the tribals in the absence of which the cases of indebtedness and land alienation etc. are likely to increase. Already in the industrial sector some protective measures have been taken to promote investment by the tribals by allotting industrial plots to them on priority basis, through supply of credit/loans at subsidized interest rate and various tax exemptions and concessions given to them, the object of which is to protect the interest of the tribals. Similar, protection need be

given to the tribals to protect their interest in the trade and commerce in the Scheduled Areas.

### **32. Recommendations**

- 1. We believe that small scale industries with village and cottage industries, handloom and handicraft, tiny industrial units and individual enterprises have a key role to play supplementing income of the tribals from agriculture and allied sector. The development of this sector which has a greater potential for generating employment and income need be given priority which will help solve certain unresolved problems such as underemployment problem in the agricultural sector, rising unemployment on account of the fact that the agricultural sector cannot absorb additional labour force as whatever accelerated development that can take place in the agriculture and allied sector can help underemployed agricultural cultivators only.**
  
- 2. We recommend that there is a need to set-up industrial training institutes in the tribal areas which at present only few States have limited ITIs in the tribal areas. ITI with a large number of trades introduced will produce trained craftsmen, skilled workers, carpenters, plumbers, painters, masons, tinsmiths and others who can be trained in manufacturing locally agricultural tools and implements etc. With these efforts, availability locally of skilled workers in the tribal areas will increase. Important thing is that the requirement of skilled workers should be locally met to provide avenues for the unemployed particularly the educated youths of the tribal areas. The unemployed youths have come to realize that with these trade skills imparted through ITI trainings, they have all avenues available in the private sector which are more remunerative than the clerical and secretarial jobs in the Government Departments**

**and public sector organisations and they would even try and opt for self-employment as individual entrepreneurs in handloom, handicraft, SSI sector running tiny/small units now that the credit facilities are available and soft loans are obtainable.**

- 3. Not much public investment has been made in this sector, as discussed in the paras above. There is a need to augment both public and private investment in this sector. Credit facilities and loans should be made available at concessional rates. The present scale of interest subsidies provided need be increased by subsidizing through Plan/Tribal Sub-Plan funding and under Special Central Assistance programme. The concessions provided by various States such as declaring tribal areas as tax free zones and a plethora of subsidies and other concessions in the tribal areas of the country will not have much impact made on the economic development of these areas unless first thing is done first i.e. by encouraging the tribals to take self-employment and set-up small and tiny village and cottage industries, handloom and handicrafts, small workshops service stations and run hotels and restaurants, buses and taxies etc. in the tribal areas itself which apart from generating employment and income will have a multiplier effect on the overall economic development of the tribal areas. Key to all these is the availability of concessional loans/credits for the investment in this sector. There should be a provision made in the industrial regulations for giving preference to the local people seeking employment in the industrial units.**
  
- 4. The Commission recommends that technical assistance and extension services should be provided for innovational design, development and also for the preservation of traditional art and craft. This will help solve problem of the present mismatch of demand and**

supply particularly in terms of designs and blending of raw materials etc. The States may be funded with central grants and special packages for design development by setting up design centres in the tribal areas at least one in each State for the revival of tribal art and craft some of which are reported to be on the verge of extinction.

5. The Commission recommends that the public investment for building marketing infrastructure should be doubled so as to facilitate unhindered marketing of the products which will help reduce a number of middle level marketing chains in the whole link of marketing infrastructure which will assure the remunerative returns to the units and the individual entrepreneurs in this sector.
  
6. The Commission has assessed the ground realities and found that the tribals are generally opposed to the setting-up of big industries except the hydro-power projects which in modern times are set-up underground without much disturbing the surface land areas. The tribals are aware that any type or size of industry can provide opportunities for market expansion services and construction activities etc. from which the tribals may derive some benefit. But, they have always had lurking fear of displacement and land alienation. The Commission, therefore, recommends that only those industrial units be promoted which do not require acquisition of tribal land as far as possible and also those which do not create environmental hazards. Chemical industries and cement factories should be banned in the tribal areas as these are not eco-friendly considering the fragile eco-system of the tribal areas. The gram sabha/traditional Village Councils and the Panchayats should be consulted and 'No Objection Certificate' need be taken before final approval is given by the Government for setting-up industrial units.

- 7. The Commission recommends that the industrial policy on the equity share with slight deviation from the pattern adopted in Arunachal Pradesh (discussed in the para above) be devised to allow the local tribals to lease their land for a specified period or on the rental basis to the non-tribal entrepreneurs so as to encourage capital investment from outside the tribal areas.**
- 8. The Commission recommends that small industrial areas/estates need be developed with infrastructural facilities for setting-up agro-based industries, fruit processing units, medicinal herbs processing units. Not all fruit processing units set-up in the small and tiny sector turn economically and commercially viable where the unit is for extraction of juice. The reason being the commercial viability of a juice extraction unit depends upon the higher percentage of juice recovery which only the hi-tech plant with the state-of-the-art technology can ensure requiring heavy investment which is not feasible for a small scale industrial unit. Some States with the tribal areas have large processing units set-up outside the tribal areas where fruits from the production areas are procured including that from the tribal areas. Himachal has one such hi-tech plant with over 30,000 tonne processing capacity which meets the processing requirement of the State. In such situation, there should be built-in provisions made for subsidizing the transportation cost in respect of procurement from the tribal areas.**
- 9. The traditional handloom and handicraft should be revived and some of the handicrafts which are on the verge of extinction need be preserved. The Commission recommends that there should be programme for design development and skill generation in handloom and handicraft sector particularly. There is a need to upgrade the knowledge of the traditional weavers about the production inputs**

such as various raw material inputs and about the marketing management and marketing technology. There should be a package provided by the Central government for the design development and skill generation in the handloom and handicraft sector in the different tribal regions of the country.

10. The Commission recommends that medicinal herbs naturally found in the forest can be propagated on the jhumland and in all types of forest areas in the State. Herbal gardens can be developed by taking technical financial assistance from the Ministries of Health, Forest and Environment which have the programmes to promote medicinal herbs production. This will help promote medicinal herbs processing units in the tribal areas by using traditional wealth of knowledge the tribals have transmitted from generation to generation can be practically used which at the same time will protect the Patency Rights of the tribal with regard to their knowledge about the herbs and herbal medicines.
11. Eco-friendly locally produced material based industrial development particularly handloom and handicraft industry run on commercial lines in the tribal areas will have multiplier effect on the economy resulting in employment and income generation for the tribals. The village and cottage industry, handloom and handicraft sector need a policy development thrust on preserving country's heritage and culture. This sector needs research and development support and technical assistance. The tribals of India cannot be deprived of the state-of-the-art frontier technology.
12. The Commission is of the view that there is a need to have resource mobilization for the optimum use of existing potentials including human resource, skills and expertise in this traditional sector of



**village and cottage industries. We recommend that industries should be developed as an organized sector through the tribal weavers cooperatives, modernisation of looms by way of programme for improving the skills diversification of production, design development as per the market demands, arranging supply of inputs to the weavers. The most important aspect is the marketing tie-up arrangements needed on a sustainable basis. As per the demands placed by the tribal communities during the Commission's visit, we recommend that this vital sector of tribal economy having tremendous potential for employment and income generation for the tribal people and to protect the tribal heritage, there should be a special package of financial assistance provided particularly for design development on traditional lines to generate market demands for building commercial base on a sustainable basis. We further recommend that the technical assistance programme and the extension services delivery system in this sector for the tribal habitats should be strengthened.**

- 13. The Commission recommends that the industrial survey of the tribal areas of the country may be undertaken covering small scale industries, village and cottage industries, handloom and handicraft, agro and forest based industrial units, tourism, hotel and restaurants etc. and all big, large, medium small scale and tiny sector and individual enterprises with complete enumeration done. The actual state of industrial development can be ascertained only through such surveys. Scientific planning and programming of the industrial development of any sort can be undertaken only with the data base which the survey alone can furnish. It would not perhaps be feasible for all States to have the survey undertaken under the TSP with a small budget. The Commission recommends that the Central**

**Government may provide one-time financial package for undertaking the survey.**

- 14. The Handicraft and Handloom Corporation of the States may be funded on the pattern of khadi and village industries sector to encourage handloom, handicraft and khadi activities. The local traditional artisans need be given special exposure of the modern technique being used in other parts of the State in the country.**
- 15. The Commission recommends that the credit facilities at subsidized interest rate should be provided. At present, it is for industrial units in the organized sector that are provided with interest subsidies on loans and credit. In respect of tribal handloom products not much efforts have been made for the creation of brand identity with the result positioning of the traditional handloom products in the export market has been a problem.**
- 16. The Commission recommends that necessary measures need be taken to provide an easy access to the supply of inputs like yarns, dyes. The designs are transmitted to the weavers from generation to generation. While in some tribal areas, design centres have been set-up to help develop innovative designs suiting the market requirements, some more R&D efforts in respect of design development technique need help and necessary thrust.**
- 17. The tribal handloom industry is faced with the problem of influx of powerloom shawls and fabrics imitating the traditional tribal handloom design. Himbunkar and Apex Handloom Cooperative Society in Himachal Pradesh has demanded that the alarming proportion of influx of such shawls should be stopped. The tribals of Uttaranchal also said the same thing before the Commission as their**

**traditional handloom and handicraft market has been invaded by the mill made shawls and fabrics. The Central government may have to intervene exercising the powers under the provision of the Fifth Schedule to the Constitution by directing the States to ban the entry of such goods which have the devastating impact on the market for the traditional tribal handloom and handicraft, the Commission observed.**

- 18. The First Scheduled Areas and Scheduled Tribes Commission recommended pilot schemes to be floated for helping the tribals processing tobacco and preparation of bidis in Bihar, Madhya Pradesh and Orissa that has not happened in all these over 43 years. It is recommended that special protective measure be taken through necessary directives under Article 339 (2) or under para 5 (2) of the Fifth Schedule to the Constitution, where the Union Government has accepted the recommendations of the Commission but the States have not implemented the same.**
  
- 19. The Commission recommends that measures need be taken to put the native tribals in command over trade and commerce in the Scheduled Areas through necessary regulations framed under para 5 (2) of the Fifth Schedule to the Constitution and for the tribal concentrated pockets ITDP areas outside the Scheduled Areas similar protective measures be taken through necessary directives from the Central Government to the States by exercising powers under Article 339 (2) of the Constitution. In the trade and commerce sector also necessary incentives, concessions and subsidies on the investment in this sector may be provided to the tribal traders and businessmen as has been done for them in the industrial sector.**

## FOREST

In the nineteenth century, the differing perceptions of forests of the forest-dwellers and the emerging paramount British power spawned rebellions and uprisings. The tribals had generations-long implicit view of forest as a community property resource. They had been using it without let or hindrance, having had free access. They met their needs of construction, firewood, grazing, minor forest produce etc. from the forests. The alien rulers hardly appreciated the indigenous mind, mores and milieu. The colonial power was driven by the doctrine of the state ownership for its own ends, which led to more than a hundred revolts and uprisings across the central tribal belt. The State asserted its control. The Indian Forest Act 1927 ratified it. The Forest (Conservation) Act 1980 consolidated the position, though its aim to stem the depletion of the forest cover has been laudable. All through, in the course of implementation of the state-held concepts, tribals have been undergoing untold and undeserved sufferings.

2. The Dhebar Commission 1961 recalled the relationship between tribals and foresters. They captured the essence of the relationship by observing that from times immemorial the tribal people have enjoyed freedom to use the forest and hunt its animals and this has given them a conviction that remains deep in their minds that forests belong to them. By about middle of nineteenth century, the extension of the authority of the Government in these areas and exercise of close control over forest products disturbed the tribal economy and introduced psychological conflict. That Commission concluded that a state of tension and mutual distrust existed between the tribals and the foresters and interfered with the work of forest development.

3. The State Forest Report (SFR) 2001 of the Forest Survey of India set up by the Ministry of Environment was set to provide a new baseline information for the forest cover in the country. It appears it has now been assessed by employing digital interpretation of satellite data, enabling delineation of forest cover. The tree cover which includes all trees even within small wood lots, below 1 hectare, has

been assessed by using methods which include field inventory. According to it, the forest cover in the country was 6.76 lakh square kilometers and tree cover 0.81 lakh square kms., the total being 7.57 lakhs square kms. constituting 23.03% of the country's geographical area. Dense forest covered 4.17 lakh square kms (12.68%) and open forest 2.59 square kms (7.87%). The following further features call for notice :

- (1) Madhya Pradesh with 0.77 lakh square kms had the maximum forest cover among all the states and union territories followed by Arunachal Pradesh with 0.68 lakh square kms and Chattisgarh with 0.56 lakh square kms.
- (2) In 187 districts of the country, classified as tribal districts, the total forest cover was estimated as 4.04 lakh square kms (average forest cover of 36.62% ). The forest cover of these districts constitute 59.8% of the total forest cover of the country.
- (3) There are 123 districts in the country categorized as hill districts where the total forest cover was 2.71 lakh square kms (average forest cover of 38.34%).

4. According to the SFR, a comparison of 2001 assessment of forest cover with that of 1999, though somewhat inhibited by differences in methodology and technology, reveals that there was an overall increase of 0.38 lakh square kms or 6.0%. This constituted an increase of 1.16% of the country's geographical area. The increase in dense forest cover with respect to 1999 assessment was 0.34 lakh square kms i.e. 9% and increase in open forest cover 0.37 lakh square kms i.e. 1.4%. The total forest and tree cover in the country was estimated to be 7.57 lakh square kms. constituting 23.03% of the geographical area, leading to the current per capita forest and tree cover in the country as 0.074 hectares. On the whole, it seems that the efforts at afforestation tend towards the target of 33% set in the 1952 National Forest Policy Resolution.

5. It may be relevant to juxtapose with these figures the human development indices indicated in the National Human Development Report 2001 of the Planning Commission. According to the report

- (a) 43%, 23% and 7% of the ST households go respectively without safe drinking water, electricity and toilet facilities
- (b) The ST population spends 63% of per capita income on food alone, compared to 59% by the combined rural population.

6. The two sets of figures bear out the inverse relationship. A smaller segment of the tribal people, that is the forest-dwelling and rural tribal population, has significantly even less access to such basic needs as safe drinking water. On the other hand, there is no doubt about inter-dependence of tribals and forests, many authorities describing their relationship as symbiotic. By and large, tribals live off forest and forest is sustained by tribals. So much so, that the concept of heaven was once described by a tribal "as miles and miles of forest". On another plane, sacral forests are inviolate, woven into articles of faith like "Sarna". It is, therefore, clear that promotion of the interest of the forest is certainly in tribal interest and, conversely, any step or measure meant to destroy forest is harmful to tribal life and economy.

#### **Government's Forest Policy Resolutions**

7. We may briefly outline the Government's Forest Policy Resolutions of 1894, 1952 and 1988.

8. The 1894 Forest Policy averred that "in almost all cases, the constitution of the forest involved, in greater or lesser degree, the regulation of rights and restriction of privileges of user in the forest area which may have previously been enjoyed by the inhabitants of its immediate neighbourhood". The hitherto inviolate forest domain of the tribals was now transgressed by the new alien power and their natural unfettered rights over forest were curtailed. It was the beginning of an era which the Dhebar Commission called of "delicate relations between them and the Forest Department". It marked the characteristic hegemonic bureaucratic authority bordering on repression. Among the other features of the Policy was one which enabled conversion of forests into agricultural lands "wherever an effective demand for cultivable land exists and can only be supplied from forest areas", subject to

cultivation being permanent and not resulting in honey-combing of valuable forest by patches of cultivation.

9. The 1952 National Forest Policy was oriented towards evolving a system of balanced and complementary land-use under which each type of land is allotted to that form of use under which it would produce the most and deteriorate the least. While it stressed ecology and sustained availability of forest products, it considered "realization of the maximum annual revenue in perpetuity consistent with the fulfillment of the needs enumerated ..." as one of the six paramount needs of the country. The Dhebar Commission was obliged to remark that the 1894 Policy had turned the tribal into a subject placing him under forest department and the traditional rights of the tribals were derecognised. In 1894 they became "rights and privileges" and in 1952 they became "rights and concessions". Thus, the approach in general was towards progressive downgradation of rights. The 1952 Policy also adverted to the instructions of the Union Government which exhorted exercise of greater regulation and control not only for the protection of forests but also for soil conservation etc. Thus, from the middle of the nineteenth century, the control of foresters over forests kept on tightening.

10. The bearings and directions of the 1988 National Forest Policy Resolution differ from the earlier two resolutions. It may be said to revolve around environmental stability and conservation, conservation being signified to encompass preservation, maintenance, sustainable utilization, restoration and enhancement of the natural environment. Nevertheless, in it the focus on (a) ecological imperative (b) increased biomass through massive afforestation and social forestry programmes specially on denuded, degraded and un-productive land and (c) the requirements of fuel-wood, fodder, minor forest produce and small timber for the rural and tribal population, appear as the basic objectives. It declares provision of sufficient fodder, fuel and pasture as well as improvement and enhanced production of minor forest produce, among others, as essentials of forest management. For the first time, a separate section 4.6 Tribal People and Forests, appears in the Resolution. It enunciates that the primary task of all agencies responsible for forest management should be to associate the tribal people closely in the production, regeneration and development of forests as well as to provide

gainful employment to people living in and around forests. While calling for safeguarding the customary rights and interests of such people, it desires special attention to

- (i) replacement of contractors by tribal cooperatives, labour cooperatives, government corporations etc. as early as possible
- (ii) protection, regeneration and optimum collection of minor forest produce with institutional arrangements for marketing of such produce
- (iii) development of forest produce on par with revenue villages
- (iv) family-oriented schemes for improving the status of tribal beneficiaries
- (v) undertaking integrated area development programmes to meet the needs of tribal economy in and around forest areas.

It will thus be seen that the 1988 Policy marks a new welcome trend in favour of tribals. It is, however, a different matter whether its implementation has kept up with its changed perspective and laudable objectives.

11. In this context, we find the following observations in the Tenth Five Year Plan (2002 – 2007) document of the Planning Commission revealing:

4.2.55 Forests and Tribals share a symbiotic relationship. Tribals continue to live in forest areas, though in isolation, yet in harmony with environment. Recognising this dependency, the National Forest Policy, 1988, stipulated that all agencies responsible for forest management should ensure that the tribal people are closely associated with the regeneration, plantation, development and harvesting of forests so as to provide them gainful employment. Despite these special safeguards tribals continue to struggle for mere survival as they face formidable problems and displacement due to development of national parks and wild-life sanctuaries and other environmental restoration projects, lack of development in forest villages etc. The protection of rights of tribals in forests is key to the amelioration of their conditions.

#### **The Constitutional frame**

12. Forestry as a subject has been placed in the Concurrent List of the Seventh Schedule of the Indian Constitution. The Ministry of Environment and Forests is the nodal agency for planning, promotion, coordination and overseeing



implementation of various forestry programmes in the country. The State Governments implement programmes.

13. According to Article 48A contained in the chapter of Directive Principles of State Policy, the State has to endeavour to protect and improve the environment and to safeguard the forests and wild-life of the country. As per Article 38 of the same chapter, the State has to strive to promote the welfare of the people by securing and protecting social order in which justice, social, economic and political, informs all the institutions of national life. In Article 39, the state has been directed to secure to the citizens the right to adequate means of livelihood and ensure that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. Above all, of great significance are the provisions of Article 21 which embody in a nutshell all that is precious and significant to an individual citizen; the article is an aphoristic statement of a truly fundamental right stating that no person shall be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court has interpreted the right to livelihood as an integral facet of the right to life. We, thus, have a constellation of articles emblazoning the rights of the citizen. At the same time, the state has been exhorted to effect and improve the environment and safeguard the forest. In the tribal context, do the two sets of provisions appear to be inconsistent? Is it possible to protect the forest and, at the same time, uphold the right of the tribal to his livelihood in the forest? The Supreme Court has ruled that directive principles and fundamental rights are to be harmoniously construed. In the real world also, forest and tribal have pulsated in unison; the former has nourished the latter, while the latter has preserved and tended the former.

14. In the year 2002, there was an upheaval amongst the forest-dwelling people of India, particularly the tribals, as a sequel to the issue of orders dated 3 May 2002 of the Ministry of Environment and Forests to the effect that all encroachments not eligible for regularization as per the guidelines issued by the Ministry of Environment and Forest in their No. 13.1/90-FP (1) dated 18 September 1990 should be summarily evicted time-bound and, in any case, not later than 30 September 2002. As the Ministry admitted later in their No.2-1/2003-FC(Pt) dated 5 February 2004, despite the request of the Central Government to settle the

disputed claims, issue of Pattas, grant of leases etc. to the tribal population on forest land as per their aforesaid letter of September 1990, by and large, few proposals had been received by them; only a couple of states had sent proposals under the category of regularization of eligible encroachments. In light of the nominal action taken by the authorities, the guide-lines remained a dead letter. The eviction orders assumed draconian proportions for the forest-dwelling population. The severe eviction steps following in reality, and the uproar following the May 2002 orders, created panic all over the country. It was a question of tribal survival. Through dispossession of the forest resource, they were being rendered resourceless and penurious. Representations to the Supreme Court ensued. As a result, the Ministry issued a clarification in their letter of 30 October 2002 that there was no change in the policy with regard to the pre-1980 eligible encroachments as well as the commitment with reference to forest-tribal interface on the disputed settlement claims.

15. To understand the situation, it may be recalled that the Forest (Conservation) Act 1980 lays down that, except with the approval of the Central Government, no State Government or other authority can (i) dereserve any reserved forest and (ii) divert any forest land for non-forest purposes. The Act explains that "non-forest purposes" means breaking up or clearing of any forest land for purposes other than reforestation.

16. Prior to the introduction of this law, the State Governments were considering, from time to time, grant of occupancy to bonafide forest-dwellers who had long been in occupation of such land. For instance, the Government of Maharashtra had issued orders for regularization of "encroachments" subsisting up to 1.4.1972 and subsequently up to 31.3.1978. Similarly, the Government of Rajasthan had decided to regularize "unauthorized occupations" up to the year 1971 and the Government of Madhya Pradesh had decided to undertake the same exercise for occupations up to 1978. The Government of Chattisgarh has reported that Pattas had been distributed to all eligible encroachers up to 1976.

17. The government of Gujarat apprised that their proposals in respect of 34,441 persons over 21,082 hectares of land were regularized by the Government of India

in the year 2000. But, close to 30,000 applications are still pending. We are glad to note that action is being taken by State Government on such applications.

18. The government of Himachal Pradesh reported 4,388 encroachments in an area of 861 hectares as on 30.6.2002 and that they were following the procedure for vacation. They have not, however, referred to the question of regularization of long-standing occupations, if any, found in the state.

19. It seems that in Karnataka so far out of 14,848 hectares of forest land, 2,985 hectares have been regularized and the State Government have decided to evict all encroachments which have taken place after 27.4.1978. This seems contrary to the 1990 guidelines of the MOEF.

20. Scheduled tribe people in Kerala have been in a difficult predicament since the Tribal Development Department has approved all tribal settlements in forest areas and it has been indicated that the Government policy is to issue a record of rights to all tribals occupying forest land, though the papers made available to us suggest that the Forest Department has not been in favour. The Government has constituted a committee for conducting joint verification, comprising ITDP Officers/Tribal development Officers and representatives of Revenue and Forest Departments. The measure has been necessitated on account of the fact that pre-1980 non-tribal encroachers have been assigned title to lands. Details of post-1980 encroachers are not available. The tribal situation is compounded by the fact that anti-land alienation law has been, more or less, inoperational, because it has been subjudice. Taking all these factors into consideration, the Commission would like the land question, whether relating to the revenue or forest department, to be resolved equitably as soon as possible.

21. Some state governments have been rather vague. For example, the Government of West Bengal stated that there were cases of encroachment of forest by tribals, but the policy of the forest department is to recover the land while not leaving the tribal people "unsheltered".

22. The Forest (Conservation) Act 1980 acted as an estoppel on the regularization steps. This led to a state of uncertainty, bewilderment and discontent

among the forest-dwelling tribal people. They were not clear as to what the law would do to them despite their long-standing occupation. Worse, the forest officials were taking action for removing them.

23. In these circumstances, in September 1990 the Ministry of Environment and Forest came out with the following series of measures :

- (1) In their no. 13-1/90-FP (1) of 18.9.1990 they called for review of pre-1980 "encroachment" cases where the State Government had taken a decision before enactment of the Forest (Conservation) Act 1980 to regularize eligible category of encroachments. Those cases were to be regularised which fulfilled the eligibility criteria and encroachments subsisted. The review was required to be carried out by joint teams of Revenue, Forest and Tribal Welfare Departments officials.
- (2) In their no. 13-1/90-FP (2) dated 18.9.1990, the Ministry called for a review of disputed claims over forest land arising out of forest settlement viz. claims (a) in respect of forest areas notified as "deemed reserved forest" without observing the due process of settlement as provided in the Forest Act (b) in tribal areas where there was prima facie evidence that the process of forest settlement had been vitiated by incomplete or incorrect records/maps or lack of information to the affected persons as prescribed by law and (c) in tribal areas wherever the process of settlement was over, but notification under section 20 of the Indian Forest Act 1927 (or corresponding section of the relevant act) was yet to be issued, particularly where considerable delay had occurred in the issue of final notification under section 20, provided the claimants were still in possession of the disputed land. The claims were to be enquired into by a committee as in (1) above and adjudicated.
- (3) Their no. 13-1/90-FP (3) dated 18.9.1990, referred to cases where Pattas had been issued by different authorities of a state/union territory government, the land in question continued in the possession of the allottees and its status was under dispute between different departments. The Ministry asked for a review. It ruled that where Pattas/leases/grants were given by the government departments to scheduled tribes either

individually or collectively, such Pattas/leases/grants should be honoured provided they were in physical possession of the land and the Their letter term of the Patta/lease/grant had not expired. The cases should be examined by committees of the type mentioned earlier.

(4) no. 13-1/90-FP (5) dated 18 September 1990 related to conversion of forest villages into revenue villages and settlement of other old habitations. In it, the State Governments were asked to convert forest villages into revenue villages after denotifying the requisite land as forest, conferring heritable but inalienable rights on the villagers and entrust the administration of these villages and other revenue villages preferably to the State Forest Department.

24. It was to be expected that with the issue of such unequivocal orders, their implementation would clear the air and rid the tribal people of uncertainty over their right to the second most important resource. In fact, a landmark order was passed by the Supreme Court in March 1995 in which the states of Maharashtra and Madhya Pradesh were directed to decide the peoples' claims in the light of 1990 instructions of the Government of India [Writ Petition (c) no. 1778 of 1986 and Writ Petitions no. 13696-700 of 1983]. But the resolution of disputes remained isolated success story and this order of the Supreme Court did not obtain wide dissemination. Further, little ground work was done. In the meantime, the Supreme Court took exception to encroachments on extensive forest lands by planters for quick gains. In 1996, they passed an order for clearing of all encroachments by the State Governments forthwith. Whatever may have been the repercussion elsewhere, the axe fell on the simple artless, voiceless and defenceless tribals many of whom had genuine claims. Pursuant to the Supreme Court's order, the Ministry of Environment issued the orders of May 2002 with which we started this narration.

25. The tribals were touched to the raw. The number affected by the eviction proceedings was sometimes estimated to be 2 crores of tribals; in any case, lakhs of families were affected undoubtedly. Their cries went up to the heaven. Initially, as mentioned, in clarification, the Ministry notified in October 2002 that there was no change in the policy with regard to regularisation of pre-1980 eligible encroachments. But after the stern May orders of eviction, to the people it struck as

a weak volte face. However, the Supreme Court has stayed even these orders for regularization of "encroachments" by the tribal people on the ground that they would jeopardize over two lakh hectares of forest. The uncertainty and suspense continue for the bulk of the so-called encroachers, may be running into lakhs of tribal families. The issues involved are, no doubt, weighty. On one side, we appreciate the concern over forests, held to be crucial determinants of national ecological security. On the other side, it is life and livelihood of the tribal families. Compared to the total area of 68 million hectares under forests in India, occupation by tribals and other poor, even if it is to be 1.5 million, constitutes approximately 2% area. Dereserving this area, dispersed in thousands of forest blocks is likely to have no adverse effect on the environment of the country. But it will have a salutary impact on the disturbed situation in tribal areas, bringing in peace and satisfaction. The matter needs to be viewed in a human perspective and resolved expeditiously.

26. In so far as the question of settlement of disputed claims, issue of Patta, lease etc. of the tribal population on forest land is concerned, dealt with in the MoEF's orders contained in their No.13-1/90-F.P.(2) and (3) of September 1990, the Ministry desired in its letter No.2-1/2003-FC(Pt) dated 5-2-2004 that the State Governments and UT Administrations should recognize the traditional rights of the tribal population and these should be incorporated into the relevant acts, rules and regulations prevalent in the concerned state/union territory. Further, they advised that on receipt of complete proposals from the state governments/union territory administrations concerned, they would consider diversion under the Forest (Conservation) Act 1980 of continually occupied forest land so that the concerned tribals can get unfettered legal rights over such lands, the rights being heritable but inalienable. As already mentioned in their No.2-1/2003-FC(Pt) dated 5 February 2004, the MOEF has stated that they have received few proposals from the states. Progress in the matter is painfully slow. Incidentally, it is significant that, earlier, continued occupation up to 1990 was stipulated for conferment of the rights, and in 2004 the date prescribed is 1993.

27. The dictum that regularization of so-called encroachments should not act as inducement in future for encroachment on forest lands is unexceptionable. But cases of genuine occupation before the enactment of Forest (Conservation) Act

1980 or even the Indian Forest Act 1927 have not been settled as yet. They need to be attended to urgently. Further, there is a category of scheduled tribes classified as primitive tribes groups by the Government of India, numbering 75. Age-long denizens of forests, they need forest areas for bonafide survival. Section 65 of the Wild Life (Protection) Act 1972 recognises hunting rights of the scheduled tribes in the Union Territory of Andaman and Nicobars. Further, as per the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956, areas which are predominantly inhabited by aboriginal tribes have been declared as reserved areas. Aboriginal tribes here refer to scheduled tribes. Similar provisions should be made in the Indian Forest Act for the primitive tribal groups.

28. To facilitate and expedite resolution of so-called encroachments, the Government of Maharashtra issued orders on 10 October 2002 to constitute local committees comprising members of Panchayats, police, revenue and forest to verify claims for regularization of "encroachments" on forest lands. Should the decision of the local committee be not acceptable to the claimants, review committees comprising Naib Tehsildar, Circle Officer, Range Forest Officer have been constituted. The Gram Sabha has been empowered to consider other relevant evidence, if documentary evidence is not available. Grant of ample opportunities for consideration of claims by the committees has been suggested. The procedure is simple, ensuring accessibility. We commend it to other state governments for adoption.

29. The guidelines of 1990 require that for settlement of even bonafide claims mentioned in the different orders of the Ministry, compensatory afforestation should be effected. Since most of the claims of the tribal families would be found to be genuine, insistence on compensatory afforestation might only delay matters. We suggest, on a balance of various considerations, it may not be insisted upon.

#### **Shifting cultivation**

30. The 1894 Forest Policy allowed conversion of forests into agricultural land subject to the condition, among others, that the cultivation must be permanent; shifting cultivation could be permitted under due regulation, where forest tribes depended on it for their sustenance. Following it, the 1952 Policy, while

recognizing the damage caused to forests by shifting cultivation, advocated a missionary and not authoritarian approach. It felt that since tribals eke out a precarious living from axe-cultivation moving from area to area, it requires persuasion and not coercion to wean them away from swidden. It favoured regulation of shifting cultivation by combining it with forest regeneration i.e. Taungya. In comparison, the approach adopted in the 1988 Policy differed in its tone and tenor, as it contains no reference to the missionary approach, in fact, none to the human element. It advocates alternative avenues of income suitably harmonized with the right land-use practice to discourage shifting cultivation.

31. The Dhebar Commission estimated in 1961 that 26 lakhs of people were engaged in shifting cultivation. The current estimates of different sources do not deviate materially, the range being 5 lakh to 10 lakh hectares of forest land under this form of cultivation in the north-east, Jharkhand, Orissa, Chhattisgarh, Madhya Pradesh, Andhra Pradesh and Maharashtra. The Planning Commission's Tenth Plan document mentions six lakh tribal families (which translates roughly into the same figure as mentioned in the Dhebar Commission report) in this context. They have pronounced the problem of shifting cultivation as a very complex one involving economic, social and psychological aspects of the tribal communities.

32. We may juxtapose these observations with the provisions of section 10(5) of the Indian Forest Act 1927 which declares unequivocally that "the practice of shifting cultivation shall in all cases to be deemed a privilege subject to control, restriction and abolishing by the State Government". The Act further stipulates that the arrangements made in the field by the Forest Settlement Officer are subject to the previous sanctions of the State Government. Notwithstanding this legal provision, and as implicitly recognized in the three Forest Policy Resolutions, the practice of shifting cultivation occurring over large areas in the country since ages and adopted by lakhs of tribal families even currently, is a ground reality, beyond doubt.

33. The government of Mizoram has reported that 70% of population of the state depends on shifting cultivation, the annual estimated Jhum area is 40,000 hectares and the Jhum cycle has been reduced to 4-5 years. In Assam, 84,000



families in the two districts of Karbi Anglong and North Cachar Hills have been reported to be Jhumias. A benchmark survey conducted in 1987 showed that 40% of the total tribal families in Tripura were engaged in Jhum.

34. The States of Nagaland and Arunachal Pradesh have, in fact, enacted laws regulating Jhum land. In Nagaland, Jhum-land has been defined to mean any land over which any member or members of a village or a community have customary right to cultivate by means of shifting cultivation or to utilize by clearing jungle or for grazing live-stock and includes beds of rivers, provided that such a village or community is in a permanent location. It excludes terraced land and land under permanent cultivation. Transfer of Jhum-land can take place with the permission of the Deputy Commissioner given on the recommendation of the Village and Area Council concerned. The Arunachal Pradesh law is on all fours with the Nagaland law.

35. In its 1961 Report, the Dhebar Commission referred to two opposing views. One, in which shifting cultivation practice was indicted as damaging to the forest and responsible for large-scale erosion; the other, that it was the way of life of the tribals. They appreciated that the practical aspect of the matter was that nearly ten percent of the tribal population depended on Jhuming and cannot be deprived "of their land, their livelihood and their way of life for a theoretical opinion on which not all experts agree". They felt that, while Jhum is not an ideal method, and that, wherever possible, terracing or other means of cultivation should be introduced, the fact of lakhs of tribal families depending on Jhum cannot be wished away and they cannot be deprived of their land, their livelihood and their way of life. They thought that total replacement of the system, if it comes to all, will be a life-time process and, in the meantime, the proper course is to regulate it, experiment with it, improve it and try out other workable alternatives.

36. In the north-east region, land is generally owned by the community as a whole and individual ownership of land is recognized in certain areas, say in respect of homestead and settled farmland. The chiefs have not been the owners of the land; they have been custodians of the village land and forest. At the beginning of the agriculture season, land is distributed among individual families within the

demarcated area of the village according to necessity. As indicated, in Nagaland and Arunachal Pradesh, the actual cultivator of land has the right of cultivation handed down by inheritance. In Orissa, shifting cultivation lands have been observed to be cultivated by the same family, quite often their right being recorded in revenue books. However, no uniform system is observable in the different parts of the country. In fact, some parts of tribal areas remain unsurveyed and, in some surveyed areas, the records of rights are either faulty or outdated. The State Governments may consider the desirability of survey of unsurveyed areas, creation of land records where they do not exist and their updation where they exist. Presently, the Jhumias enjoy the right of usufruct, but not of ownership. This generally inhibits investments in the land for improvement.

37. The shifting cultivation land in a village is related to a period of rotation or cycle depending upon the density of population, availability of suitable land slopes, nature of soil, climate, distance from habitation (temporary or permanent) etc. Earlier, when the pressure of population on land was not as high as today, the cycle was more than 10 years, up to 20 years long. With the land-man ratio falling, the cycle has kept on shortening. It is known to have been reduced to less than five years in many places, with deleterious effects on output and ecology. The Dhebar Commission advocated a cycle of not less than 10 to 12 years. Evidently, in the present conditions, this does not appear feasible.

38. In the context of land being the single limiting factor, any land reform which helps should be effected. The North Cachhar Hills Autonomous Council in the State of Assam has been engaged in building up a system of record of rights, land management, regulation of transfer of rights etc. Though documentation may not translate immediately into individual private ownership and may only lead to recognition of the ground situation, it should help secure credit for improvement of the status of land and agriculture, a progressive step. In other states, community stands collateral, which financial institutions should trust.

39. Customarily and characteristically, shifting cultivation has been a self-sufficient economy, with a barter margin. Even now, but more so in the past, shifting cultivators consumed whatever they produced. Though paddy is grown

wherever possible, elsewhere, they adopt a mixed cropping system of millets, maize, coarse grains, beans, other vegetables, oil-seeds etc. In Mizoram, horticultural crops like pineapple, oranges, bananas and citrus fruits are grown. Significantly, diversity is the corner-stone of food security in societies which do not produce surplus. Cotton and seasmum were important commercial crops; presently, however, more have been added like ginger, potato, tapioca, chillies, tobacco. Some of the shifting cultivation lands in Tripura have been converted into rubber plantations. Part of the commercial crops has been finding their way to markets, monetising the economy.

40. Considerable stress has been laid on the damage shifting cultivation causes to ecology, soil erosion etc. The shortening length of the shifting cultivation cycle has been a matter of concern. Nevertheless, the system as such has met with approbation from independent and well-meaning observers as an optimal arrangement in the given constrained conditions. We have to recognize that tribals had, in course of time, been pushed to the hills, the hills had been forested and to survive tribals have had to adopt swidden, that is an adaptation of agriculture to the given environment. Some State Governments like Mizoram have pronounced Jhum as indispensable at the moment. Two trends may, however, be noticed. The tribal communities seem to be sensitive to the issues involved and have been taking remedial measures. There are striking examples of terracing, contour-bunding and soil-binding measures in swiddens. The shifting cultivators preserve top-soil by not ploughing it. Secondly, research and experimentation should and are expected to contribute to the evolution of suitable solutions. Forest, horticulture, rubber plantations, varied and varying land-use, pattern each has a place. In the north-east, agriculture as a land-use has been closely linked with other sub-systems of the village eco-system functions, and with forestry, impelling a holistic approach, having distinct advantage over others for in situ conservation. It may be possible to unfold strategies on the basis of inter-disciplinary scientific studies that make shifting cultivation contextually viable and, at the same time, enable the shifting cultivators to adopt higher yielding strategies. But it is not a matter merely of technology. Members of the tribal groups need to be persuaded and convinced, evidence of practicability, feasibility and viability of the options being placed

before them : the swidden cultivators are not ill-disposed towards a system which promises a better deal.

41. There is one aspect which requires attention and, may be, intervention of the state. Broadly speaking, shifting cultivators do not possess Pattas of the land which they cultivate since these lands are managed by village communities or chiefs. As the domestic and multi-national corporate sector has been expanding in the country and their activities depend on natural and economic resources, Jhumia lands being soft spots, are susceptible of easy take-over. Ostensible more productive systems may replace shifting cultivation, elbowing out the Jhumias into resourcelessness and immiseration. The state has to step in to protect these weak sections of the society.

### **Forest Villages**

42. The matter of forest villages is an old one. In their report, the Dhebar Commission (1961) explained that a large labour force required for the activities of the forest department led to the formation of colonies composed of tribals, giving rise to the concept of forest villages. They stated that the tenure in forest villages was admittedly "tenancy on sufferance". They recommended that security of tenure should be assured to the tribals; at the same time, the forest department should take upon itself the responsibility of providing assistance for the improvement of forest villagers. They reckoned about a thousand forest villages in Madhya Pradesh, though they did not have an idea of the total number in the country.

43. According to the Tenth Five Year Plan document, "development of 5000 forest villages and the 2.5 lakh tribal families living therein continued to remain as one of the weakest links in the whole process of tribal development. The Tenth Plan will, therefore, take up the development of Forest Villages on priority basis and ensure extending benefits /services just as in the case of Revenue Villages and reaching the comprehensive package with basic minimum services of food, safe drinking water, health care, primary education, approach roads and other infrastructural facilities". It goes on to further state that efforts will be made to

develop effective coordination to converge not only on the existing services but also the men and machinery of the related state departments.

44. In March 1984, the then Ministry of Agriculture suggested to the state and union territory governments that they should confer heritable and inalienable rights on forest villagers if they had been in occupation of the land for more than 20 years. Twenty years later, in their letter of 3 February 2004, reference to which will be made again, the Ministry of Environment and Forest lamented that few proposals had been received from the State Governments and, even of the proposals received, many were either incomplete or otherwise defective.

45. The different Working Groups on Development of Scheduled Tribes appointed from the Sixth Plan onwards by the Planning Commission recommended that forest villages be converted into revenue villages and forest villagers in occupation of forest land should be conferred heritable and inalienable rights over the land.

46. The National Forest Policy 1988 directs that forestry programmes should pay attention, inter alia, to development of forest villages on par with revenue villages. The Ministry's order No.13-1/90-FP(5) dated 18.9.1990 directed conversion of forest villages into revenue villages and conferment of heritable but inalienable rights on the villagers. The figure of 5,000 forest villages has been cited off and on. In their communication no. 11-70/2002-FC(Pt) dated 3.2.2004, to which we alluded earlier, the Ministry of Environment and Forest has mentioned the figure of 2690 in the country; they desired the state governments to step up the process of conversion of these forest villages into revenue villages. Incidentally, it was indicated that, so far, 311 forest villages in Madhya Pradesh and 73 such villages in Maharashtra, a total of 384, had been converted into revenue villages during the previous year.

47. As per the report from Karnataka, lands which were found occupied during reservation proceedings have been allowed as forest enclosures. Earlier temporary leases for cultivation were granted for such lands and these were subsequently confirmed as permanent leases.

48. The government of Madhya Pradesh which has reported a total of 925 forest villages proposed to be converted into revenue villages, states that the Government of India has given permission to convert only 80 villages into the revenue villages. On the other hand, the Ministry of Environment and Forests, in their 1990 communication called for a time-bound programme in their aforesaid letter to convert all forest villages into revenue villages in the next 6 months so that "the people living in these villages can enjoy the fruits of development and also their dependency on forest is reduced".

49. While we regret that this matter raised by the Dhebar Commission in 1961 has still to move substantially forward, we are happy to note that the Ministry of Environment and Forest has taken it up earnestly. Apart from forest villages, in some states there are what are known as "forest enclosures", as in Andhra Pradesh and Karnataka. In Tamil Nadu, these are forest settlements. These also need to be considered for conversion, wherever feasible, into revenue villages and panchayat villages. We are anxious that all such forest villages and forest enclosures should not be left out of the mainstream of planned development. It needs to be noted commonly, that, "forests" in and around these villages are, in reality, no more forests. They are practically denuded of forest growth. Further, the total area involved may not be more than a few thousand acres. With conferment on their inhabitants heritable but inalienable rights over land, they should be able to receive attention from the various departments of the government for securing development benefits. It will help if specific committees/authorities are set up at the state and national levels for focusing attention on implementation and monitoring of the programme. But, at the national level, MOEF may consider taking a global view for issue of general orders for conversion and connected arrangements.

#### **Forest labour**

50. To eliminate contractors and other intermediaries, in the earlier days some states, notably Gujarat and Maharashtra, had organized forest labour cooperative societies (FLCS). In fact, the Dhebar Commission waxed eloquent on the constitution and functioning of these societies in Maharashtra, saying that the progress was encouraging, for much of the exploitation had been eliminated. They

envisaged that all areas would be covered by the end of the Fourth Plan period. The National Forest Policy 1988 reiterated that contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government cooperatives etc. as early as possible.

51. It seems some state governments and U T administrations execute forest work through government departments and/or government agencies like forest corporations. However, in their No.13-1/90-FP(4) dated 18 September 1990, the MOEF stressed the need to eliminate contractors and other intermediaries with a view to ensure fair wages to the labourers. Some guidelines were issued in this communication such as that no outside labour should be engaged where local tribal labour is adequately available, tribal cooperatives should be involved, norms for payment of wages for piece work should be worked out, uniform wages should be prescribed for similar pieces of work, representatives of tribal development department should sit in the wage board appointed by forest department for fixation of wage-rate and, lastly but importantly, the State Forest Department and Forest Corporations should comply with the provisions of the Minimum Wages Act in payment of wages for forestry operations.

52. Our reports indicate that full action in accordance with these guidelines is yet to be taken by the State Governments and UT administrations. Even in Maharashtra and Gujarat the forest labour cooperatives have no longer been functioning as they used to. Further it is, indeed, regrettable that sometimes we have to come across cases in which government organizations have not been following statutory minimum rate of wages in payments to the labourers.

53. We recommend that utmost efforts should be made to organize forest labour cooperative societies of tribal workmen and steps should be taken to ensure their proper functioning. Secondly, there should absolutely be no breach by the official and non-official agencies of the minimum wage rate fixed by the concerned legislature. Any breach or breaches even by the departmental officials should lead to prosecution, as provided in the laws.

## **Joint Forest Management programme**

54. The National Forest Policy 1988 calls for "creating a massive people's movement with the involvement of women" for achieving its basic objectives. The Ministry of Environment and Forests has reported that it has issued guidelines to all State Governments and UTs for protection, regeneration and development of degraded forests with the involvement of village communities constituted under Joint Forest Management (JFM) programme. According to the MOEF, joint forest management is a management strategy under which the State Forest Department and the village community enter into an agreement to jointly protect and manage forest-land adjoining villages and to share responsibilities and benefits. The village community is represented through an institution specifically formed for the purpose. Commonly, it is referred to as the joint management forest committee (JFMC) or forest protection committee (FPC) registered under the Societies Registration Act 1860. The FPC takes responsibility of protecting forest patches from fire, grazing and illegal harvesting. In return, it gets greater access to forest produce and share in income earned from those forest patches. FPCs federate together to form forest development agencies (FDAs) at the territorial/wild life forest division level, and they also are registered societies.

55. The MOEF has focused on JFM to achieve the national target of 33% tree cover by 2012. Other existing schemes have been merged into National Afforestation Programme to be implemented through the JFM. The National Afforestation Programme is a Central Sector scheme for which money is said to flow directly from Central Government to implementing agencies in the field, basically the forest development agencies.

56. Appropriate resolutions have been passed by 27 states and UTs resulting in management of 16.67 million hectares of forest land by 7,271 JFM communities throughout the country, as on 1.5.2003. The Ministry expect improvement in the socio-economic status of the forest-dwellers through their labour-oriented participation in afforestation and other forestry activities, alongside protection of forests, carried through JFM.



57. The Tenth Five Year Plan (2002–2007) document of the Planning Commission states that one of the resolutions of JFM relates to the use of indigenous capacity and legal knowledge about different aspects of conservation, development and use of forests. It emphasizes that rural people, particularly women and tribal communities, have an intimate knowledge of species, their growth characteristics, utility, medicinal value etc. and it should be utilized under JFM for the benefit of the community.

58. Some major problems in the JFM area are that though the village forest committees may be registered under Societies Registration Act 1860, they have no legal and statutory basis and, further, their relationship with the Gram Sabhas and Panchayats is either absent or vague and tenuous. They are viewed to function as “parallel bodies”, despite the fact that standing committees of Panchayats for subjects ranging from planning, construction, administration to welfare, education, water management are built in the Panchayat system. During discussion, the Ministry of Environment and Forest stated that the State Governments had been requested to consider the matter and issue suitable guidelines. We feel this is a subject which merits consideration at the Central level for counsel to the States and UTs. In the Scheduled Areas, the difficulty is further compounded by the fact that the JFM does not take into account the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996. As per section 4(m)(ii) of the Act, the Gram Sabha and the Panchayat are to be endowed with the ownership of minor forest produce by the State legislation. Some states have adopted this provision in their state law, but JFM committees do not seem to take much cognizance of it. In fact, the opposing views over ownership of minor forest produce as belonging to the Forest Department and Panchayat/Gram Sabha have created confusion and mistrust in the minds of the people. As mentioned, JFM does not have statutory status, whereas PESA Act has. It is incumbent that the JFM bodies should function within the canopy of the Panchayat system. In other words, the forest committee should function as one arm of the Panchayat. The entire JFM structure in the Scheduled Areas needs to be recast in the light of the PESA Act and the unique milieu of these areas.

59. The biggest drawback of the JFM, however, is that committees of this system are not able to function autonomously, since their stewardship rests with the Forest Department. The Forest Department controls the purse-strings. It is essential that the JFM committees exercise genuine autonomy to be able to take decisions in the interest of the people and their environment. For the purpose, they should be converted into community forest management committees and devolved funds appropriately. Further, having formulated the programme, they should implement them and be accountable to the people. The officials of the Forest Department should (a) function as their technical advisers and (b) monitor the programmes.

60. The government of Andhra Pradesh has reported that Joint Forest Management has since been transformed into Community Forest Management in the state with considerable freedom. According to them social forestry has been a successful programme in the state meeting the requirements of fuel and industrial pulp, wood, small timber particularly through Subabul planting.

61. The state of Himachal Pradesh has reported a marked shift in forests management, with forestry in shifting its focus to become people-centered. They feel that the introduction of social forestry schemes viz. Sanjhi Van Yojna and formation of FDAs in this direction.

62. The government of Karnataka have issued guidelines governing the pattern of sharing, involvement of the stake-holders etc. for village forest committees.

63. Institutionalisation at grass-root level has thrown up new challenges in inter-village and intra-village relations on the one hand, enhancing expectations of the people on the other. The first problem is recognition of long-time tribal occupants of land within forest. With divergent aims, how are the present JFM bodies treating them? Are they to be displaced on account of the professed objective of JFM of afforestation, as is happening in Andhra Pradesh? It is iniquitous. The second relates to accessibility of forest related to village proximity, and denial of forest benefits on account of distance of villages from the managed forest. Thirdly, power equations within the nominated JFM committees, weighted in favour of the influential and the powerful. Fourthly, plain male domination. Fifthly, an area of

concern, which we have voiced elsewhere too, the growing multiplicity of organizations, both in the field and at the state level, leading to confusion, obfuscation and wastage. In brief, innovations are needed to address issues of equity (displacement, poverty and landlessness), conflict resolution (particularly inter-village, may be intra-village), social inclusion (women, tribal occupants of forest lands). A pro-active balanced approach is required.

64. Effective engagement with broad range of stake-holders including NGOs, activists, academics, private sector entities, public persons and the media would increase awareness and understanding.

65. In Madhya Pradesh, the World Bank started forestry project executed through JFM during 1995-99. Some evaluation results of this project have been reported to the effect that regeneration of plants had increased, there was impact on environment, poor forest fringe dwelling communities had been empowered, landless tribals had found wage employment. On the flip side, village protection committees, forest protection committees and environment development committees have usually been dominated by influential sections, linkages between these committees and statutory Panchayat have been tenuous, gender representation has been limited, social aspects have not received adequate attention. An important observation is that while access to forest has increased for those dwelling inside or proximate to forest, those outside have diminished access, creating socio-psychological as well as economic problems, leading to questioning of legality of JFM. There is apprehension that the ascendance of the fringe forest-dwellers may lead to friction with those having no little or no access to forest. One expects the community-forester partnership should lead to some transformation in the attitude of forest personnel towards forest-dwellers.

66. Our suggestions are that, at the field level, a healthy relationship between the constitutional Panchayats and the parallel JFM committees registered under the Societies Registration Act 1860 should be initiated and established. The JFM committees should function as standing committees of the Panchayat. At the state level, a committee may be constituted in the Tribes Advisory Council comprised of

ST representatives and experts, state level forest and administrative officials to look into all forestry issues.

#### **Minor forest produce or non-timber forest produce (MFP or NTFP)**

67. Dependence of a tribal family on minor forest produce (MFP) or what is otherwise known as non-timber forest produce (NTFP) varies from region to region and has been estimated by different agencies up to 80%. It is also related to proximity of the family to a NTFP-bearing forest. It is estimated that about 40 crore people living in and around forests depend on it to a smaller or a higher degree. But for a majority of tribals it is a source of food, medicine, shelter and economy.

68. Botanists and foresters have compiled lists of thousands of items of minor forest produce. Traditionally, the tribals have been gathering and collecting some of them. They have been keeping some of these items for domestic-use and some for supplementation of their income through sale. Important items have been Kendu leaves, sal seeds, Mahua seeds, Karanj seeds, Mahua flower, Chironji, forest castor, Van Tulsi seeds, tamarind, myrobalan, gums and resins, lac, tassar cocoon, broom-stick, honey etc.

69. The tribal has since times immemorial conceptualized forest as a common property resource and, as such, collection and consumption of the major part of minor forest produce has been a non-formalised right. The attempt at his exclusion from forest commenced with the assertion of the State's ownership over forests in the later part of the nineteenth century. But the conceptual divergence never died. Perhaps, it was in its recognition that the National Forest Policy Resolution 1988 articulated as follows:

4.3.4.3 The life of tribals and other poor living within and near forest revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.

70. Even before this enunciation, some State Governments had ceded some rights to tribals. The government of Himachal Pradesh has reported that the rights and concessions of the tribal people as enshrined in the various settlement reports have been duly recorded and recognized and they have been enjoying them unhindered. They have access to NTFP for their domestic bonafide use and also as an important source for supplementing their income. A feature which marks the state as different from other states is dependence of the people on forests for grazing sheep and goats, an important part of their economy. The graziers migrate seasonally from their traditional home villages in the higher reaches snow-bound through winter, to the plains in summer. A small community of semi-nomadic Gujjars depend on grazing for buffalo-husbandry. The state has to expend considerable resources for maintenance and augmentation of pastures, fuel and fodder plantations, social forestry programmes, fast growing species etc.

71. According to the Andhra Pradesh Government rights over forest products have been completely transferred to the Van Samrakshan Samities (VSS) which can allow tribals usufruct to meet domestic needs of the tribals as well as market the surplus. The VSS are, however, required to recycle at least 50% of returns from harvest of timber and bamboos for furthering forest management for their own benefit. It seems that in the State rights and concessions in reserved forests have been recorded. They have indicated that tribals can collect various MFP items not only for their use but also for sale to the Girijan Cooperative Corporation through which they can earn income. Further, that value-addition has been taken up by the GCC to enable tribals adopt simple methods like cleaning, deseeding, graining etc. It is, however, significant that in the view of Andhra Pradesh government MFP plays crucial role in the economy of the tribal people in north-coastal Andhra Pradesh and Telangana. This is in contradistinction to what the government of Orissa have observed.

72. The Kerala Government has reported that tribals living in forest areas have been informed of their rights and concessions. But what these rights and concessions are, have not been spelt out. At the same time, it has been mentioned that nearly half of the 21,000 tribal families living in the forest areas have been

engaged in MFP collection. They propose to approach large-scale herbal medicine manufacturers for sale of MFP collections.

73. The government of Assam have stated that they would enact suitable legislation endowing ownership rights of minor forest produce. We have referred to this matter in the section here relating to PESA Act 1996.

74. The rights and concessions enjoyed by tribals have been protected in Chattisgarh and there is no restriction on their gathering minor forest produce; the State has echoed the principle contained in the 1988 Resolution that the domestic requirements of tribals in respect of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest and essential items should be made available through conveniently located Nishtar and consumer depots at reasonable rates. Yet, they have fixed targets for collection of items of minor forest produce though it is not clear on what basis this was being done. The need for target-fixation may be considered in view of the fact that tribals are allowed to gather MFP freely. Further, it seems that bonus distribution is, generally, delayed. The State Government has enacted a legislation for regulating cutting and sale of teak trees on farmers' private land. A general complaint was that delay occurs in the grant of permission; since, often, trees are sold in cases of dire necessity, delays cause distress. In fact, in Madhya Pradesh, which has a similar law, the tribals expressed their anguish over the attitude of forest officials in the disposal of matters concerning trees standing on non-forest lands.

75. The government of Madhya Pradesh has reported that as per their Nishtar policy, tribals living within 5 kms of the forest area are allowed to collect firewood, fodder, bamboo, other items of NTFP and small timber. But they have expressed the apprehension that increase of live-stock population would continue to exert higher pressure on forest.

76. The government of Orissa has trodden a safe path by stating that "the tribals have not been denied .. collection of their domestic, bonafide and non-commercial need required for firewood, fodder, MFP and construction of timber. Government is thinking of conducting specific studies and pilot projects to get tribal rights in

unsurveyed areas. This is besides the measures taken to settle rights in course of finalizing RFs, Sanctuaries etc". At the same time, elsewhere, they have mentioned that most of the tribals have left the usual practice of collecting MFP and shifting cultivation; this does not correspond to our own observations in the field in the state of Orissa. They have, however, taken action through the government resolution of 31.3.2000 to transfer 68 items of MFP to PRIs and the Orissa Forest Act 1972 is said to be under modification in accordance therewith.

77. The government of West Bengal has reported that it issued in July 1980 "New Directives on Forest Management in tribal areas" whereby tribals have been allowed free of charge to gather leaves, flowers, fruits and seeds of trees (except Tendu leaves and sal seeds), to have one pole per tribal household per annum for being used as a plough and three poles per tribal household for house construction every five years, to assign any tree in the forest as Jaher Than for the purpose of offering prayers and worship, and to collect brushwood and Jhanti for domestic use a head-load per individual and cart-load per group.

78. The government Tamil Nadu in the Forest Department's GO MS.No. 79 dated 29.4.2003 permitted tribal communities to collect non-timber forest produce from forest areas free of cost and sell them in the open market for their day-to-day earnings, with the association of the village forest committees. However, the rights have not been codified.

79. The government of Karnataka has introduced tree Patta scheme providing for rights of usufruct for forest-dwelling tribals. The tree Patta is being given free of cost. But the rights and concessions of tribals in forest produce have not been recorded.

80. We would urge that there is pressing need to codify and consolidate the rights and privileges of tribespeople. The tribal communities have to be assured of access to domestic needs of poles, small timber, thatch grass, fire-wood, grazing, minor forest produce freely, as promised in the 1988 Forest Policy Resolution.

81. Further, in the matter of marketing, we would like to stress that, at the primary level arrangements should be made to enable tribal collectors of minor forest produce to sell it to primary cooperatives like large-sized multiple purpose cooperative societies (LAMPS). The tribal primary societies should be linked to secondary bodies at the district level and/or state apex bodies like Tribal Development Corporation and Forest Development Corporations. The state-level bodies should be linked to Tribal Cooperative Marketing Federation of India Ltd. (TRIFED). This marketing network should have the basic objective of ensuring proper remuneration to the tribal collector. There may, however, be no needless nationalization of the forest produce items. Selective minimum price support mechanisms may help marketing better.

82. However, conditions in the field vary from state to state. In Chattisgarh, some nationalized NTFP items like Tendu leaves, sal seeds, myrobalan are being collected through minor forest produce societies at the primary level. The collection, drying, packing and local transportation are being undertaken by these Samities. Marketing of these products is required to be effected by the Chattisgarh MFP federation.

83. The Dhebar Commission saw no justification for auctioning out the right to collect the forest produce or have a middle-man to exploit it. They referred approvingly to the establishment of the Andhra Scheduled Tribes Cooperative Finance and Development Corporation. In fact, in the sixties, seventies and even in the eighties of the last century, the prevalent general opinion was that the middleman-exploiter should be eliminated through government take-over of the trade. Hence, corporations or cooperative corporations were set up in states having substantial tribal population and forests. These state-level bodies were down-linked to district-level cooperatives as extant, and further to primary cooperatives or LAMPS entrusted with the responsibility of purchase of NTFP items from the individual tribal collectors. In other words, the trade in important items was nationalized with the intention of adequate returns to the tribal collectors. A simultaneous objective seems to have been sustainable exploitation and development of the forest products. It is reported that availability of most of these products has gone down drastically all over the country as reflected in revenues



accruals in respect of important items like bamboo, Kendu leaves, sal and other tree-borne oil- seeds. More important is the fact emerging from several evaluation studies and personal observations that, in practice, the rights have been sublet to private traders and industry creating a hierarchy of objectives, wherein industry and other large end-users have the first charge on the product at low and subsidized rates. On the whole, the tendency has been to maximize revenue, the interest of the tribal and the poor being relegated to the background. In other words, the prime objective of eliminating the middleman has been almost defeated. The Mid-Term Appraisal Report of the Ninth Five Year Plan (1997 – 2002) of the Planning Commission remarked that

Practical consideration would show that government is incapable effectively to administer complete control and do buying and selling of NTFPs. It is better for government to facilitate private trade and act as a watch dog rather than to eliminate it. Monopoly purchase by government requires sustained political support and excellent bureaucratic machinery. It is difficult to ensure these over a long period and hence nationalization has often increased exploitation of the poor.

84. We are aware of the pitfalls which the TRIFED has fallen into on account of the policy of purchase of mainly agricultural produce items directly from the 'Mandis'(big markets). We are, however, glad to know that they have now commenced focus on their basic mandate of marketing development of tribal products and have submitted a proposal to the Ministry of Tribal Affairs for adoption of a minimum support price scheme for items of MFP on the pattern of the scheme adopted by NAFED and FCI for agriculture produce. This will necessitate grant of adequate funds for the purpose. The scheme should make them responsible to intervene in markets in the event of fall of prices below the minimum, to be announced by the designated authorities. TRIFED should implement the scheme through state-level organizations. Large-scale collection and procurement of NTFP items takes place in tribal areas. Moreover, there is a high potential of medicinal herbs and organically-produced agricultural crops in tribal areas. In the state of Chattisgarh conservation of minor forest produce, specially medicinal plants, is being undertaken and in, some forest areas, buy-back arrangements with local traders have been effected. We understand a good international market exists for

many of these items. TRIFED and other related organizations should aggressively explore and exploit these markets.

85. Apart from the tribal being merely regarded as a lowly gatherer of forest produce, his exploitation is compounded due to lack of value-addition to the produce. More often than not, various oil-seeds like sal, Karanj, Kusum, Mahua, forest castor, Vantulsi are sent out of tribal areas as such, without conversion into oil. Lac, gums and resins are hardly treated. Even de-seeding of certain produce like tamarind is more of an exception than the rule. Rearing of tassar cocoons can be easily done and even weaving can be picked up where necessary, without much difficulty. There is dire need of first-processing of minor forest produce through cooperatives of primary collectors and effecting value-addition.

86. Though tribals possess skills in large measure so far as items of minor forest produce are concerned, things may improve with training in certain skills. For instance, tapping of resins, storage of sal seeds, preparation of tamarind extracts may witness higher output with imparting of training. In fact, culling, barking, tapping, storage, processing, marketing etc. all call for upgradation of existing levels of knowledge and skills. The relevant skills and trades should be included in the syllabi of the ITIs which should mushroom in tribal areas for vocational training.

87. As touched upon earlier, in mid-eighties, contract system was abolished all over India and departmental harvesting and collection of MFP were decided to be taken up by specialized wings/corporation with the objective of sustainable exploitation through post-harvesting silvicultural operations. However, since then production / collection have drastically come down as post-harvesting operations like coppicing, thinning etc. were not done. Higher revenue collection became the sole objective rather than sustainable production. Most of the specialized wings created in states for timber-harvesting have either been closed or have become defunct. We commend this matter to the Ministry of Environment and Forest for examination and suitable action.

88. The National Commission on Agriculture recommended product-wise survey, proper method of collection and grading, improving resource-base, developing a system of marketing and distribution, ensuring proper processing and utilization. We have not come across inventories of item-wise stocks in the country. The inventories may be prepared. Further, as we have already mentioned, drop in revenue accruals in respect of certain items suggests depleting stocks. The decline in herbs stocks has been badly impinging on the indigenous system of medicine, as witnessed, for example, in Meghalaya, telling on tribal health. We recommend that non-timber forest produce should be properly regenerated, harvested, processed and marketed for improving the economy of forest dwellers. The stock of NTFP items should be enhanced through mixed forestry, that is including species like fuel-wood, items of MFP, fruit, fodder, timber (for house construction, agricultural implements, domestic furniture) herbs etc. The resource-base of the local community should be strengthened through such mixed interspersal in all types of forests i.e. reserve forests, protected forests, village forests etc.

#### **Indian Forest Act 1927**

89. Indian Forest Act is being considered for amendments. The MOEF have enabled us to obtain copy of the amendments-suggested. In the Annexure to this chapter, we present section-wise amendments proposed by the MOEF and our suggestions and comments.

#### **Indian Forest Act 1927 and PESA Act 1996**

90. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA Act) was passed by the Parliament in pursuance of Article 243M(4)(b) of the Constitution. The PESA Act relates to Panchayats in Scheduled Areas. It calls upon State Legislatures to endow Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government ensuring that Panchayats and the Gram Sabhas are endowed specifically with, inter alia, ownership of minor forest produce. Some state governments have made laws for Scheduled Areas incorporating this and other provisions. But many State Governments have balked at the idea of transplanting in

letter and spirit the desiderata of the PESA Act into their own legislations, as mandated in the Act. For example, the Assam Government have manifestly stated that it would undertake legislation conferring ownership rights of NTFP on Gaon Panchayats, hedging it with conditions like that these rights will be supervised by the Forest Department or that only those items of NTFP would be transferred to the Panchayats as are not being collected or disposed of departmentally, contrary to the essence of the provision contained in the PESA Act. We have elaborated the differences between the PESA Act and State legislations in our chapter on Panchayats. Suffice it to say that there are divergent viewpoints and these need to be reconciled as indicated in that chapter. The important aspect is that quite a few of the provisions of forest laws like the Indian Forest Act 1927 and the Forest Conservation Act 1980 do not accord with the provisions of the PESA Act 1996. Another attendant problem is the interpretation placed on the different laws. The former are thought by some to be special acts, while others claim the latter to be a special act with the further edge of recent nascence. Further, the PESA Act states that any provision of any law relating the Panchayats in force in the Scheduled Areas before the date on which it received the assent of the President (24 December 1996), which is inconsistent with the provision Part IX of the Constitution, will continue to be in force until amended or repealed or until the expiration of one year from the date on which the PESA Act received the assent of the President. Action as per this provision is, hence necessary. The government of Andhra Pradesh has informed that they contemplate framing separate set of rules to ensure assonance between the provisions of the Indian Forest Act 1927 and the PESA Act 1996. We urge expeditious action to resolve the matter at the national and state levels, so that the two sets of laws harmonise with each other.

#### **Forest (Conservation) Act 1980**

91. The Act was introduced with the objective of halting diversion of forest land for non-forestry purposes. Since about 45 lakh hectares of forest was reckoned to have been lost through diversion between 1950 and 1980 to non-forestry purposes, the objective of the Act was laudatory. It lays down that, except with the approval of the Central Government, no state government or other authority can (i) dereserve any reserved forest (ii) divert any forest land for non-forest purposes.

The Act explains that "non-forest purposes" means breaking up or clearing of any forest land for purposes other than re-forestation. It would appear that when the measure was enacted, it referred to "reserved forest in any law for the time being in force in that State". However, in course of time, it was extended to all notified forests under the administrative control of the Forest Department. Its application was further amplified to include forests in the dictionary sense of the term, as per the orders of the Supreme Court dated 12.12.1996 in writ petition (civil) 202/95 in the case of T.N.Godavarman versus Union of India and others. The Chambers dictionary equates "forest" with "a large uncultivated tract of land covered with trees and under-growth; woody ground and rough pasture". This expands the perimeter manifold. At the same time, it introduces vagueness and subjective element, possibly leading to arbitrary interpretations and sowing seeds of controversies, disputes and conflicts.

92. As per the State Forest Report (SFR) 2001 published by the Forest Survey of India, which functions under the Ministry of Environment and Forest, reserved forests occupy 4.23 lakh sq. kms., protected forests 2.17 lakh sq. kms and un-classed forests 1.28 lakh sq. kms.; dense forests occur in 4.2 lakh sq. kms. and open forests in 2.6 lakh sq. kms. It is probable that there is a rough coterminality between reserved forests and dense forests. Most of the reserved forests constitute the backbone of ecology and bio-diversity of the country and, as such, need to be conserved vigilantly. Moreover, every tree of the protected, village, un-classed and other forest contributes to ecology and bio-diversity. The different categories of forests have been conceived to serve varied functions. It should be understood, however, that the protected, village and un-classed forests do not merely play a role in the development field, they also add to the stability of ecological and biotic regimes. It appears that the aim of classifying forests into the three categories was, perhaps, to strike a balance between conservation and development needs. What we recommend here conforms to our anxiety to maintain a golden mean between the twin desiderata.

93. We entirely endorse the objectives and are not in favour of dilution of the Forest (Conservation) Act 1980 to enable diversion of forest land for commercial or non-site specific activities. At the same time, we cannot help the thought that tribal

development goals should receive filip in every conceivable way. In their letter number 2-1/2003-HC dated 20.10.2003, the Ministry of Environment and Forest issued guidelines under the Act for stepping up development projects in tribal areas. These are meant to encourage infra-structure development projects in tribal areas. The guidelines convey general approval under section 2 of the Act for under-ground laying of electric cables and wires to individual houses, drinking water supply / water pipelines, which involve felling of trees not exceeding fifty in number per project, are outside national parks or wild life sanctuaries and are laid along routes within the existing right of way. Several other development projects in backward tribal areas have been held up. During the course of our tours, we found that development works like construction of tanks, check-dams, school buildings, health centres, approach roads, rural electric lines had been put in cold storage for want of clearance under the Act. Government may consider grant of similar permission in favour of such over-ground projects with a view to expediting them. Guidelines issued by MOEF would need, however, to be incorporated into rules to have the force of law.

94. Apart from the question of the requirement for development, one more reason for looking at the Conservation Law can be appreciated from the situation in Tripura. Schemes have been launched to wean tribal families away from Jhum activity to settle them in rubber plantations with the assistance of World Bank. The land includes that unfit for agricultural crops as well as degraded land. Most of the shifting cultivators, said to number about 4,000 families including members of primitive tribal groups, reside in the forest area. The Government of Tripura has stated categorically that non-forest land is not adequately available and the Forest (Conservation) Act 1980 has to be amended to enable to settle Jhumia and even non-Jhumia families in rubber, tea and coffee plantations. A similar scenario is encountered in Tamil Nadu. Another relevant point in this connection is that insistence on compensatory afforestation may nullify the scheme and projects for neither alternative land is available nor even state governments have adequate funds for the purpose.

95. In Kerala, the law has taken a curious turn. The State Government had decided in 1971 to distribute 1.1 lakh acres of land to land-less SC and ST farmers desirous of taking to agriculture as means of livelihood. The quota earmarked for tribals was 50% of the total land. Administrative problems delayed distribution and subsequently the Forest Conservation Act came into existence. The scheme could not be implemented and the concerned tribal families thus remained deprived. According to their report, the Government of Kerala has approached the Government of India for diversion of 12,196 hectares of forest land for distribution to the landless tribals and they are awaiting clearance of the Government of India. Separately, in another communication to the Commission, the State Government informed that the Union Ministry of Environment and Forest have conveyed clearance to divert 7,693 hectares of vested forest land in five districts for distribution among landless tribals; the clearance seems, however, to be tied up with payment of present value of more than Rs.577 crores. Thus, both the proposals may not find easy passage. However, three bright features in the scenario are (a) the State Government has stated that the Aralam Farm, a Central Farm, is being purchased by the State Government at a cost of Rs. 40.19 crores for allotment of 3,500 acres to landless tribals (b) the State Government has issued orders for grant of record of rights to ST families in occupation of forest land prior to 1980 and (c) general instructions have been issued that "tribals residing in forest land as encroachers before this date should not be evicted, pending a final decision on their resettlement", though it is not clear what date is referred to. Further, how many families will be found eligible to record of rights as per (b) above is another moot point.

96. Gujarat has a special problem in the responsibility of settlement of families and persons displaced from forest areas which they once occupied, under the Sardar Sarovar Narmada Project. As an impact of the project, 19 villages of Gujarat, 36 of Maharashtra and 193 of Madhya Pradesh may get submerged. As a result, 46,000 project affected persons (PAFs) of Gujarat, 1,000 PAFs of Maharashtra and an estimated 14,000 PAFs from Madhya Pradesh have to be rehabilitated in Gujarat.

97. A problem of forest land peculiar to the State of Maharashtra related to Dalhi and Eksali lands in the Konkan region. Dalhi lands were forest lands leased out to the community during the British days in the name of local headman called Naik who was to collect revenue from the residents of the hamlet and pay it to the Talati. On 14 January 1970, the Government of Maharashtra decided to confer individual property rights on the Dalhi plot-owners. The Dalhi lands were to be first deforested and then handed over to the respective beneficiaries. Between 1970-71 and 1975-76, 11,390 hectares of land were deforested, but only 1406 hectares were transferred to the Revenue Department out of which only 718 hectares were actually granted to 422 plot-holders. Had the process continued, it would have culminated in satisfaction to all plot-holders. But there was delay and with the passage of the Forest (Conservation) Act 1980, it came to a standstill. Notwithstanding the orders of the Ministry of MOEF, no concrete action was visible, as a result of which a writ petition filed in the Supreme Court led to its direction in 1995 to the Government of Maharashtra to form district committees for immediate solution of the matter. The Government of Maharashtra forwarded its proposals to the Government of India and the matter seems to have been travelling back and forth. The approval of the Government of India is awaited, while 11,514 hectares area continue to be cultivated by the plot-holders.

98. In so far as Eksali (annual) leases are concerned, the State Government has apprised that there are 17,000 Eksali plot-holders cultivating about 30,000 hectares of land. This also has remained as a matter of exchange between the State and the Central Governments. The State Government had taken a decision in 1969 to regularize the leases, but delays bogged it. In the meantime, the plots have been cultivated for the last several decades. People have launched peaceful struggles while undergoing untold ordeals. Urgent steps are required to grant land rights to both the Dalhi and Eksali cultivators.

99. We would also suggest the Government consider limiting the applicability of the Act to only such forest areas which have been notified as forests under the provisions of the Indian Forest Act and the State Forest Acts. The orders of the Supreme Court of 1996 referred to above, expanding the scope of forest in consonance with the dictionary meaning of the term were, perhaps, interim in



nature and are likely to be subject to vague, subjective interpretations for demarcation of forests, sowing the seeds of controversies, disputes and conflicts. As desired by the Court, each State Government should constitute an expert committee to identify areas which are good forests irrespective of their having been notified, recognized or classified under any law, and irrespective of the ownership of the land of such forests. Certain lands where hardly any vegetation exists have also been classed as forest, whereas such land can be put to more profitable non-forest uses. With the approval of the apex court, the Ministry of Environment and Forests may take decision in the matter to restrict applicability of the Forest (Conservation) Act to appropriate areas only.

### **Wild Life (Protection) Act 1972**

100. There are about 80 national parks and 441 sanctuaries in the country covering approximately 14.8 million hectares i.e. 4.5% of the country's land area. The creation of sanctuaries and national parks is mainly governed by the provisions contained in chapter IV of Wild Life (Protection) Act 1972. Section 18A(2) is to the effect that till such time as the rights of affected persons are finally settled under sections 19 to 24 (both inclusive), the State Government shall make alternative arrangements required for making available fuel, fodder and other forest produce to the persons affected, in terms of their rights as per the government records. It appears that, by and large, hardly any State Government has followed this statutory provision, adversely affecting the lives of millions of tribal people. The limited exercise of some rights by tribals in sanctuaries to meet their bonafide needs was first curtailed through amendment in the Wild Life Act in 1991 and then completely extinguished as per the ruling of the Supreme Court of 14 February 2000, calling upon the states to refrain from permitting the removal of dead, diseased, dying or wind-fallen trees, drift wood, grasses etc. from any national park or game sanctuary. It is reported that villagers residing in and around the protected area are not able to obtain even bamboo poles and small timber to repair houses and huts in view of the total ban. In our view, relief to poor tribal communities in and around protected areas is necessary.

101. The problem is compounded by the fact that, at the time of issue of notification of intent, the boundaries of protected areas are not clearly demarcated. There are instances where an entire forest division was notified, but settlement of rights not commenced. In fact, section 18 contains an explanatory note to the effect that the area of a sanctuary can be described by roads, rivers, ridges or other well-known or readily intelligible boundaries. It is understood that the MOEF had constituted an expert committee some years ago to rationalize the boundaries of the sanctuaries but not much progress has been made. However, the basic issue is, in practice, having commenced the procedure as per the law, alternative arrangements for making available the requisite necessities to the tribal people as per section 18A (2) are not made. In the Ghadchiroli district of Maharashtra tribal families have been living in the forests or in the vicinity of game sanctuaries and national parks for generations without any formal title of land. They have been cultivating the land in the sedentary or shifting cultivation mode. With the introduction of Wild Life (Protection) Act 1972 and Forest (Conservation) Act 1980, regularization could not be effected, despite the 1990 guidelines of the Ministry of Environment and Forest.

102. The National Wild Life Action Plan 2000-2016 of the MOEF recognizes that local communities are put to a lot of hardship after notification of an area as national park or sanctuary because of denial of forest usufruct and other natural products like fish and marine animals. The statutory provision relating to interim arrangements for fuel, fodder and other produce should be strictly complied with and steps should be taken for time-bound rational demarcation of boundaries of protected areas making them widely publicly known.

103. Further, MOEF may consider taking up with the Supreme Court the question of exclusion from application of the relevant provisions, of such protected areas where final settlement of rights is yet to be arrived at.

104. Under the provisions of the Act, almost every activity of the people living within the protected areas is barred and further the inter-face between the people and the local forest staff is, more often than not, not too friendly. Normal life utilities like drinking water, schools, hospitals, electricity are scarce. The

alternatives of amending the Act so that they can avail of facilities in situ or shifting them out to areas where such facilities are available, should be considered.

105. Further, it seems that dwindling nature-human interaction in the protected areas has contributed to ecological impairment. For instance, in the Bharatpur bird sanctuary, sudden stoppage of grazing has been thought to be the reason for fire havoc. A second instance is the over-growth and congestion in bamboo clumps where removal of bamboo is not done, leading ultimately to extinction. A sylvio-sociological factor which has been over-looked is that round-the-year activity by humans in forest, like gathering of MFP, removal of bamboos, timber etc. lead to better protection of these areas since the people help through removing organic dead detritus for better vegetal generation, fighting fire, checking poaching and illicit felling etc. The day's strict regulations and their partisan implementation seem to dampen people-departmental relations by arraigning them on opposite sides, impinging upon peoples' rights on one side and hampering departmental functions on the other. We are, therefore, of the view that restriction on collection of forest produce for bonafide use should be removed, except in relation to uncontrolled grazing which is damaging to both forest and wild-life habitat. Limited removal of timber and collection of MFP not consumed by wild life is likely to improve the health of the forest.

106. For villages being settled around protected areas, such package for income generation should be developed and implemented by the forest department, as is based on non-forest resources.

107. Section 19 of the Wild Life Act empowers the District Collector to determine the existence, nature and extent of the rights of any person in or over the land comprised within the limits of a sanctuary. Section 26 empowers the State Government to direct that the powers of the Collector may be exercised and performed by such other officer as may be specified in the order. Some State Governments appointed Conservators of Forest as settlement officers. Since the functions of such officers are quasi-judicial in nature, involving adjudication between people's rights and forest department's demands, appointment of a member of the forest department may be interpreted as tantamount to appointment

of a partisan in the proceedings and may be prejudicial to the principles of natural justice. The matter may be considered by MOEF.

108. In State laws, there is provision for payment of some compensation, but payment is generally delayed a good deal due to procedure and red-tape. Ways should be devised to make prompt payments.

109. Lastly, we reiterate that since procedural steps delay final declaration and notification of an area as a protected area, restrictions on the local people of entry into it for grazing, right to fuel, forest produce etc. lead to enormous suffering on their part. The law should provide that till the affected persons have been satisfactorily relocated and rehabilitated, such restrictions should not be imposed. Further, we would urge that the widest possible dissemination in local language or languages of the various stages of conversion of an area into a protected area should be made and, in any case, people should be taken into confidence. Section 36C contains shades of community involvement. It should be participation, and with a wider base.

### **Forest Education**

110. We have referred to the divergence in perception and perspectives of the tribes people and foresters dating back to the days of Baden Powell who wrote the forest manual in 1889. In the Preface to the 1983 Report of the Committee on Orientation of Forest Education in India appointed by the Ministry of Home Affairs, the Chairman of the committee Shri. K.M. Tiwari, ex-President Forest Research Institute (FRI) and Colleges wrote

Thus, both the tribal people and the foresters have ultimately the same common aim of preserving and augmenting the forest wealth. How strange is then, that in many places, the foresters and the tribal people do not see eye-to-eye with each other and occasionally come into a conflict. Such a situation is definitely due to lack of communication between the foresters, on the one hand, and the tribal and the forest dwellers, on the other hand. In some places the tribal people think that the forest does not belong to them but to the State and, therefore, it is not their property and so they can indulge in its destruction without any damage to themselves. The foresters probably think that the forests are not necessarily meant only for the tribal people but also for making available raw-materials to far-off

places to meet requirement of the society through the wood-based industries. If, somehow, they understand that they are the real partners in the management of the forests, very likely the antagonistic feeling from their minds will disappear. This is only possible when there is close communication between the foresters and the tribal people and the forest-dwellers .... The management of the forests must be for the satisfaction of the day-to-day needs of the tribals and the forest dwellers in respect of firewood, leaf-fodder, small timber, edible fruits, leaves, gums, resins etc.

x                    x                    x

.... it will be possible only when we impart a course of education especially tailored to bring home the above objectives, amongst not only the foresters but also policy makers, legislators, administrators, the tribal people and all other people of the country. It is, therefore, imperative that suitable course of instructions should be devised for different categories of the persons mentioned above.

111. In its report, the Committee recommended that the syllabi for Forest Officers (IFS and SFS), Rangers, Guards should include tribal study; all other subjects taught during the training period should place pointed emphasis on coverage of tribal development. Members of the Forest Department at different echelons should be exposed to tribal problems. From the papers furnished by the Ministry of Environment and Forest, it appears that tribal welfare is one of the subjects in the Directorate of Forest Education, Dehradun. However, we have not been able to obtain a full idea as to whether adequate attention is being paid to forest-tribal interface in the syllabi or to research in all aspects of tribals of the Forest Research Institute, Dehradun, the Forest Management Institute, Bhopal and other such institutions. This is an area which requires close and sustained attention, in the interest of both forest and tribes in the long range perspective.

112. We have had the opportunity of a brief visit to the Indian Council of Forestry Research and Education. We could not equip ourselves completely with the work the Council is doing in the field of education and research. But we cannot emphasize enough the importance of these areas for the future of tribal economy and life. We hope that the National Forestry Commission, reference to whom is made hereunder, will be able to look into these aspects in detail.

## **Forestry Commission**

113. In a resolution dated 7 February 2003 the Government of India in the Ministry of Environment and Forest appointed a National Forest Commission to review the working of forest and wild life sector, with Justice B.N. Kirpal ex-chief justice of India as the chairman with six other members. Their terms of reference suggest that the Commission has to review and assess the existing policy and legal framework as well as their impact in a holistic manner from the ecological, scientific, economic, social and cultural points of view. So far as this Commission is concerned, the most relevant term of reference is to establish "meaningful partnership and interface between forestry management and local communities including tribes". We would like the whole horizon of forest-tribal interface to be examined by that Commission. We have explained in this chapter the suffering and anguish which the tribespeople have been undergoing since the past century and a half. The causes lie basically in the divergent perspectives and perceptions of the tribespeople and government since the closing decades of the nineteenth century. The legal and administrative consequences of official perception have led to legislation, policy and administrative frameworks which have, generally, impacted adversely on the tribes. It is a golden opportunity for the establishment to unravel through the Kirpal Commission the knots which have tied up the interface. Tribal rights and privileges need to be spelt out and codified. The tribal communities need to be assured of access to domestic needs of poles, small timber, thatch grass, firewood grazing, minor forest produce etc. We have tried to look at matter objectively for a creative equilibrium between the human and sylvan aspects. Nevertheless, we look forward to the Forestry Commission making equitable and constructive recommendations.

## **Budget and Funds availability**

114. The recommendation that the budgeted out-lay for forestry should be increased from 1% to 2% has emanated from many fora, but it seems not to have received adequate attention from the relevant quarters. It is learnt that, generally, from the MoEF budget only 30% is earmarked for forestry and wild-life sectors, the balance being allocated to environment, river cleaning etc. Even from the 30%, it

seems hardly 5% is allocated to natural forests management. For instance, out of the Ninth Plan outlay of Rs. 868 crores, the break-up was Rs. 525 crores for wild life, Rs. 273 crores for Indian Council for Forest Research and Education (ICFRE), Rs.25 crores for FSI, Rs.15 crores for establishment, leaving Rs.30 crores only for actual forestry work. If the figures furnished to us are correct, it is too meagre an amount. Silvicultural operations are also carried out with the help of States funds. Nevertheless, there is need for (a) enhanced outlays for forestry and (b) appropriate prioritization within the MoEF outlays.

115. Further, diminution in fund availability has also occurred in other ways. For example, in the seventies and early eighties, 20% of the fund of NREP and JRY used to be earmarked for forestry, boosting afforestation along the roads, canals etc. The earmarking scheme having been omitted, it affected forestry programme on non-forest land.

### **Concluding**

116. We face an anomalous situation. Normally, in the non-tribal tracts of the country, land has been occupied by the civil population since generations. Further, in course of time, people occupy or obtain through various means parcels of land and the process continues. On account of the accessible inter-face with the administration, they manage to secure insertions of ownership or possession in the land records. In tribal areas, the position is different. Despite possession and ownership spanning generations, records do not exhibit it, for reasons like the lack of accessibility and inadequate interface with administration, ignorance of tribals, manipulative acts of lower echelons of bureaucracy etc. In the result, millions of tribal families have remained deprived of formal title. Instead of systematic action to legally endow them, they have unwittingly come within the mischief of certain well-intentioned Acts like the Forest Conservation Act 1980 and the Indian Forest Act 1927. We regret the approach in the matter has not been empathetic. It needs to be understood that every community has a right to use the natural resources of land, water, air, minerals etc. found in and around its settlement. The tendency during the past decades to appropriate land and forest resources was commenced typically by the colonial power from commercial and strategic points of view and

seems to have been continued during post-independence times. The tribal demand for access to forest and its usufructs, and for land for agriculture, has to be met in the interest and basis of equity. The State Forest Report 2001 identifies 187 districts in the country as tribal districts, the forest cover in these districts constituting 60% of the total forest cover in the country, whereas the area of 187 tribal districts forms 33.6% of the geographical area of the country. Undeniably, expanding forest cover in these districts would reduce the land available to the tribals, leading to further deprivation. On the other hand, the same Report indicates that 26 million hectares of open forest are with less than 40% crown density. These degraded forests, more so those which fall outside the tribal areas, should be afforested. With afforestation at the rate of a million hectares annually, it might take about 26 years for this work.

117. The increase in tribal populations over the last fifty years on the one hand, the plans of the Forest Departments to add to the state's forest areas and incursions of plains people in the tribal areas, have all increased pressures. It is futile to gloss over tensions subsisting between the forest staff and forest dwellers, particularly tribals. Various measures have been devised to offset the interface stresses and strains. The forest management programme, if run imaginatively, can be a good solution as, in fact, it is turning out to be in some places. Equally salutary will be induction of staff belonging to scheduled tribes into the department. Presently, there is no dearth of educated and talented ST youth available all over the country. Arrangements for their training at various levels like forest guards, foresters, deputy rangers, rangers and higher echelons should be made. Training centers and schools for the purpose should be set up in tribal areas to enable them to acquire the requisite training and skills. Recruitment of the educated tribal youth should be made. We presume that among the ST youth, some may already have entered the Indian Forest Service. If so, and wherever they are, they can be expected to contribute to appropriate orientation of other forest officials.



## SUMMARY OF RECOMMENDATIONS

It should be clearly recognized that promotion of interest of forest is in tribal interest and, conversely, any step or measure meant to destroy forest is harmful to tribal life and economy.

2. The situation in Kerala is complicated. Pre-1980 non-tribal encroachers have been assigned title to lands. A committee has been constituted for joint verification in respect of tribal lands. At the same time, anti-land-regulation has been, more or less, inoperational in the State, because of its being sub judice for long. We urge that the questions both in respect of revenue and forest lands be resolved equitably as early as possible.

3. The most critical question today relates to regularization of the so-called encroachments of tribal people in forests, forest enclosures, forest settlements, in terms of the Ministry of Environment and Forest (MoEF) orders No. 13-1/90/-FIP(1) dated 18 September 1990. The uncertainty and suspense being experienced by lakhs of tribal families, branded as "encroachers", most of whom have been in occupation of the lands for generations, continue to haunt these families. This is against the letter and spirit of Article 21 of the Constitution concerning life and liberty of a citizen, as interpreted by the Supreme Court. It touches the life and livelihood of tribal families. Compared to the total area of 68 million hectares under forest in the country, occupation by tribals and the other poor of about 1.5 million hectares constitutes hardly 2 percent of the area. Dereserving this area, spread over thousands forest blocks, is likely to have no adverse effect on the environment of the country. On the contrary, it will have salutary impact on the disturbed situation in tribal areas, bringing in peace and a degree of satisfaction.

4. In so far as the question of settlement of disputed claims, issue of Pattas, leases etc. of the tribespeople on forest land are concerned, in other communications bearing the same date i.e. 18 September 1990, the MoEF called upon state governments and UT administrations to recognize the traditional rights of tribespeople, incorporating them into the relevant acts,

rules and regulations. Since the progress has been very slow, it should be expedited.

5. To facilitate and expedite the solution of the so-called encroachments, the procedure adopted by the Government of Maharashtra in the Revenue and Forest Departments Decision No.Sankirn 2002/372/J-1 dated 10 October 2002 for constituting local committees comprising members of Panchayats, Police, Revenue and Forest to verify claims for regularization of "encroachments" on forest lands, are commended for adoption by other state governments and UT administrations.

6. On the analogy of the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956 and section 65 of the Wild Life (Protection) Act 1972, areas predominantly inhabited by primitive tribal groups should be declared as reserved.

7. Since most of the claims of tribal families would be found to be genuine, insistence on compensatory afforestation might delay matters.

### **Shifting cultivation**

8. It needs to be recognized that tribals have, in course of time, been pushed to the hills, the hills had been forested and, to survive, tribals have had to adopt swidden, that is adaptation of agriculture to the given environment.

9. Since shifting cultivation is said to cause soil erosion and damage to ecology, on the basis of inter-disciplinary scientific studies it is necessary to unfold strategies that make shifting cultivation contextually viable and, at the same time, enable the shifting cultivators to adopt higher yielding strategies. Members of the tribal groups need to be persuaded and convinced, placing before them evidence of practicability, feasibility and viability of the options evolved.

10. Since Jhumia lands are soft spots in the context of expanding corporate sector in the country, it is apprehended that ostensibly more productive systems may replace shifting cultivation, elbowing out the Jhumias into resourcelessness and immiseration. The state should step in and extend protection to these weak sections of the society.

## **Forest villages**

11. In March 1984 the then Ministry of Agriculture suggested to the state and UT governments that they should confer heritable and inalienable rights on dwellers of various villages in occupation of the land for more than 20 years. The Ministry of Environment and Forest (MoEF) in their order no. 13-1/90-FP(5) dated 18.9.1990 directed conversion of forest villages into revenue villages and conferment of heritable but inalienable rights on the dwellers. But subsequently, in the letter of 3 February 2004, the Ministry stated that few proposals had been received from the State Governments and, even of those received, many were either incomplete or defective. Though, earlier, there have been copious references to the figure of 5000 as the number of forest villages in the country, in this letter the Ministry mentioned the figure of 2690. Apart from forest villages, in the states of Andhra Pradesh and Karnataka, there are "forest enclosures". Whatever be the number and the nomenclature, there is the urgent need to convert them into revenue villages, enabling the forest dwellers to partake of the development benefits. In fact, the Tenth Five Year Plan document of the Planning Commission states that the 2.5 lakh tribal families living in these forest habitations continue to remain "as one of the weakest links in the process of tribal development".

12. Not uncommonly, forests in and around forest villages and forest enclosures are mostly denuded of forest growth and the total area involved for conversion into revenue villages may not be more than a few thousand acres. With conferment on their inhabitants heritable but inalienable rights over land, they should be able to receive attention from the various departments of the government for securing developmental benefits. More than ordinary attention would need to be devoted to them by all state functionaries.

13. Specific committees/authorities should be set up at the state and national levels for focusing attention on implementation and monitoring of the programme. The MoEF may consider taking a global view for issue of general order for conversion and connected arrangements.

## **Forest labour**

14. Utmost efforts should be made to organize forest labour cooperative societies of tribal workmen and steps should be taken to ensure their proper functioning.

15. There should be no breach of statutory minimum wage rate to be paid to the individual workmen in the forest. Any breach or breaches, even by the departmental officials, should lead to prosecution as provided in the laws.

## **Joint forest management programme**

16. A major problem in the area of joint forest management (JFM) is that though the village forest communities may be registered under the Societies Registration Act 1860, they have no legal and statutory basis and, further, their relationship with the Gram Sabhas and Panchayats is either vague or tenuous. In the Scheduled Areas, the difficulty is further compounded by the fact that the JFM does not take into account the Provisions of the Panchayats (Extension to the Scheduled Areas ) Act 1996. As per section 4(m)(ii) of this Act, the Gram Sabha and the Panchayat are to be endowed with ownership of minor forest produce by the state legislation. Opposing views over ownership of minor forest produce as belonging to the Forest Department and Panchayats/Gram Sabha have created confusion. Since JFM does not have statutory status, whereas PESA Act has, the JFM bodies should function within the canopy of the Panchayat system. The forest committee should function as one arm of the Panchayat.

17. The JFM committees should be converted into community forest management committees and devolved funds appropriately. The officials of the forest department should (a) function as their advisers and (b) monitor the programmes.

18. Institutionalization at the grass-root level has thrown up new challenges in inter-village and intra-village relations on the one hand, enhancing people's expectations on the other. Innovations are needed to address issues of equity (displacement, poverty and landlessness), conflict resolution (particularly inter-village, may be intra-village), social inclusion (women, tribal occupants of forest lands) etc. A pro-active balanced approach is required.

19. At the state level, a committee may be constituted in the Tribes Advisory Council comprised of ST representatives and experts, state level forest and administrative officials to look into all forestry issues.

**Minor forest produce or non-timber forest produce (MFP or NTFP)**

20. Dependence of a tribal family on MFP varies from region to region and has been estimated by different agencies up to 80%. For a majority of tribals it is a source of food, medicine, shelter and economy.

21. There is a pressing need to codify and consolidate the rights and privileges of tribespeople and assure the tribal communities access to domestic needs of poles, small timber, thatch grass, fire-wood, grazing, minor forest produce freely, as promised in the 1988 Forest Policy Resolution.

22. Proper arrangements should be made to enable tribal collectors of MFP so that they can sell it to primary cooperatives like LAMPS. The tribal primary societies should be linked to secondary bodies at the district level and/or state apex bodies like TDCs and FDCs. The state level bodies should be linked to TRIFED at the national level. This marketing network should have the basic objective of ensuring adequate remuneration to the tribal collector.

23. Needless nationalization of MFP should be eliminated and recourse to minimum price support mechanisms should be adopted to help marketing.

24. There is a dire need of first-processing of MFP like oil-seeds of forest origin, Vantulsi, lac, gums, resins, tassar cocoons etc. through cooperatives of primary collectors, effecting value-addition.

25. Relevant skills and trades like culling, barking, tapping of resins, storage of sal seeds, preparation of tamarind extracts etc. should be imparted to the tribals through ITIs and other training centers, a number of which should be established in tribal areas.

26. Post-harvesting operations like coppicing, thinning etc. having been neglected, production/collection have come down. MoEF may look into the matter.

27. Inventories of item-wise stocks of MFP species and medicinal flora do not appear to have been prepared. They should be maintained. At the same time,

drop in revenue accruals in respect of these items suggests depleting stocks. NTFP should be properly regenerated, harvested, processed and marketed for improving the economy of forest dwellers. The stocks of NTFP items should be increased through mixed forestry i.e. including species like fuel-wood, items of MFP, fruit, fodder, timber (for house construction, agricultural implements, domestic furniture) herbs etc.

### **Indian Forest Act**

28. Our overall comment in regard to the Indian Forest Act and the amendments proposed is that it is generally weighted against the tribals and contains certain provisions of colonial vintage and flavour which are sought to be fortified through the changes proposed. We have given our comments included in the remarks column of the statement contained in the Annexure herewith.

### **Indian Forest Act 1927 and PESA Act 1996**

29. In pursuance of the 73<sup>rd</sup> Constitutional amendment, for the Scheduled Areas the PESA Act 1996 confers powers on the Panchayats and Gram Sabhas, conforming to the spirit of democratic decentralization. On the contrary, the Indian Forest Act 1927 contains provisions which still smack of imperialist overtones. It should be clearly understood that the forest department is the custodian of forest on behalf of the people. Forest and tribals have a mutual symbiotic relationship and, as such, there has to be assonance between the provisions of the two laws. Since, the PESA Act relates to a segment of the population, namely the STs, who have unusual characteristics, the PESA Act applicable to them should be regarded as a special Act. In consequence, the provisions of the Indian Forest Act 1927 need to be harmonized with the provisions of the PESA Act 1996.

### **Forest (Conservation) Act 1980**

30. We endorse the objectives of the Act and are not in favour of its dilution to enable diversion of forest land for commercial or non-site specific activities. At the same time, we cannot help the thought that tribal development goals

should receive filip in every conceivable way. In their letter of 20.10.2003, the MoEF have issued guidelines conveying general approval under section 2 of the Act for under-ground laying of electric cables and wires to individual houses, drinking water supply/water pipelines etc. During the course of our tours, we found that development works like construction of tanks, check-dams, school buildings, health centers, approach roads, rural electric lines had been put in cold storage for want of clearance under the Act. Grant of permission in favour of such over-ground projects with a view to expediting them may be considered, analogous to relaxation permitted in the letter cited.

31. Similar relaxation is necessary in respect of Jhumia schemes, as in Tripura, resettlement of displaced families in case of Narmada project, Dalhi and Eksali lands in Maharashtra which, in any case hardly carry any vegetation.

32. MoEF may consider the applicability of the Act to only such forest areas which have been notified as forest under the provisions of the Indian Forest Act and the State Forest Acts.

33. State Governments may constitute expert committees to identify areas which are good forests irrespective of their having been notified, recognized or classified under any law, and irrespective of the ownership of such forest lands. This should compensate for land proposed by us to be set apart for the purposes mentioned in this chapter.

### **Wild Life (Protection) Act 1972**

34. Section 18A(2) of the Act is to the effect that, till such time as the rights of the affected persons are finally settled under section 19 to 24 (both inclusive), the State Government shall make alternative arrangements required for making available fuel, fodder and other forest produce to the persons affected, in terms of their rights as per the government records. It appears that, by and large, hardly any State Government has followed this statutory provision, adversely affecting the lives of millions of tribal people. The provisions of the Act should be followed in letter and spirit. Ad interim restrictions on collection of forest produce for bonafide use should be removed, except in relation to uncontrolled grazing which is damaging to both forest and wild-life habitat.

Limited removal of timber and collection of MFP not consumed by wild life is, in fact, likely to improve the health of the forest.

35. For villages being settled around protected areas, such package for income generation should be developed and implemented by the forest department, as is based on non-forest resources.

36. Some State Governments appointed Conservators of Forest as settlement officers under section 26 to determine the existence, nature and extent of the rights of any person in or over the land comprised within the limits of a sanctuary. Since the functions of settlement officers are quasi-judicial in nature, involving adjudication between people's rights and forest department's demands, appointment of a member of the forest department may be interpreted as tantamount to appointment of a partisan in the proceedings to the prejudice of the principles of natural justice.

#### **Forest education**

37. Both tribals and foresters need to understand and feel that they are partners in the management of forests, in consequence of which the mutual antagonistic feeling from their minds will disappear. This will be possible only when we impart courses of forest education specially tailored to bring home that objective, to not only the foresters but also policy-makers, legislators, administrators and tribal people. The syllabi of all ranks of forest officers should include empathetic tribal studies. All other subjects taught during the training period should place pointed emphasis on coverage of tribal development.

#### **Forestry Commission**

38. While we have been entrusted the responsibility of looking at all aspects of the scheduled tribe people of India, the National Forestry Commission appointed by MoEF in February 2003 is charged with the responsibility of reviewing the entire working of forest and wild life sectors. The span of attention that we have been able to give to forestry in the totality of tribal affairs is, therefore, no match for what the forestry commission can look at. We have attempted to envision a creative equilibrium between the human and



sylvan aspects. We look forward to the Forestry Commission making equitable and constructive recommendations.

### **Budget and funds availability**

39. As per the figures we have furnished in the text of this chapter, a fraction of the funds in the budget of the MoEF is allocated to natural forests management. It seems there is need for (a) enhanced outlays for forestry (b) appropriate prioritization within the MoEF outlays and (c) attracting fund availability from outside the MoEF, say from sources like NREP and JRY sources.

40. The State Forest Report 2001 identifies 187 districts in the country as tribal districts, forest cover in these districts constituting 60% of the total forest cover in the country, whereas the area of 187 tribal districts is about 33.6% of the geographical area of the country. Expanding the forest cover in these districts would reduce the land available to tribals, leading to further deprivation. On the other hand, the same report indicates that 26 million hectares of open forest have less than 40% crown density. These degraded forests, more so those which fall outside the tribal areas, should be afforested. With afforestation at the rate of a million hectares annually, it might take about 26 years for this work.

41. Various measures have been devised to offset the interface stresses and strains between the personnel of the forest staff and forest-dwellers. If run imaginatively, the forest management programme can contribute to reduction of tensions. Equally salutary will be induction of ST staff into forest department, making arrangements for their training at the different levels.

**Statement showing provisions of the Indian Forest Act 1927, Amendments proposed by Ministry of Environment and Forest and the comments of the Commission**

**INDIAN FOREST ACT, 2003**

<b>Section</b>	<b>Indian Forest Act, 1927</b>	<b>Proposed amendment</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
	<b>INDIAN FOREST ACT 1927</b>	<b>THE INDIAN FOREST ACT, 2003</b>	
	<p><b>Preamble:</b> An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.</p> <p>WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce; it is hereby enacted as follows:-</p>	<p><b>Preamble:</b> An Act to provide for the restoration, conservation and management of forests and matters connected therewith and incidental thereto.</p> <p>WHEREAS it is imperative and expedient to conserve forests to ensure environmental well being and stability, preserve natural heritage, augment and safeguard biodiversity and fulfill the basic needs of the people on the principles of sound ecological management and sustained bio-mass production on a long term basis, as well as to revive and restore degraded forests and to deal with all matters connected therewith or ancillary or incidental thereto, and to consolidate the law relating to the subject and to provide a comprehensive and uniform forest legislation in the country, and to</p>	<p>In the original amendments proposed by the Ministry of Environment and Forest (MoEF), the words “enlist people’s participation on usufruct sharing basis” had been added after “bio-diversity”. The Ministry of Tribal Affairs (MoTA) had proposed adding words “people tribals living in and around forest in conservation, management and development of forests” for the word “basis”. Both these clauses are missing from the present amendment. These are important provisions and need to be added. Failing, the Forest Departments will acquire heavier technical orientation than hitherto and move further away from the human orientation.</p>

		implement the pronouncements made in the National Forest Policy, 1988.	
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Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		Be it enacted in the year by the Parliament of the Republic of India as follows:	

## CHAPTER I

### PRELIMINARY

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
<b>1</b>	<b>Short title and extent.</b>	<b>Short title and extent.</b>	
(1)	This Act may be called the Indian Forest Act, 1927.	This Act may be called the Indian Forest Act, 2003.	
(2)	It extends to the whole of India except the territories which immediately before the 1 <sup>st</sup> November, 1956, were comprised in part B States.	It extends to the whole of India, except the state of Jammu & Kashmir.	
(3)	It applies to the territories, which, immediately before 1 <sup>st</sup> November, 1956, were comprised in the State of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal; but	It shall come into force with effect from ..... It shall be special act within meaning of section (5) of Criminal Procedure Code.	The amendment for making Indian Forest Act "a special Act" within the meaning of section 5 of the Indian Penal Code and section 5 of the CrPC has relevance in regard to the "Provisions of Panchayats (Extension to the Scheduled Areas) Act 1996". The Commisison has held that the PESA Act is a special Act since it has application only to Scheduled Areas

	the Government of any State may by notification in the Official Gazette bring this Act into force in the whole or any specified part of that State to which this Act extends and where it is not in force.		and Scheduled Tribes and since so far IFA, 1927 has not been declared a special act, the provisions of the PESA Act should prevail over those of IFA where necessary. Should the IFA be legally accepted as a special law, its provisions will prevail over those of the PESA Act taking away the force of the PESA Act. We have two options before us. One, to suggest deletion of special act from the amendment and alternatively, to move for declaring PESA Act also as special act.
2	<b>Interpretation Clause</b>  In this Act, unless there is anything repugnant in the subject or context,-	<b>Interpretation Clause</b>  In this Act, unless there is anything repugnant in the subject or context,-	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(1)		“biomass” (in respect to plant species) means the total mass or weight of an individual species, a group of species or of a community as a whole, per unit area or habitat volume.	
(2)	“cattle” includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;	“cattle” includes buffaloes, bulls, bullocks, cows, oxen and other livestock such as camels, domesticated elephants, donkeys, goats, horses, mares, mithuns, mules, pigs, sheep, yaks and also their	

(3)		young;	
(4)		<p>“claimant” in respect of any land means a person, claiming to be entitled to the land or any other interest therein acquired, owned, settled or possessed or purported to have been acquired, owned, settled or possessed whether under, through or by any lease or license under and in accordance with any provision or any enactment.</p> <p>“community” is a group of persons specified on the basis of revenue records living in a specific locality and in joint possession and enjoyment of common property resources, without regard to race, religion, caste, language and culture.</p>	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(5)		“degraded forest” includes a tract of land covered with trees or woody vegetation of natural growth or planted, having crown density less than 40%, or blanks.	The word “includes” creates the impression that “degraded forest” is meant to imply a tract larger than that covered with trees or woody vegetation of natural growth or planted, having crown density less than 40%. Such non-specific definition leads to questions about intention behind it. If the intention is clear, the word “includes” should be substituted by the word “means”.
(6)		“Divisional Forest-officer” means any Deputy Conservator of forests in charge of any forest Division or a Deputy Conservator of forest having jurisdiction over a portion or portions of any such	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(8)	“forest-offence” means an offence punishable under this Act or under any rule made thereunder;		
(9)	“Forest-officer” means any person whom the State Government or any officer empowered by the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made there under to be done by a Forest-officer,	“Forest-officer” means any person whom the Central or the State Government or any officer empowered by the Central or the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made there under, to be done by a Forest-officer;	
(10)	“forest-produce” includes –  the following whether found in, or brought from, a forest or not, that is to say:-	“forest-produce” includes –  the following whether found in, or brought from a forest or not, that is to say:-	The definition of forest produce should include ‘bamboo’, cane and brush-wood also.
(a)	timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolams, and	timber, sawnwood, wood-veneer, charcoal, sandalwood, red sanders wood, caoutchouc, catechu, wood-oil, gum, resin, natural varnish, mahua flowers, mahua seeds, kuth, sal-seed, tendu leaves, wild animals, wildlife as defined under the Wildlife (protection) Act, 1972 and products derived there from, and	
(b)	the following when found in, or brought		

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
(22)		"saw pit" means a place where wood is sawn by manually operated saws;	
(23)		"state government" in relation to a Union Territory means the Administrator of the Union Territory appointed by the President of India under Article 239 of the Constitution.	
(24)		"shifting cultivation" means cultivation of forest land by Adivasis/Tribals for a time interval after the clearing of bushes and trees. (The tribal shall be a notified tribes as per State/Central Government notification).	In the definition of "shifting cultivation", it has been shown to be undertaken by Adivasis/Tribals. Since forest-dwellers, including non-tribals, engage themselves in it, the definition should refer to forest-dwellers and not merely adivasis/tribals.
(25)	"timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and	"timber" includes trees when they have fallen or have been felled or uprooted and all wood whether cut up, sawn, sliced, veneered, split, fashioned or hollowed out or partially processed for any purpose or not;	
(26)	"tree" includes palms, bamboos, stumps, brush- wood and canes.	"tree" includes palms, bamboos, reeds, canes, stumps, brush- wood;	
(27)		"usufruct" means forest produce that may be obtained from dead plants, or the produce of harvested from living plants including grasses, sedges, forbes, herbs, creepers, vines, shrubs and wood, without uprooting, felling, coppicing.	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
<p>4(2)</p> <p>4 (3)</p> <p>4(4)</p>	<p>shall be sufficient to describe the limits of the land by roads, rivers, ridges, or other well-known or readily intelligible boundaries.</p> <p>The officer appointed under clause (c) of sub-section (1) shall ordinarily be a not holding any forest-office except of Forest Settlement-officer.</p> <p>Nothing in this section shall prevent the State Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.</p>	<p>A Forest-officer hereafter called "presenting officer", not below the rank of Ranger, as authorized in this behalf by the Divisional Forest Officer, may represent the Forest Department at enquiries conducted under this Chapter.</p>	<p>This is a new provision. We propose that a similar right should be available to a claimant as defined in section 1(3) as otherwise, it is likely to prejudice the claimant's case. It should be remembered that the claimants would, generally, be persons who may not be well-versed in administrative and legal matters.</p>
<p>5.</p> <p>(1) (a)</p>	<p><b>Bar on accrual of forest rights.</b></p> <p>After the issue of a notification under section 4,</p>	<p><b>Bar on accrual of forest rights.</b></p> <p>After the issue of a notification under section 4,</p>	<p>Ministry of Tribal Affairs has suggested that the right of ownership over NTFP (MFP) endowed on Panchayats and Gram Sabhas by the state legislatures should not be subject to bar. This is in keeping with the letter and spirit of the PESA Act 1996. We support the amendment of the MoTA.</p>



Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
(3)		<p>granted by or on behalf of the State Government; nor any lease be granted except in accordance with the rules made in this behalf by the State Government.</p> <p>Save as otherwise provided in this Act, no Civil Court shall between the dates of publication of the notification under section 4 and of the notification to be issued under section 20, entertain any suit to establish any right in or over any land or to the forest produce from any land, included in the notification published under section 4.</p>	
6.  (a)  (b)	<p><b>Proclamation by Forest Settlement-officer</b></p> <p>When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein a proclamation ---</p> <p>specifying, as nearly as possible, the situation and limits of the</p>		<p>The present section 6 relating to proclamation by the Forest Settlement Officer in pursuance of notification under section 4, should make it obligatory that all means should be deployed to ensure that the proclamation reaches all concerned. This is important, as it has been found that reservation proceedings have been continued after the proclamation was issued, though the tribals and forest dwellers remained ignorant of it. This was the case in the Gadchiroli district and adjoining forests as well as others. The means for communicating the proclamation should be such as have been traditionally in vogue in the</p>

proposed forest; explaining the consequences which, as hereinafter provided, will ensue on the reservation of such	concerned area, apart from publication in local vernacular.
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Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
c)	fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.	fixing a period of not less than three months and not more than six months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.	
7.	<b>Inquiry by Forest Settlement-officer</b>  The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights	<b>Inquiry by Forest Settlement-officer</b>  The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable	Since the presenting officer who will be the representative of the forest department is being specifically mentioned to present the departmental case, it is equally important that the facility should be given to the claimant to advance his case either by himself and/or through others he may wish to associate. For this purpose, after the word "section 6" the words "giving full opportunity to the claimant or claimants" may be added.

<p>mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.</p>	<p>from the records of Government and the evidence of any persons likely to be acquainted with the same, including the presenting officer.</p>	
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Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
<p>8.</p> <p>8(a)</p> <p>(b)</p>	<p><b>Powers of Forest Settlement-officer</b></p> <p>For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:-</p> <p>power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and</p> <p>the power of a Civil Court in the trial of suits.</p>		<p>Section 8(b) allows the Forest Settlement Officer the powers of civil court in the trial of suits. In the context of tribal areas, including Scheduled Areas, it needs to be kept in view that the tribals and other forest-dwellers are mostly unlettered, ignorant persons and the merest legal step, but particularly legal coercive processes, intimidate them. Hence, simple procedures should be devised and those which are likely to lend handle to the power staff to brow-beat them should be excluded. Incidentally, even the Land Acquisition Act 1894 does not confer powers of a civil court on the District Collector. There is no reason why the IFA should include it.</p>
9.	<p><b>Extinction of rights.</b></p> <p>Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been</p>		

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(10).	<p><b>Treatment of claims relating to practice of shifting cultivation.</b></p> <p>(1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.</p> <p>(a)</p> <p>(b)</p>	<p><b>Treatment of claims relating to practice of shifting cultivation.</b></p> <p>In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall -----</p> <p>entertain claims to the practice of shifting cultivation in the manner herein after provided whenever, after hearing the presenting officer and making such enquiries as may be deemed necessary, he is satisfied that the practice of shifting cultivation as claimed had been in existence on a regular basis in the land during preceding twenty years from the date of notification under section 4.</p> <p>record a statement setting forth the particulars of the claims and of any local rule or order under which the practice is allowed or regulated, and</p>	<p>It is a loaded amendment. We feel that the amendment proposed in this section relating to shifting cultivation is unrealistic. We are not opposed to shifting cultivation being replaced by a less harmful and more viable occupation. The proposed amendment gives impression that the existing livelihood of Jhumias should be closed down and alternative "to be provided in consultation with Reviewing Authorities for rehabilitating the families practicing shifting cultivation". It should be recognized that this is not a proposition which can be implemented through fiats. We are aware of the plight of lakhs of ST families displaced on account of various development projects. It is difficult to cite even a small number of successful rehabilitation projects, making us skeptical about the provision being included here. The Ministry of Agriculture has been conducting some projects to wean shifting cultivators, persuading them to take to settled cultivation. MoEF may look into these projects. We are not in favour of the amendment proposed, not even the existing provision. We object to the replacement of the term "privilege" by "concession".</p>

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
12.	<p><b>Order on claims to rights of pasture or to forest-produce</b></p> <p>In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.</p>	<p><b>Order on claims to rights of pasture or to forest-produce</b></p> <p>In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part, after considering the viewpoint of the presenting officer, or the Divisional Forest Officer, provided that the Forest Settlement-officer shall not admit any claim, in whole or in part, unless after considering the evidence provided to him under section 7, he is satisfied that such claim is within the carrying capacity of the forest.</p>	<p>The PESA Act 1996 confers ownership of minor forest produce on the Panchayats and Gram Sabhas. In such event, how the Forest Settlement Officer can pass an order admitting or rejecting a claim to MFP, is not understood. Evidently the PESA Act should prevail.</p>
13.	<p><b>Record to be made by Forest Settlement-officer</b></p> <p>The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable, --</p>		

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
14 (a)		in case of a right of way, by whom they may be enjoyed, the width of the way, and whether for vehicular traffic or for persons and cattle only, and the conditions, if any, attached to such right;	
14 (b)		in case of the right of pasturage, the number and description of cattle which the claimant is, from time to time, entitled to graze in the forest, the season during which such pasturage is permitted, and any conditions attached to such right;	
14 (c)		in case of forest-produce, the quantity of timber or other forest-produce, which the claimant is, from time to time, authorized to take or receive, and whether or not such forest-produce other than timber or firewood may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incident and extent of the right and manner in which the forest-produce shall be remove; and	Our comments above hold
14 (d)		in case of water-course, by whom and for what purpose the water-course may be utilized and any condition attached to its use.	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
15	<p><b>Exercise of rights admitted</b></p> <p>(1) After making such record Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.</p> <p>(2) For this purpose the Forest Settlement-officer may-</p> <p>(a) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purpose of such claimants, and record an order conferring upon them a right of pasture or to forest- produce (as the case may be) to the extent so admitted; or</p> <p>(b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purpose of the claimants; or</p>	<p>subject to sub-section (3) of this section, record an order, continuing to such claimants a right of</p>	<p>Our comments above hold</p>





Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
19.	<p><b>Pleaders</b></p> <p>The State Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.</p>		
20.	<p><b>Notification declaring forest reserved</b></p> <p>(1) When the following events have occurred, namely:-</p> <p>(a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer;</p> <p>(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have</p>	<p>if the period prescribed under sub-section (3) of section 10 for extinguishing the practice of shifting</p>	<p>We have not agreed to the provision under section 10 and, hence, we do not agree to the provision here.</p>



Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		maps. After notification, such forest/land shall be deemed as recorded as reserved forest in revenue records for all the purposes.	
21	<p><b>Publication of translation of such notification in neighbourhood of forest.</b></p> <p>The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.</p>	<p><b>Publication of translation of such notification in neighbourhood of forest.</b></p> <p>The Divisional Forest-officer shall before the date specified in the notification issued under section 20, cause a translation thereof into the local vernacular to be published at a conspicuous place in every town and village in the neighbourhood of the reserved forest.</p>	<p>The dissemination should be undertaken not only through publication in local vernacular, but also through traditional methods like drum-beating, as most of the forest-dwellers are un-lettered or inadequately educated.</p>
22	<p><b>Power to revise arrangement made under section 15 or section 18.</b></p> <p>The State Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify and order made under section 15 or section 18, and direct that any one of the proceeding specified in section 15 to be taken in lieu of</p>		

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
23	<p><b>No right acquired over reserved forest, except as here provided.</b></p> <p>No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued.</p>	<p><b>No right acquired over reserved forest, except as here provided.</b></p> <p>No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or by, or on behalf of some person in whom such right vested when the notification under section 20 was published, or by succession from such person;</p> <p>Provided that no lease shall be granted by the State Government for any land included within the reserved forest without the prior approval of the Central Government. Every lease granted without such approval shall be null and void.</p>	<p>The right of ownership over MFP conferred on the Panchayats and Gram Sabhas should continue to be vested after the section 23 notification.</p>
24 (1)	<p><b>Rights not to be alienated without sanction.</b></p> <p>Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the State</p>	<p><b>Rights not to be alienated without sanction.</b></p> <p>Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the State Government. However, inheritance of such rights shall</p>	<p>Our comments against section 23 are relevant here.</p>

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
26	<p><b>Acts prohibited in such forests</b></p> <p>(1) Any person who –</p> <p>(a) makes any fresh clearing prohibited by section 5, or</p> <p>(b) sets fire to a reserved forest, or, in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;</p> <p>(c) or who, in a reserved forest –</p> <p>(d) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;</p> <p>(e) trespasses or pastures cattle, or permits cattle to trespass;</p> <p>causes any damage by negligence in felling any tree or cutting or dragging any timber;</p>	<p><b>Acts prohibited in such forests</b></p> <p>Any person who –</p> <p>contravenes the provision of clause (b) or clause (c) of sub-section (1), and sub-section (2) of section 5; or</p> <p>causes any damage by negligence in felling any tree or cutting, or dragging, or removal of any timber; or</p>	<p>According to section 4(a) of the PESA Act 1996, no law shall be made which is inconsistent with the customary law, social and religious practices and traditional management practices of community resources. In fact, customary and other revenue rights enjoyed by the tribal as per this Act, Schedule Area Regulation and other Acts will have to be respected. We suggest that actions in conformity with these and customary laws should not be prohibited under section 26.</p>

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(b)	the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government under section 23.		
(3)	Whenever fire is caused willfully or by gross negligence in a reserved forest, the State Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.	Whenever fire is caused willfully or by gross negligence in a reserved forest, or theft of forest produce or grazing by cattle occur on such a scale as to imperil the regeneration and future yield of such forest, the State Government may (notwithstanding that any penalty has been inflicted under section 78) direct that in such forest or any portion thereof, the exercise of all rights of pasture or to forest-produce shall be suspended for such a period as it may thinks fit.	
26. (4)		Where a person contravenes the provisions of clause (a), clause (g) or clause (h) of sub-section (1), without prejudice to any other action that may be taken against him under other provisions of this Act, a Forest Officer not below the rank of a Ranger, or a Police-officer not below the rank of a Sub-Inspector, or a	Such powers have not been conferred elsewhere on Tehsildars and Sub-Inspectors of Police and should not, therefore, be conferred on the forest rangers. The procedure for eviction should be subject to the existing civil laws governing the eviction. Grant of such powers to the level of officers mentioned is likely to be misused. In fact, it is a common experience for tribals to be driven out, sometimes unlawfully, of their forest abode by forest rangers.



		all exploitation by the State Government, of the area in question till such time as the direction of the Central Government are carried out. Anyone who violates such directions or abets in violation of the same shall be liable for punishment as contained in section 78.	
28.A		<p><b>Certain forest deemed to be reserved forest</b></p> <p>The forest areas which have previously been declared as reserved forests under any Act shall</p>	A rider should be added that the Panchayats and Gram Sabhas shall continue to have the right of ownership over minor forest produce originating from such forests.

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		be deemed to have been declared as reserved forests under this Act with effect from the date of coming into force of this Act.	

**CHAPTER III  
OF PROTECTED FORESTS**

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
29.	<b>Protected Forests</b>	<b>Protected Forests</b>	
(1). (a)	The State Government may, by notification in the Official Gazette, declare the provisions of	The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter	



Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
(c)	prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.	prohibit, from a date fixed as aforesaid, the quarrying of any major or minor mineral, quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such protected forest.	
31	<p><b>Publication of translation of such notification in neighbourhood.</b></p> <p>The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.</p>	<p><b>Publication of translation of such notification in neighbourhood.</b></p> <p>The Collector or any other officer authorized by the State Government shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.</p>	Apart from publication in local vernacular of the notification, traditional methods of its dissemination should be employed.
32  (a)	<p><b>Power to make rules for protected forests.</b></p> <p>The State Government may make rules to regulate the following matters, namely:- The cutting, sawing, conversion and removal</p>		State Governments may frame rules in consultation with Panchayats in view of provisions of the PESA Act 1996.

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
(2)	Whenever fire is caused willfully or by gross negligence in a protected forest, the State Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.	Whenever fire is caused willfully or by gross negligence in a protected forest, or theft of forest produce or grazing of cattle occurs on such a scale to be likely to imperil the future yield of such forest, the State Government may (notwithstanding that any penalty has been inflicted under section 78) direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it may deem fit.	
(3)		Where a person contravenes the provision of clause (b) or (c) or (h) of sub-section (1), without prejudice to any other action that may be taken against such person under the provisions of this Act, a Forest-officer not below the rank of a Ranger; or a Revenue-officer not below the rank of a Tehsildar, may evict the person from the forest or the land, pertaining to which the contravention has taken place and remove any building or other construction or anything grown or deposited on it.	While we appreciate that prompt action may be necessary in case of willful offences like those listed in sub-section (1), as we have observed before, summary action by officers of the rank of Ranger and Tehsildar for eviction may be arbitrary and high-handed. There are civil laws relating to the question of eviction, as we have mentioned before and these should be brought into play.
(4)		Where any agricultural or other crop is grown on the land in contravention of clause (c) of sub-section (1) or any building or other structure is set	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		<p>Every ten years, shall review as which of the protected forests notified under section 29 need to be constituted as reserved forests and forward his recommendations in this regard to the State Government. On receipt of such a proposal, the State Government, within a period of six months, shall direct either to start proceedings as per the provisions of Chapter II for constituting a reserved forest in such protected forest or part thereof as deemed fit, or direct the Head of the Forest Department of the State concerned to review his proposal, in respect of such protected forest or part thereof as may be considered necessary, and record the reasons therefore, or decide not to proceed according to such recommendation for the reasons to be recorded in this respect;</p> <p>provided that whenever the State Government disagrees with the recommendations of the Head of the Forest Department, in whole or in part, the reasons therefore shall be forwarded to the Central Government.</p>	
34.A.		<b>Certain forest deemed to be protected forest.</b>	After the word "person", the words "and community" may be added, since in tribal areas, rights are held not only by persons but also by communities.

**CHAPTER IV  
OF VILLAGE FORESTS**

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
34.B  1(a)	<b>28. Formation of village forests</b>  The State Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.	<b>Formation of village forests</b>  Notwithstanding anything contained in any other Act, rules or regulations, whenever the State Government consider that any forest or land, other than a reserved forest notified under Chapter II of this Act, which is the property of the Government or over which the Government has proprietary right or any Panchayat land or any land at the disposal of village community or over which the village community has access by way of any right, concession, or privilege, needs to be constituted as village forest with a view to assign to village community its conservation, development and management on the principles of sustained bio-mass production for the collective benefit of the said village community;  the State Government or any officer authorized by it on this behalf, may constitute, by a notification in the Official Gazette, such land as village forest, and manage it in the manner herein after provided.	The provision for constituting village forest precludes reserved forest, but does not preclude protected forest. It is not clear whether this is intentional and, if so, what the reason behind it is. Secondly, in sub-section 1(b), the representation is sought to be given to "Gram Sabha or any other local body such as village forest committee constituted under section 80(b) of this Act". As far as we can see, a village forest committee is merely a subject-matter committee and cannot be expected to take a holistic view, which only a Gram Sabha is in a position to do. Hence, we recommend that representation be confined to Gram Sabha. The Gram Sabha may constitute a Village Forest Committee as one of its subject matter committees. So far as clause (f) is concerned, as reiterated earlier, the Gram Sabha and the Panchayat have been conferred ownership of minor forest produce as per section 4(m)(i) of the PESA Act. The clause should be amended accordingly. Reference sub-section (3), the State Government may consult Panchayats in the matter. Reference section 6, the eviction proceedings should not be arbitrary, but should be in conformity of the concerned laws.

**CHAPTER IV A**  
**CONTROL OF SHIFTING CULTIVATION OVER FOREST LANDS**

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
<p><b>34.C</b></p> <p>(1)</p> <p>(2)</p>		<p><b>Procedure to control the practice of shifting cultivation.</b></p> <p>The Central Government, under the powers vested in sub-section (1) and (2) of section 76 of this Act shall, by notification, constitute an authority of experts in order to study in depth the practice of shifting cultivation over forest areas.</p> <p>The authority constituted under sub-section (1), shall go through all the reports available on the shifting cultivation and based on it make specific studies of the prevalent methods of shifting cultivation of the practice on merit within one year from the date of appointment of the authority or such time as specified by the Central Government. it shall also recommend the restrictions on the practice for its continuance, wherever necessary, including the areas where the shifting cultivators have switched over to settled cultivation.</p>	<p>This is a new chapter on shifting cultivation. Section 10 in the present Act as well as in the amended form here deals with shifting cultivation. We have given our comments above in the matter. As far as can be seen, the provisions being suggested in the new chapter relate to policy matter, having little relevance to regulatory provision. Moreover, as we have pointed out above, and in our report, shifting cultivation continues to be a widely-held practice by millions of Jhumias. Little purpose will be served by converting a popular method into a regulatory subject. Replacement of shifting cultivation by modes, wherever feasible, has been taking place. In certain not un-common topographic-climatic-edaphic situations, alternatives are not available and the force of law may make little sense there.</p>

**CHAPTER V**  
**OF THE CONSERVATION OF FORESTS AND LANDS NOT BEING**  
**THE PROPERTY OF GOVERNMENT**

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
35	<p><b>OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT</b></p> <p><b>Protection of forests for special purposes.</b></p> <p>The State Government may, by notification in the Official Gazette, regulate or prohibit in any forest or waste-land ---</p> <p>(a)</p> <p>(b) the breaking up or clearing of land for cultivation;</p> <p>(c) the pasturing of cattle; or</p> <p>the firing or clearing of the vegetation;</p> <p>when such regulation or prohibition appears necessary for</p>	<p><b>OF THE CONSERVATION OF FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT</b></p> <p><b>Conservation of forests and lands not owned by Government.</b></p> <p>The State Government may, by notification in the Official Gazette, regulate or prohibit in any forest or land not being the property of such government or over which it has no proprietary rights.</p> <p>the breaking up or clearing of land for cultivation or any other purpose;</p> <p>the pasturing of cattle; or</p> <p>setting fire to vegetation; clear felling or over-exploitation which endangers such forest or land;</p> <p>when such regulation or prohibition appears necessary for any of the following purposes:-</p>	<p>The penalties proposed under section 78 for contravention as per sub-section (1) seem far-fetched, as such contraventions have been conceived to be on land not belonging to government.</p>



**CHAPTER IX -PROCEDURES FOR DEALING WITH FOREST OFFENCES**

Section	Indian Forest Act, 1927	Indian Forest Act, 1927	Remarks
1	2	3	4
52.	<p><b>Penalties and Procedure.</b></p> <p><b>Seizure of property liable to confiscation</b></p> <p>When there is reason to believe that a forest offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle in committing any such offence, may be seized by any Forest-officer or Police-officer.</p> <p>Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.</p>	<p><b>Penalties and Procedure.</b></p> <p><b>Seizure of property liable to confiscation</b></p> <p>When there is reason to believe that a forest offence has been committed in respect of any forest produce, such forest produce, together with all tools, ropes, chains, boats, vehicles, cattle, plants, machinery, equipments, weapon and any other article used in committing such offence, as may be seized by Forest-officer, Police officer or Revenue officer.</p> <p>Provided when seizure is made by a Police officer or Revenue officer, he shall hand over to the concern forest officer for initiation of confiscation under this act.</p> <p>Every officer seizing any property under this section shall place a mark and assign a number indicating that the same has been seized as soon as possible but not exceeding 24 hours, shall produce the property before the forest officer not below the rank of Assistant Conservator of Forest authorized by the State Government in this behalf by the notification (hereinafter referred as authorized officer) and the arrested person in the case alone shall be produced before the Magistrate for launching criminal proceeding immediately.</p>	<p>(Sections 52,52A, 52C, 52E)</p> <p>The seizure cost should be subject to grazing and usufructuary rights enjoyed under various customary rights, revenue and other acts, PESA etc. Appeal and bar to jurisdiction of court etc. need harmonization with the provisions existing in civil, criminal, revenue legislations impacting on scheduled tribes.</p>



Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		Provided that where a report is made to the Magistrate of the property seized under section 52, the officer so empowered, shall not release the property without the consent in writing of such Magistrate.	
62 (1)  (2)	<p><b>Punishment for wrongful seizure.</b></p> <p>Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.</p>	<p><b>Punishment for wrongful seizure or arrest.</b></p> <p>Any officer exercising powers under this Act who vexatiously and unnecessarily seizes the property on pretence of seizing property liable to confiscation under this Act, or who vexatiously and unnecessarily arrests any person, shall be liable to punishment prescribed in section 78.</p> <p>Any fine so imposed, or any portion thereof, shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.</p>	At present any Forest Officer or Police Officer who vexatiously and un-necessarily seizes any property on pretence of seizing property liable to confiscation is punishable with imprisonment for term which may extend to six months or with fine which may be up to five hundred rupees or with both. In the amendment, the imprisonment indicated in section 78 has been reduced to one month or fine which may be up to three thousand rupees, or both. In our experience, the power under consideration has been exercised against tribals vexatiously quite often. There is a case for severer punishment and not its reduction.
63	<p><b>Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.</b></p> <p>Whoever, with intent to cause damage or injury to the public or to any person, or to cause</p>	<p><b>Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks and for encroachment</b></p> <p>Whoever, with intent to cause damage or injury to the public or to any person, or to cause</p>	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
		<p>part of forest or land to which the provisions of this Act are applied;</p> <p>shall be liable to punishment prescribed in section 78.</p>	
<p><b>64</b></p> <p>(1)</p> <p>(a)</p> <p>(b)</p>	<p><b>Power to arrest without warrant.</b></p> <p>Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest offence punishable with imprisonment for one month or upwards.</p>	<p><b>Power to arrest without warrant.</b></p> <p>Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest punishable with imprisonment for one month or upwards. Further, arrest be made in following situation also,</p> <p>any person, if the officer, knows or has reason to believe that such person is committing or has committed any forest offence or if a reasonable suspicion exists against such person of his having been concerned in any forest offences;</p> <p>any person who obstructs such officer in the execution of his duty under this act, or who has escaped or attempts to escape from custody in</p>	<p>This is an unjustifiable provision in the Act. It has been misused widely. Arrest on the basis of suspicion by a Forest Officer or a Police Officer is against norms of liberty under Article 21 of the Constitution. The present occasion offers the right opportunity to consider this section fully for bringing it in line with not only democratic norms and women's rights but also other laws. The involvement of people's bodies like the Gram Sabha and Panchayats in prevention and apprehension of offences is likely to help. Serious consideration needs to be directed towards the question whether the powers of the officer incharge of the police station may be vested under a Forest Ranger. Further, the Forester's area or jurisdiction may not always be co-terminus with police station. As a result unexpected and harmful ramifications may ensue in the day-to-day lives of scheduled tribes.</p>

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(3)		<p>to commit the offence or to carry or transport or conceal or keep the forest-produce.</p> <p>No prosecution against any officer for any act purporting to be done under the preceding sub-sections shall be instituted in any criminal court except with the prior sanction of the State Government.</p> <p>Provided that such sanction for prosecution shall not be accorded by the State Government unless an inquiry by a Executive Magistrate is got conducted for the alleged wrong done or excess committed.</p> <p>Notwithstanding anything contained in any other law in force, no Forest-officer acting under the preceding sub-section in good faith, or doing any act in obedience to any order which he was bound to obey; shall be deemed to have thereby committed an offence.</p>	
66.A		<p><b>Power of entry and search.</b></p> <p>Any Forest-officer not below the rank of an Assistant Conservator of forests, when he has reason to believe that an offence</p>	<p>When a Police Office enters or searches a place, the procedure prescribed in the Cr.PC is followed. An entry in the Station Diary is made before leaving for such searches. If almost parallel police stations are allowed to</p>

		<p>under this Act has been committed, or is being or is likely to be committed, he or an officer duty empowered by him may inform the Village Panchayat or Gram Sabha and may-</p>	<p>be worked in an around forest areas with forester having powers of officer in charge of a Police Station, that too dealing with offences not necessarily related to only the reserved or protected forests but also to all classes of forests and forest land that may even not be owned by government, special protection needs to be provided to tribals living in and around forests. The statements and evidence recorded by the Police Officers are, as such, not admissible in the trial before a Magistrate without being corroborated. However, the evidence recorded before the forest officers are proposed to be admissible as evidence before the trial court whereas the officers even upto the rank of Ranger are not being treated as police officer.</p>
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**CHAPTER XI  
OF FOREST-OFFICERS**

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
72	<p><b>State Government may invest Forest-officer with certain powers.</b></p> <p>(1) The State Government may invest any Forest-officer with all or any of the following powers, that is to say:-</p> <p>(a) power to enter upon any land and to survey, demarcate and make a map of the same;</p> <p>(b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;</p> <p>(c) power to issue a search warrant under the Code of Criminal Procedure, 1898; and</p> <p>(d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.</p>	<p><b>Investing Forest-officer with certain powers.</b></p> <p>Forest-officer not below the rank of a Ranger shall have the following powers, that is to say:-</p> <p>power to enter upon any land and to survey, demarcate and make a map of the same;</p> <p>power to hold an inquiry into forest offences, and, in the course of such inquiry, to receive and record evidence;</p>	<p>Powers of Civil Court are not even vested in the Officer Incharge of Police Station or District Superintendent of Police.</p> <p>The functions of executive and judiciary have been separated to ensure delivery of fair and impartial justice. Various provisions of the proposed Act tend to overlap with judicial functions, that too in the authority that exercises executive powers.</p>

**CHAPTER XII  
POWER OF GOVERNMENT**

Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
76	<p><b>SUBSIDIARY RULES</b></p> <p><b>(1) Additional power to make rules.</b></p> <p>The State Government may make rules –</p> <p>(a) to prescribe and limit the powers and duties of any Forest-officer under this Act;</p> <p><b>(2)</b> (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;</p> <p>(c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and</p> <p>(d) generally, to carry out the provisions of this Act.</p>	<p><b>Power of the Central Government</b></p> <p><b>Power of Central Government to take measures for protection and improvement of forests.</b></p> <p>Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the protection and improvement of the quality of the forests and abating the forest degradation in any land defined as forest.</p> <p><b>Power to constitute an authority.</b></p> <p>The Central Government may, if it considers it necessary or expedient so to do for the purpose of this Act, by order, publish in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions of the Central Government under this Act and for taking measures with respect</p>	<p>(Sections 76 and 76A)</p> <p>In making rules, the comments we have made on different subjects above should be taken into consideration.</p>

<p><b>80.B</b></p> <p>(1)</p>		<p><b>Management of degraded forests or wastelands jointly by the Government and the local body.</b></p> <p>The State Government may, by notification in the Official Gazette, adopt the practice of joint management by the Government and the local body such as the Village Forest Committee (VFC), of degraded forests and wastelands classified as reserved, or protected or village forests or any other class of forest/wasteland or lands notified under section 80.A of this Act.</p>	<p>After the words "such as", and after the words "the Village forest Committee" the words "Gram Sabha and / or Panchayat" may be added.</p>
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Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
<p>80B</p> <p>(2)</p> <p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p>		<p>The State Government may provide for the constitution of the Village Forest Committee (VFC) for participatory or Joint Forest Management (JFM) of the degraded forests or wastelands described in Sub-Section (1) and provide for :</p> <p>their constitution and registration, by Registration-officer,</p> <p>the composition, tenure, powers, duties, and responsibilities of the Village Forest Committee,</p> <p>the conduct of election to the Committee,</p>	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(b)  (c)		as to the person liable to pay such sum;  the question shall be preferred to, and after giving notice to the person concerned and after considering his objection (if any), be decided by an officer not below the rank of the Conservator of forests authorized by the State Government in this behalf and his decision shall be final.	
85.A	<p><b>Saving for rights of Central Government .</b></p> <p>Nothing in this Act shall authorize a Government of any state to make any order or do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government or the Government of any other State without the consent of the Government concerned.</p>		
86  (1)	<p><b>Repeal by the Repealing and Amending Act. 1947 (2 of 1948), s.2 and Sch.</b></p> <p>THE SCHEDULE – [Enactment replaced.] Rep. by s.2</p>	<p><b>Repeal of earlier enactments and provisions/processes of those enactment to be retained.</b></p> <p>As from the commencement of this Act, every other Act relating to any matter</p>	<p>It should be clarified that the legislative acts relating to Panchayats such as the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996 shall prevail.</p>





Section 1	Indian Forest Act, 1927 2	Proposed amendment 3	Remarks 4
(v)		(e) Ministry of Industry;	
(vi)		(f) Ministry of Science and Technology;	
(vii)		(g) Ministry of Tribal Affairs	
(viii)		Deputy Chairman Planning Commission;	
(ix)		Forest Ministers of all the State as members;	
89.2-		Lt. Governor/Administrate of all Union Territories;	
(x)		Three members representing the Parliament – two from the Lok Sabha and one from the Rajya Sabha;	
(xi)		Commissioner of Scheduled Caste and Scheduled Tribe;	[Sec. 89 2 (x)] In lieu of "Commissioner of Scheduled Caste and Scheduled Tribe", the following may be substituted: "Chairman of the National Commission for Scheduled Tribes".
(xii)		Five non-governmental organization to be nominated by the Government of India;	
		One representative of the Tribal Cooperative/federation nominated by the Government of India;	
		Five non-officials amongst eminent subject matter specialist, conservationists, and environmentalists, nominated by the Government of India;	

Section	Indian Forest Act, 1927	Proposed amendment	Remarks
1	2	3	4
(xiii)		The Secretary to the Government of India in the Ministry of Environment and Forests;	
(xiv)		The Director General of Forests and Special Secretary to the Government of India;	
(xv)		Secretaries to the Government of India in the following Ministries/Departments.	
		(a) Ministry of Energy, Department of non-conventional energy sources;	
		(b) Ministry of Information & Broadcasting;	
		(c) Ministry of Water Resources;	
		(d) Department of Bio-Technology;	
		(e) Department of Animal Husbandry, Ministry of Agriculture;	
		(f) Ministry of Tribal Welfare	[ Sec. 89.2 - xv (f) ]
		Member, Planning Commission in charge of Environment & Forests;	For the words "Ministry of Tribal Welfare", the words "Ministry of Tribal Affairs" should be substituted.
(xvi)		Two specialist organization or institution to be decided by the Government of India.	
(xvii)			

## PANCHAYATS

In the early nineties, the time-honoured institution of Panchayats was reinvigorated through constitutional recognition. The 73<sup>rd</sup> and 74<sup>th</sup> amendments inserted in Part IX of the Constitution gave Panchayats and Nagar Palikas not only constitutional sanction but also unprecedented strength. The important features of the present Panchayats are

- (a) Panchayats at the village, intermediate and district level are to be elected
- (b) As an institution, a Panchayat stays in perpetuity, though a particular Panchayat has, normally, a life of five years
- (c) A State Finance Commission has to make recommendations for distribution between the State and Panchayats of net proceeds of taxes, duties, tolls and fees leviable by the State
- (d) A State Election Commission has to conduct elections to the Panchayats
- (e) The Panchayats are responsible for preparation and implementation of plans for economic development and social justice.
- (f) The Legislature of a State may endow the Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government.

2. Article 243M rules that the general provisions pertaining to Panchayats in Articles 243A to 243L in Part IX of the Constitution would not apply to areas in the country covered by the Fifth and Sixth Schedules but the Parliament might, by law, extend the provisions of Part IX to such areas subject to such exceptions and modifications as may be specified in such law, and no such law should be deemed to be an amendment to the Constitution for the purpose of Article 368. In pursuance of this provision, the Government of India constituted a Committee in 1994 to make recommendations for framing of the law to be passed by the Parliament. On the basis of the report submitted in 1995 by the Committee of MPs and Experts to consider extension of the provision of Panchayats to Scheduled Areas [also known as Bhuria Committee], the Parliament passed

The Provisions of the Panchayat (Extension to Scheduled Areas) Act 1996 [PESA Act 1996]. The Act seeks to extend the provisions of Part IX relating to Panchayats to the Scheduled Areas in accordance with the guide-lines contained in its Section 4 and calls upon the State Legislatures to enact consonant laws. The guide-lines purport to confer wide-ranging powers on Gram Sabhas and Panchayats at village, intermediate and district tiers. To recapitulate its essential provisions

- (i) The State legislation should be in tune with the customary law, social and religious practices and traditional management practices of community resources
- (ii) Every Gram Sabha should be competent to safe-guard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of disputes resolution
- (iii) Every Gram Sabha should be responsible for identification or selection of persons as beneficiaries under the poverty alleviation and other programmes
- (iv) Every Gram Sabha should have the authority to approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayats at the village level
- (v) Reservation of seats in the Scheduled Areas in every Panchayat should be in proportion to the population of the scheduled communities, but reservation for scheduled tribes should not be less than one-half of the total number of seats
- (vi) The Gram Sabha or the Panchayat at the appropriate level should be consulted before making acquisition of land in the Scheduled Areas and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas
- (vii) The recommendations of the Gram Sabha and the Panchayats at the appropriate level should be mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas
- (viii) The Gram Sabha and the Panchayats should
  - (a) have the power to enforce prohibition or regulate or restrict the sale and consumption of any intoxicant
  - (b) be endowed with the ownership of the minor forest produce

- (c) be conferred the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of the scheduled tribes
- (d) have the power to manage village markets and exercise control over money-lending to the scheduled tribes
- (e) have the power to exercise control over institutions and functionaries in all social sectors
- (f) have the power of control over local plans and resources for such plans including the Tribal sub-Plan.

Thus, the Parliament has called upon the State Legislatures to frame laws to make Gram Sabhas and Panchayats effective and powerful bodies for self-management particularly in the Scheduled Areas.

### **PESA and State Acts**

3. The following specific provisions of PESA Act 1996 are note-worthy:

- (1) The Gram Sabha has to approve the plans, programmes and projects of social and economic developments before such plans, programmes and projects are taken up for implementation by the Panchayats at the village level
- (2) In Section 4(n), it has been laid down that the state legislation should endow Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government
- (3) For the afore-said purpose, the Panchayats have to be satisfactorily empowered as in (viii)(a – f) in the preceding paragraph.

It is clear that the Gram Sabhas and the Panchayats have been intended to assume total responsibility for planning and implementation of plans, programmes and projects aimed at the following two objectives embodied in Article 243G of the Constitution:

- (a) The preparation of plans for economic development and social justice
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

4. It is important to note, however, that despite the almost plenary role of Panchayats conceived in the 73<sup>rd</sup> Constitutional Amendment Act and plenitude of powers prescribed in the PESA Act, Article 243G in regard to the former and Section 4(n) of the latter rely

on the State Legislatures to “endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for devolution of powers and responsibilities upon Panchayats, at the appropriate level .....” (Article 243G). Hence, practical empowerment and legitimization of Panchayats rests, by and large, with the State Governments.

5. The Committee of Members of Parliament and Experts constituted to make recommendations on Law concerning extension of provisions of the Constitution (Seventy-third Amendment) Act 1992 to Scheduled Areas in its 1995 report observed that the choice of leadership among many tribal communities has been based on informal consensus or selection by the people of the village or the region and decision-making also has been through consensus rather than by count of votes and that such traditional arrangements should not be disturbed [ para 7(8) of the Report]. Further, in para 22, they say :

In some tribal areas, traditionally village councils have been constituted and at the inter-village level regional councils have been constituted. Both at the village and at the regional level, traditional organisations have been conducting socio-political, economic and judicial affairs. The Gram Sabha may nominate its executive council, which may be a traditional body. In any event, the wholesome influence, wisdom and experience of the older generation should not be discounted, particularly since the reins of affairs have been, for aeons, in their hands.

Similar views have been expressed by the National Commission to Review the Working of the Constitution in its Report (21 December 2001). The following observations were made with reference to the north-eastern region:

Careful steps should be taken to devolve political powers through the intermediate and local-level traditional political organisations, provided their traditional practices carried out in a modern world do not deny legitimate democratic rights to/of any section in their contemporary society.

xxx

xxx

xxx

xxx

The traditional forms of governance must be associated with self-governance because of the political failure of local elites.

We feel that these views may be kept in mind whenever we consider Panchayat structure.

6. In respect of conformity to the letter and spirit of the PESA Act, the enactments of State Governments vary. A comparative analysis of PESA and six State Acts i.e. Orissa, Gujarat, Madhya Pradesh, Himachal Pradesh, Andhra Pradesh and Rajasthan has been projected in Annexure I. At Annexure II is a similar table prepared by the RD Ministry.

6.1. Taking the Madhya Pradesh law, there were high expectations from it. On scrutinizing it, a number of deviations from the Central law may be discerned. The provisions in the Central law, that prior consultation with the Gram Sabha and Panchayat at the appropriate level is required before acquisition of the land and resettlement of affected persons [section 4(i)], that prior recommendation of the Gram Sabha is mandatory before grant of prospecting license or mining lease for minor minerals and for exploitation of minor minerals [section 4(k) and (l)], that ownership of MFP vests in the Gram Sabha and the Panchayat at the appropriate level [section 4(m)(ii)], that the state legislature should endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the Panchayats at the district level in the Scheduled Areas [section 4(n)], that inconsistencies between the Central Act and other state laws relating to Panchayats should be removed within one year [section 5], do not find place in the Madhya Pradesh law, and are some important deviations.

6.2. Taking the example of Orissa law, it is clear that its focus is on the Zilla Panchayat, called Zilla Parishad, while the PESA Act focuses on Gram Sabha. For acquisition of land, planning and management of minor water bodies, recommendation for mining leases and exploitation of minor minerals, only the Zilla Panchayat has been brought in. The Gram Sabha and Gram Panchayat have been excluded from control over institutions and functionaries, as well as other local plans and resources for such plans including TSP. In respect of control over institutions and functionaries, the power of Panchayat Samitis has to be prescribed by the government; for the time being, this has uncertain implications. Similarly, the competence of Gram Sabha to safeguard and preserve traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution has been hedged in by the words "consistent with relevant laws in force and in harmony with basic tenets of the Constitution and human rights". No reservation is provided for the offices of heads of



Gram Sabhas. The Act is silent in regard to provisions in the PESA Act calling on the State legislature to follow the pattern of the Sixth Schedule while designing administrative arrangements at district level in the Scheduled Areas.

6.3. There is no indication in the Gujarat Act in regard to the power to prevent alienation of land and action for restoration of unlawfully alienated land, recommendations in respect of mining leases and for exploitation of minor minerals. The ownership of minor forest produce is vested only in the village Panchayat. Whereas the PESA Act states that the Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution, the Gujarat Act substitutes the word "competent" by "endeavour". The rationale for provision in the PESA Act of nomination for representation of unrepresented ST community or communities has not been understood and, as a result, the provision in the Gujarat Act is incongruent. There is no reference to the application of the Sixth Schedule pattern for districts in the State.

6.4. So far as the Himachal Pradesh Panchayat Raj (Second Amendment) Act 1997 is concerned, it makes reservation for STs in Gram Panchayat and Panchayat Samiti, but not in Gram Sabha and Zilla Panchayat. An important provision in the PESA Act, that is the power given to all the Panchayat tiers to prevent alienation of land and take action for restoration of any unlawfully alienated land belonging to a member of scheduled tribe, has been left out of the State Act. In regard to acquisition of land and restoration or rehabilitation of affected persons, only the Gram Sabha has been empowered and the three other tiers have been omitted. The power in regard to planning and management of minor water bodies, recommendations for grant of mining leases and exploitation of minor minerals, have been qualified with the addition of "as may be prescribed". For enforcement of prohibition and ownership of minor forest produce, the intermediate Panchayat and Zilla Panchayat have been left out. Three tiers i.e. Gram Sabha, intermediate Panchayat and Zilla Panchayat do not figure in the provision relating to exercise of control over institutions, functionaries, local plans and resources for such plans including TSP, only the Panchayat having been empowered. Further, no indication

is given in regard to the pattern of Sixth Schedule to be followed by designing administrative arrangements in the Panchayats in the districts.

6.5. The Andhra Pradesh Panchayat Raj Act 1994 amended in 1998 with a view to bringing it in tune with the provisions of Central Act 40 of 1996 (PESA) in application to Scheduled Areas in the State has some deviations. In the first instance, while Section 4(d) of PESA confers competence on a Gram Sabha to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution, the Andhra Pradesh Act qualifies it to apply "without detriment to any law for time being in force". Secondly, in section 4(j), the PESA Act entrusts planning and management of minor water bodies in the Scheduled Areas to Panchayats at the appropriate level; the Andhra Act qualifies the planning and management "in such manner, as may be prescribed". Thirdly, the Andhra Act omits conferment of powers like ownership of minor forest produce, as mentioned in Section 4(m) of the PESA Act.

6.6. West Bengal has no Scheduled Area, but the West Bengal Gram Panchayat Act 1973, as amended from time to time, the latest amendment being of 14 July 2003, is elaborate. It is interesting to note that each of the three-tier Panchayat consists of executive bodies i.e. Gram Panchayat, Panchayat Samiti and Zilla Parishad, as well as corresponding deliberative body called Gram Sansad, Block Sansad and Zilla Sansad respectively. The local MPs, MLAs and MLCs are members of Panchayat Samitis as well as Zilla Parishads. The number of members at each tier of the Panchayat system is large. The powers, duties and functions of the different Panchayat tiers are wide ranging. Generally, a Block and a Panchayat are conceived to be development-oriented bodies, but the West Bengal Act goes further and empowers them under section 133 even to levy tolls, taxes and fees etc.

7. The task of preparation of plans for economic development and social justice as well as their implementation has been envisaged in Article 243G in relation to a list of 29 items contained in the Eleventh Schedule of the Constitution. It seems that no state in the country has so far taken full action in this regard. The subjects and the number transferred differ from state to state. It appears that, in consequence, the Union

Government has been considering an amendment to the 73<sup>rd</sup> Constitutional amendment to arm the Panchayats of financial and administrative powers. This may be done as early as possible. It is understood that the Centre desires transfer of fourteen subjects: primary and secondary education, minor forest produce, veterinary dispensaries, rural dispensaries, rural housing, drinking water supply, rural roads, poverty alleviation schemes, water-shed management, soil conservation, fair and village Haats, PDS and maintenance of communal assets as undoubtedly, all these subjects are important from tribal development point of view, but we would single out primary and secondary education as the most important.

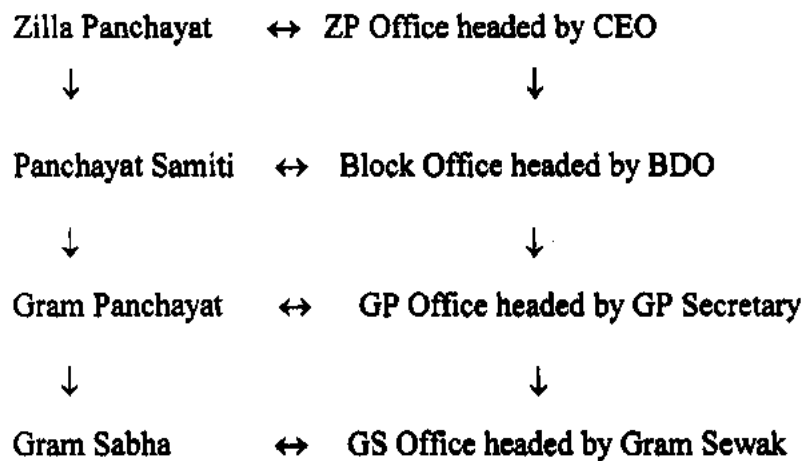
### **Interface between Panchayats and supportive agencies**

8. The PESA Act 1996 envisages the Panchayats at the appropriate level and the Gram Sabha being endowed with the power of control over institutions and functionaries in all social sectors. This is the provision which the State Governments do not, perhaps, find it convenient to adopt. May be because it disturbs the status quo, or perhaps otherwise. Coming down from pre-colonial through independence to post colonial-times, inter-organisational and inter-personnel relations have evolved as between the political and bureaucratic executives at the national and state levels and latterly, to an extent, at the district level too. Similarly, appropriate relationship has to emerge and develop at the three Panchayat tiers, coming up newly. Among the three tiers, inter se, formally it may have been conceived as a relationship of subordination of the one to the other, but its working can be rendered smoother if practised as partnership for the greater common good.

9. Studies indicate that, in the country at large, there is lack of definitive inter-face between the Panchayat system i.e. the people's deliberative and decision-making bodies on the one hand, and the delivery system i.e. the techno-administrative supportive, executing agencies on the other. This is a serious lacuna, one which may almost spell the doom for success. Full-scale tie-ups need to be unfolded and binary (deliberative and delivery) systems secured in tandem with each other.

10. There are three facets. First, the need for a structural paradigm which interconnects the two systems collaterally at each tier. Second, the need for a clear enunciation of the structural configuration among the corresponding supportive techno-administrative apparatus. The third, the need for enunciating inter-personal relations among the personnel occupying the different slots in the representative bodies and the delivery agencies.

11. The former two facets can be represented by the following diagram:



The horizontal arrows indicate collateral relationships while the two-way vertical arrows symbolize cooperative and complementary, as opposed to strictly hierarchical, relationship.

12. In so far as the structural paradigm is concerned, cognisance has to be taken of the extant representative and supportive systems in a district. At the district level, apart from the District Collector, by and large, states have Zilla Parishads ( known by different names) and may also have district development committees, DRDAs, ITDPs/ITDAs, district representatives of line departments of the State Government, voluntary organizations and so on. Bypassing the more or less strictly official sub-divisional regulatory tier, at the block level the non-official Panchayat Samiti has, since the community development days been a non-official body with, generally, exiguous complement of supporting staff, consisting mostly of a secretary. In the context of the constitutionally-sanctioned Panchayats mandated into the district, the desideratum of

integrative and inter-penetrative district paradigm calls for complementary horizontal representative-administrative assembly as well as apposite vertical structural linkages, as shown above. The administrative assembly should mean to include technical component.

13. The question is how to structure a Gram Sabha into the Gram Panchayat, the Gram Panchayat into Panchayat Samiti and the Panchayat Samiti into the Zilla Panchayat. To create an intimate, coordinated and organic relationship, among others, the chiefs of Gram Sabhas may sit as members of the Gram Panchayats, the Sarpanches of Gram Panchayats as members of the Panchayat Samitis and chairpersons of Panchayat Samities as members of Zilla Panchayats. In several states, this pattern obtains already. The representative-relay paradigm should make for accountability and synergy, generating at each level impulses that should traverse through and up to the highest rung of the federal hierarchy (i.e. the national rung) on the one hand and, on the other, absorb and assimilate ideas navigating downwards from the national and state levels downwards.

14. To an extent, rationalization can be effected if various development branches, not excluding DRDA, concerned with development are brought within the aegis of Zilla Panchayat. To an extent, this has already been effected: DRDAs have been merged in the Zilla Panchayat in several states. The Collector of the district may primarily preside over the regulatory functions, but his association with development wings including Zilla Panchayat will prove beneficial. In some states, he functions as the chief executive officer of the Zilla Panchayat. There are other bodies like joint forest management committees, self- help groups, water-user groups, water-shed groups, womens' groups that have come into existence and in some states are reported to have been doing well. As a result, we find that there are signs of parallel leadership ensuing in programmes being conducted based on individual decisions causing conflicts and unhealthy atmospherics in villages. Lack of coordination has been in evidence and this needs to be prevented through appropriate tie-ups in the Panchayats. In principle, we would like a majority of people's organizations to be subsumed within the Panchayats framework, one way or another, loosely or closely. Of course, NGOs should continue to exist and work independently.

15. The third facet touching on inter-personnel relationship between members of the representative bodies and those of the executive may involve some degree of sensitivity. Seen in the historical perspective, the civil service has been junior partner of the political executive. In the parliamentary system of government, it has to play second fiddle. Contrari-wise, we have seen reports of resentment expressed by chairpersons of Zilla Panchayats over hegemony of district collectors reducing the former to mere figure-heads. There are complaints that the chief executive officers of Zilla Panchayats have not been answerable to the chairpersons. While the Government of Madhya Pradesh has been considering the matter, the Rajasthan Government has decided that the authority to write the annual performance reports of chief executive officers and block development officers will be entrusted to the chairpersons respectively of Zilla Panchayats and Panchayat Samities. In fact, in some other states it is the current practice and in states where it is not so, the question may be under contemplation. Similarly, in terms of Section 4(m)(vi) of the PESA Act, the chairperson of a Gram Sabha and the Sarpanch of a Gram Panchayat should have the power of control over the staff of the Gram Sabha and the Gram Panchayat.

16. Incidentally, it is not un-common to come across the spectacle, particularly in some relatively backward regions, of unlettered or even semi-educated Panchayat members and Panchas being led or sometimes misled by secretary Gram Panchayat or BDO or other officials. In this context, a view has been taken that since, on account of the ignorance of the Sarpanchas and other non-officials, adequate responsibility is shirked, or irregularities are committed by officials, the role of Panchas, should be minimized and responsibility should rest on officials. This may be a pro tem measure. But a long-range perspective would warrant that the Panchas, in fact all Panchayat members, should exercise their respective responsibility, so that they acquire enough experience and ability to act independently and judiciously. The earlier this happens, the better it would be for tribal development in particular and for democratic planned development in general. The process can be accelerated through training instituted for office-bearers and members of the Panchayats.

17. We have sketched above a paradigm shift. In the new design, we have placed the Panchayats centre-stage, as we believe the tribals' own bodies are in the best position to judge their problems, needs and aspirations in the physical and socio-economic environment obtaining. The Sarpanches may be regarded as arch-priests and the Panchas and other members high priests in the matter of planned development at these levels. They should prepare annual and five-year programmes and plans. The process should start at the very bottom i.e at the level of Gram Sabha which, in our view, should be regarded as the pivot of the Panchayat system. The development plans prepared by Gram Sabha may be collated and coordinated by the Gram Panchayat in whose jurisdiction the Gram Sabhas lie, supplementing/adding to the plans what was missed out or what specifically pertains to items/subjects within the province of the Gram Panchayat. The process has to be replicated relative to plans prepared by Gram Panchayats and Panchayat Samities to be collated and coordinated at the levels of respectively the Panchayat Samiti and the Zilla Panchayat. At the level of the Zilla Panchayat, the Block plans should be collated and coordinated by the ITDP/ITDA organization headed by a Project Director/Project Administrator. The district Tribal sub-Plan should thus emerge. The Zilla Panchayat being at the apex of the Panchayat system, should collate and coordinate with the lower and higher hierarchies, becoming a nodal point for both plans and resources. The higher Panchayat bodies should be exhorted to eschew hegemonic and parochial tendencies in appraising the plans of the lower bodies. In fact, Section 4 (n) of the PESA Act even incorporates the unusual provision that the State enactments should contain "safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha." For the smooth running of the Panchayat system, it would be advisable not to tread over each other's toes. Untrammled, if the planned development effort succeeds at the tier of the Gram Sabha, it may be reasonably expected to meet with success at the higher tiers.

18. Two trends should be clearly perceived in the afore-said design. One, that it places the responsibility of planning in the prospective beneficiaries of the development process, transposing it from remote planners at district and state headquarters to the Gram Sabha at the grass-roots i.e. the village. It reverses the current trend of planning from top-bottom to bottom-up. This should infuse community-specificity and environment-

specificity, enhancing the relevance and realism of the plans. Secondly, in doing so, it draws into the orbit of the federal hierarchy, tribal leadership as well as tribal people situated at the geographical, politico-administrative and psychological periphery, strengthening bonds.

19. There is one seeming anomaly. The allotment of the subject of PESA under the PESA Act 1996 under general rubric of Panchayats is allotted to the Ministry of Rural Development in the Government of India's business rules. It is a large Ministry with manifold subjects like rural development, Panchayats, land resources, drinking water etc. Though the Panchayats Department in the Ministry might be paying full attention to PESA Act, more appropriately it should be the subject of the Ministry of Tribal Affairs. The latter may be able to do even better justice to it. Of course, collaboration between the two Ministries will have to be close.

#### **Implementation**

20. It is important to recall that Article 243G does not limit the role of Panchayats to planning only. It charges them with the task of implementation also. For instance, the Gram Sabha may have included a minor irrigation scheme within its plan. The Gram Sabha should also undertake its execution, preferably directly by a member with technical help. Should that be not possible, the execution may be through a professional individual or bodies. Similar should be the case with Gram Panchayat, Panchayat Samiti and Zilla Panchayat. For the purpose, the Panchayat bodies should be properly staff-equipped.

21. For implementation, the Gram Sabha and the three other hierarchical Panchayats would require the requisite infrastructural wherewithal, comprising techno-administrative personnel, office support and financial resources to carry out the tasks. It appears that the staff needs of the Gram Sabhas and Gram Panchayats have not attracted adequate attention in many states. In West Bengal, a Gram Panchayat is serviced by three personnel. Nevertheless, it is understood that, generally, in other states they have little staff support. The common perception is that the States have helped themselves with prunable bulging bureaucracies. The time has now come for them to feel obliged to



down-size, in other words to creatively self-destruct themselves, and to correspondingly strengthen the Panchayats.

22. Since, at the district apex level, some body in one form or another like a Zilla Parishad or a district development committee has been in existence as a fore-runner of the Zilla Panchayat, a modicum of infrastructure can be presumed to be already available there. So may be the case at the intermediate i.e. block level, as Panchayat Samities or their equivalents came into being some time ago. Gram Panchayats also have been with us for some time, though not in uniformly good size, shape and health all through. Inclusion of the four tiers in the Constitution has invested them with unprecedented status and authority. The States will have to assess to what extent the infrastructure of each tier is short and wanting, and the extent to which the normative deficiency should be made up. In our view, entrustment of the duty of planned development along with techno-administrative support is an essential recipe for reinvigorating the Tribal sub-Plan and conveying its benefits to members of the local communities.

23. The task of designing suitable administrative infrastructure for each of the four tiers has to be undertaken by each state government keeping in view its extant administrative traditions, norms, patterns and requirements. Evidently, suggestions for strait-jacket formula for infrastructure for different states of the country would be impracticable and irrelevant. Hence, we refrain from making any concrete suggestion in this behalf. However, we would still venture to indicate that

- (a) The Gram Sabha in tribal areas being intrinsically the most effective body closest to the people, and in that capacity the recipient of a prior attention in the PESA Act, should be looked at carefully. In its rejuvenated form, it is a comparative new-comer in the comity of Panchayats and it needs to be infrastructurally equipped. The staff infrastructure presently available at each other tier should be evaluated and deficiencies made up to fulfill the requirements and to excise redundancies, if any
- (b) It seems that since engineering works like roads, buildings, wells, irrigation schemes are indispensable part of the development plans, engineering personnel at most levels would be a prime need, even at the Gram Sabha level. Secondly, extension agents for education, health, agriculture and allied sectors would be a necessity but careful consideration would have to be given to the level to which each of them should be attached. It is not difficult to see

that it is possible to err on both the sides. Hence, discrimination would need to be exercised.

- (c) Having evaluated the administrative infrastructural requirements, the next requisite would be to link hierarchical Gram Sabhas and Panchayats with each other with a view to optimally achieving integration, coordination and efficiency. Representative hierarchical bodies should forge into a strong flowing chain in the cause of planned socio-economic development of tribals, each performing its role in its jurisdiction. The important elements of transparency and accountability should be built in the system.
- (d) Some suggestive patterns have been included in the four annexures to the 1995 Report of the Bhuria Committee, reference to which has been made earlier. This can help in making formulations.

24. In making these suggestions, not only we have kept the basic premise that the local tribal communities know their own needs and can practice development in the manner that they think best but also a few other aspects, in view. Their communitarian ethos still moves their members who, by and large, are, more unconsciously than consciously perhaps, motivated towards the common good. Secondly, they have a fund of social capital through associationalism and promotion of good activities. Before modern technologies erode that character, the advantages related to communitarianism and associationalism should be fully utilized and developed. In fact, the communities themselves might work on their own towards this end, on account of their innate attributes. If need be, they should be encouraged towards that direction.

### **Finance**

25. Article 243H enables the legislature of a state to enact law that authorizes the Panchayats to levy and collect taxes, assigns to the Panchayats share of taxes, duties etc. levied and collected by the State Government and provides for grants-in-aid to the Panchayats from the consolidated fund of the State. There is provision in Article 243I for constitution of a state finance commission for distribution between the State and the Panchayats of financial resources.

26. Apart from the techno-administrative bulwark necessary to support the Panchayat system from bottom upwards, availability of requisite finances is a critical need. All

these years, the matter may have been considered, but no satisfactory solution to economic decentralisation has been in sight. The Panchayats may not have acquitted themselves conspicuously in mobilization of resources though equipped legally. But, the State Governments also have often been charged with parsimony when it comes to Panchayats. The comment has also been heard that, generally, they delegate economically less productive, politically inconvenient or administratively cumbersome taxes. Items such as profession tax, entertainment tax are mostly retained by them on account of inherent possibilities of better collection. The constitutional-mandated state finance commissions have not made their appearance in all the states. Where constituted, in some cases their reports have not been tabled or accepted. Andhra Pradesh has, however, earned the distinction of being the first state in the country to constitute a third State Finance Commission. In any event, we expect weighted equity for tribal areas from them.

27. Presently, Scheduled Areas and Tribal sub-Plan areas are more or less coterminous. Such discrepancies as exist are being considered elsewhere in this report. Making the broad assumption of co-terminality, in these areas the Tribal sub-Plan has been operative through ITDPs/ITDAs in the past nearly three decades. In consequence, financial flows of State Plan, Central sector and Centrally sponsored scheme funds, Special Central Assistance and may be even institutional finance can reasonably be expected to have been taking place into the ITDPs/ITDAs through the States budgets.

28. The time has now arrived to consider the matter afresh. The responsibility for advancement of 8 percent scheduled tribe population of India has been apportioned constitutionally between the Centre and the states. The execution of programmes and schemes towards that end rests with the state governments. The Centre's concern is expressed more through provision of funds, legal frameworks, institutional structures, directives etc. The experience all the years after the launch of the Tribal sub-Plan has been that, since the state governments have, by and large, been funds-strapped, there has been a tendency to utilize to the maximum all kinds of resources for relieving the ways and means position. Even the additionalities provided by the Centre like the special Central assistance, grants-in-aid under Article 275(1) have, to an extent, been

appropriated for purposes other than they were intended for. In the end result, although, theoretically, a large quantum of resources have been pumped into the TSP system, in practice the picture may be different. Other ills have also been visiting the system. Diversions have diminished its availability for tribal development. Taking a broad overview, one may conclude that there is need, at present, to devise procedures which would enable the field formations to assuredly receive funds and enforce on them accountability for those funds. The DRDA procedure offers ready example. Just as the Ministry of Rural Development makes direct devolutions to the district rural development agencies (DRDAs), the Central Ministries, including and certainly the Ministry of Tribal Affairs, should open direct channels to the districts and ensure direct flow of funds to District Panchayats, which should earmark them for ITDPs/ITDAs, MADA pockets, clusters etc. The demand that the Centre should fund the Zilla Panchayats directly instead of channeling finances through the state governments, as is being currently done for DRDAs, has been growing. It is understood that State Governments have expressed reservations against such a demand, principally on the ground that it will affect their ways and means position. To us it appears that the more important question is that financial resources should reach the ground level so that they are utilised in the interest of the people. In fact, we see a corresponding incidental benefit in the procedure. Should the funds meant for tribal development be not available to the State Governments for bolstering their ways and means position, they will be, perforce, compelled to inculcate fiscal discipline which will be salutary in the long run. Hence, we are in favour of the demand. If and when conceded, it should be accompanied by a fiat that, concomitantly, the Zilla Panchayat should devolve the funds on the Panchayat Samitis and lower bodies on the basis of equitable formula or formulae within prescribed periods.

29. The Ministry of Tribal Affairs have included formulae (1) in their communication No. 14020/5/2003-SG&C dated 02-5-2003 addressed to the State Secretaries and Commissioners in charge of Tribal Development and Project Directors of ITDPs/ITDAs for distribution, release and utilisation of Special Central Assistance to TSP and (2) in their communication No. 14011/9/2001-SG&C dated 02.07.2002 to the same addressees containing guidelines for distribution, release and utilisation of grants under the first proviso to Article 275(1) of the Constitution. Broadly speaking, these formulae are based

on a predominant population factor and a comparatively subsidiary geographical area factor. It is note-worthy that the factor of backwardness i.e. inverse relation to the net State domestic product does not find mention in these formulae. The omission is based on the consideration that, leaving apart some small tribal areas in the country, the backwardness status may not differ appreciably among most others. On the other hand, if the net State domestic product (NSDP) of a State is taken, there are variations which could lead to wide differentials among inverse of NSDP figures and consequent unjustifiable differentials in the backwardness factor. One result will be that tribal tracts of the so-called forward states would be placed in a disadvantageous position. As of now, there could be force in this argument. But we suggest that the matter should be kept open, for there is potential for some tribal areas in the so-called advanced States receiving accelerated push, creating recognizable gap between them and other tribal areas located in more backward States.

30. It is hoped that the devolutions from the state finance commissions and the TSP finances will render the Panchayats financially viable to undertake planned development measures of their volition. It is understood that the Central Government contemplates introducing an Amendment Bill in the Parliament for giving financial powers to Panchayats. Should that happen, along with concretization of other reformative measures in the politico-administrative fields envisaged in the Eleventh Schedule and elsewhere, the bottom-up methodology should translate into a reality.

31. The Bhuria Committee 1995 recommended that education and health should be the first charge on Panchayat finances. We also have singled out primary and secondary education as the most important sector for tribal development. Hence, we recommend that a substantial percentage of the total funds from State and Central budgets for these two sectors earmarked into TSP budget should devolve on the Zilla Panchayats in Scheduled Areas and tribal areas and, further, the Zilla Panchayats should devolve 50% of these funds on the Gram Sabhas while the balance 50% should be shared among the Zilla Panchayats, Panchayat Samities and the Gram Panchayats. The Gram Sabhas should be held squarely responsible for universal primary education with the help of this devolution, and secondary education should be the responsibility of the three other tiers

as per a suitable arrangement. To reiterate, we recommend that the state finance commissions deploy the norm of weighted equity for tribal areas in the matter of distribution of financial resources.

32. We have deliberately left out the distribution inter se of subjects among Zila Panchayat, Panchayat Samiti, Gram Panchayat and Gram Sabha, so that the concerned State Governments may work them out in tune with their existing politico-administrative framework. However, the four annexures in the 1995 Report of the Bhuria Committee relating to the distribution of functions among the four Panchayat tiers should serve as a guide.

### **CPR**

33. One general observation is pertinent. The common property resources (CPR) should be accessible to the entire village community without any individual having exclusive property rights. The traditional management system for common property resources involved user regulations, enforcement of user obligations and investment for conservation and development. The traditional village elders were working the system. However, it seems to have suffered erosion, as the new elective Panchayats are generally unable to enforce regulations of maintenance of the CPR, despite legal powers vested in them, as in the matter of collection of taxes and dues mentioned elsewhere. The dependence of Panchayat on community votes inhibits imposition of strict user regulations and user obligations by the Panchayat office-bearers. The result is that the Panchayats have been rendered ineffective and, at the same time, the CPRs deteriorate. The trend has to be reversed as continued apathy and neglect of CPR will specially affect the quality of the life of the poor and the less well-to-do in the village. This aspect needs careful consideration. Further, the strength and stature of the new constitutional Panchayats have to be preserved and enhanced.

### **Compatibility**

34. According to Section 5 of the PESA Act, "any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this

Act received the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President". Earlier, we have pointed out that, in terms of the Act, the Gram Sabha or the Panchayats at the appropriate level have to be consulted before making acquisition of land and before resettlement and rehabilitation of displaced persons. This is a provision which necessitates amendment of the Land Acquisition Act 1894. To give another instance, the PESA Act confers ownership of minor forest produce on Gram Sabhas and Panchayats. But the Indian Forest Act 1927, while not making any distinction between major and minor forest produce, implicitly and even explicitly vests the entire range of forest produce, in the state, meaning thereby the Forest Department. In consequence, is it not incumbent that the provisions of the Indian Forest Act be modified to accord with the provisions of the PESA Act? It can be argued that both the Land Acquisition Act 1894 and the Indian Forest Act 1927 are not laws "relating to Panchayats" – vide reference to Section 5 quoted above. The fact of the matter is that any law applied in the jurisdiction of a Panchayat in Scheduled Areas impinges on the Panchayat and thereby on the provisions of the PESA Act. For instance, Section 4(j) of the PESA Act empowers Panchayats to plan and manage minor water bodies, but forest laws come in the way. In Tupakulagudem village in the Warangal district of Andhra Pradesh, the forest department has refused permission to build a 'bund' of a pond located alongside a reserve forest. It becomes essential, therefore, to re-orient the other concerned laws in conformity with the provisions of the PESA Act.

35. Another argument advanced is that like the Indian Forest Act 1927, there are other special laws and, as per court rulings, the special laws over-ride general laws. In this view of the matter, the PESA Act is regarded as a general law to be subordinated to a special law. The PESA Act 1996 also qualifies to be treated as a special law, since it deals with matters confined to one segment of the population i.e. scheduled tribes. It may be true that the wide charter of autonomy conferred by the PESA Act on the Gram Sabha and the three hierarchical Panchayat tiers is apparently inconsistent with some regulatory laws and functions. With the changing times and a heightened sense of democratic

consciousness of tribal people, the adaptation of the latter is indispensable. The revenue, excise, irrigation, markets, forest law and regulation regimes antedating the PESA Act thrusts, call for harmonization.

36. According to section 4(d) of the PESA Act 1996, the legislature shall not make any law on Panchayats in Scheduled Areas which is inconsistent with the traditional management practices of community resources. This implies that the natural and physical resources vest in the community as of yore, in contradistinction to the recent concept of eminent domain of the State, and they should be managed by it as per its traditions. An instance how this is nullified obtains in Andhra Pradesh. Under the Andhra Pradesh Water, Land, Trees (APWLT) Act 2002, a high-powered authority is constituted for promoting water conservation, enhancement of tree-cover, regulating exploitation of ground and surface water and to advise the Government on strengthening of public participation in conservation of natural resources from time to time in such way that equity in cases of water in different basins, sub-basins and regions in the state is maintained. The water-users associations are required to adopt measures suggested under the APWLT Act. All land allottees and tenants within the notified areas under the Act are members of water-users associations. The Andhra Pradesh Government has not devolved minor irrigation to Panchayats in Scheduled Areas, notwithstanding the provision in the Central Act. Thus, the state continues to have a legal framework which is disharmonious with the authority of the Panchayats, while PESA confers the responsibility for planning and management of minor water bodies on Panchayats. Secondly, in respect of another item of common property resources, i.e. land, there are numerous instances where, traditionally, villagers have been cultivating land which has been subsequently brought under the joint forestry management programme leading, as one consequence, to virtually converting it into forest land in the books of the forest department and, as another, to the demand for 'Pattas'. This has also had the effect in some Scheduled Areas of wiping away the traditional village forest systems, and further creating schism between villages located at the forest fringes and those located at some distance. This situation has major implications in law and policy. Unless issues of such nature are resolved on the ground, eviction of tribal forest dwellers will not stand the test of both propriety and legality. Thus the State Governments have legal frameworks to



regulate natural resources like water, forest, through their own regulatory authorities, which are at variance with provisions of the Central PESA Act 1996. The new committees and groups working at cross-purposes seem to have replaced a consciousness of the total communitarian and consensual ethos by an insistent sense of individual rights, contributing their share to the dismemberment of the traditional management and security systems. The stance of the two sets of legislation needs to be resolved. The administrative and legal spaces need to be fully explored for carefully evolved inter-relationships between the Panchayat institutions and formal and informal regimes on the ground. In this context, the injunction of the PESA Act that the State legislation on Panchayats should assonate with the customary law, social and religious practices and traditional management practices of community resources is relevant. An edifice which enables Panchayats to exercise primacy in effecting synergy in the interest of holistic and integrative approach has to be built.

#### **Impediments to Panchayats' functioning**

37. The PESA Act 1996 at the apex confers enormous powers and responsibilities on the Panchayats. Taken to its fullest sense, it is no less than a magna carta. However, there are some impediments to the functioning of the Panchayats in Scheduled Areas. The crux is that the PESA Act embodies guidelines and it calls upon the state legislatures to "endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government" and build in "safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha"[section 4(n)]. In fact, it enjoins that the legislature of a state shall not make any law under Part IX of the Constitution which is inconsistent with the features it describes in clauses (a) to (d). Thus, the responsibility of creating assonance of state legal enactments with the PESA Act lies with the state legislatures. We find that most of them do not echo the PESA Act in letter and spirit. This is evident from (a) comparative analysis made in Annexure I between the Central PESA Act 1996 and the relevant laws of Orissa, Gujarat, Madhya Pradesh, Himachal Pradesh, Andhra Pradesh and Rajasthan, referred to in para 5 supra and (b) the statement at Annexure II of the RD Ministry titled "Implementation of the Provisions of

Panchayats (Extension to Scheduled Areas) Act, 1996". In the first place, there is need for congruence between the Central and state laws.

38. For the state laws to be operative, the requirement of a set of rules under the Act (PESA,1996) voted by the legislature is a sine qua non. This condition has not been fulfilled in all cases. Had it been complied with, the operation on the ground of the law and the rules would have day-lighted the discrepancies between traditional practices and the laws, the grey areas between the requirements and the provisions in the laws, the contradictions, problems etc. at grass roots. For instance, there are grey areas even in the PESA Act. Section 4(a) calls for state legislation that should be in tune with the traditional management practices of community resources. The questions arise: Which specific items are covered by the term "community resources"? Who (whether the State or the Panchayat) commands (ownership or management or other rights) the community resources? Is it not necessary for the local people and, specifically the tribal people, to continue to have a sense of ownership over the different CPR items like common land, village forest, drinking water sources, small irrigation sources, rather than push these items into the eminent domain with remote and indifferent maintenance management systems by unconcerned officials or officially appointed bodies?

39. The best guarantee for operation of Panchayats as vehicles for self-governance and tribal socio-economic progress is awareness of the legal, administrative and other instruments on the part of all concerned, particularly the tribal people. Reports indicate this is woefully lacking. It is incumbent on the official and non-official agencies to disseminate knowledge.

40. Elections have not been held in some states. For instance, in Jharkhand, the last elections held to Panchayats were in 1978 i.e. 25 years ago. Even the constitutional provisions and the PESA Act have failed to move the authorities to hold elections. The lack of a formal status is a big handicap in the ability of Gram Sabhas and Panchayats to put through programmes as well as in dealing with other organizations.

41. Section 5 of PESA Act is to the effect that before the expiry of one year any provision of any law relating to Panchayats in force in the Scheduled Areas immediately

before 24 December 1996 which is inconsistent with PESA, should be amended or repealed. There have been laws which, in reality, relate to Panchayats. We have mentioned in the chapter on forests that, as it stands, that the Indian Forest Act 1927 does not permit any scope for conferment of ownership rights of minor forest produce items on Panchayats, though PESA bestows such ownership on the Gram Sabhas. Similarly, the PESA Act arms the Gram Sabhas and Panchayats at the appropriate level to prevent alienation in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a person of a scheduled tribe. In Andhra Pradesh, there are state laws which confer powers on the State, specifically revenue officials, leading to a confused situation. Meantime, rampant tribal land alienation continues in some parts of Scheduled Areas, mainly because of prominence of non-tribals in Panchayats. In the state of Jharkhand, the Chhotanagpur Tenancy Act and the Santhal Parganas Tenancy Act need to be examined with a view to eliminating mis-match between the provisions of the recent PESA Act along with corresponding state act on the one hand and the revenue and other laws concerned on the other.

42. We have referred earlier to the phenomenon of growth and existence of multiplicity of committees, some of them having formal backing, like Van Suraksha Samities, joint forest management committees, water users' groups, water-shed groups, ayacut committees, DW CRA groups, womens' groups. While some of these groups and committees have been acquitting themselves well and rendering useful service, the overall effect of the existence of manifold parallel committees in the Panchayat context, has to be assessed carefully. Their functioning independent of the Panchayat structure may tend to negate a coordinated approach and integral perspective. They may not have a symbiotic relationship with the Panchayats, as has been the case so far with official agencies like ITDP/ITDAs. It is desirable to evolve rational and effective net-work so that the programmes of other functional groups and those of the Gram Sabha dove-tail into one another.

## **Conclusion**

43. For the Fifth Schedule areas, we have etched out a position of eminence for Panchayats. We are quite aware that, as of now, some Panchayats in the Scheduled Areas have not fared as well as they should have. In the area of planning and decision-making, the Panchayats should largely substitute bureaucracy which has, for the past decades after independence, shouldered the task with marginal tribal involvement. By motivation and inclination, it cannot be expected to distinguish itself too much. The life of tribals is a hard life, immiserated in poverty, want, ill-health and illiteracy, deprived of basic necessities. The task of ensuring the basic necessities of adequate nourishment, health, education etc. should be made their own, while providing them the requisite wherewithal. One may reasonably hope that the planned development process operated by the Panchayats, inspired with the community's own ideas and ethos, will meet with success hereafter.

44. The Panchayat (Extension to Scheduled Areas) Act 1996, an offshoot of the 73<sup>rd</sup> Constitutional Amendment Act, passed in consequence of Article 243M (4)(b), lays down guidelines that the legislature of a state should follow in enacting law for Scheduled Areas. As we have seen, the corresponding laws passed by the State Governments do not always conform to its letter and spirit. They may require amendments which may materialize hereafter. For the time being, we need to stress that the Panchayats in the Scheduled Areas, particularly the Gram Sabhas, should be regarded as sheet-anchor of socio-economic development activities in its jurisdiction. Some progress is perceptible. Women's participation has increased, though not uniformly all over; women's self-help groups have sprung up even in remote and distant areas like Koraput district of Orissa. We came across awareness on the part of some Panchayats of PESA and other laws, signifying their powers and rights. The knowledge has to spread.

45. The Panchayats in Scheduled Areas need to be clear in their goals. They should also be fully aware of the enormous powers and responsibilities vested in them by PESA Act 1996. At the same time, a degree of consciousness of duties and responsibilities in the members should be visible. In the information age, they should not suffer from knowledge deficit owing to lack of information about Panchayat acts, amendments and

their implications as well as lack of knowledge about structures, functions, roles and procedures governing the delivery systems. For the purpose, they need to be educated and trained. While training can be imparted even to semi-literate members of Panchayats on adhoc basis, education comes through long studies and application. Hence, our hounding concern in this report has been education of tribal children as well as adults, to which we attach top priority.

46. It may be idle to imagine that the experiment of power to the tribal people initiated recently through the Panchayat system network has met with the success everywhere. In the first instance, it is still taking time to get set. ST members may be new to the present tasks and they would need to be educated, trained and grounded in the art of governance and planned development, particularly in the matter of accounts and accountability. Appropriate and relevant training syllabi and courses need to be devised and organized. Some states have already instituted training courses. Those that have not, may do so at the earliest. Fortunately, tribal communities have been living in self-management modes for centuries past and they can be expected to pick up threads of modern administration, wielding their new power and authority in the larger interest of the community, though instances of elites grabbing power and misusing it for sometime cannot be ruled out. We are confident, however, that the responsibility which is now entrusted to their representatives would, in the long run, be utilized transparently in favour of common tribals.

47. We would also urge the bureaucracy to read the signs of the times and by becoming facilitators help the cause of tribal development through their own Panchayat institutions. In the age of today, they can produce only skirmishes by placing minor road blocks, but they can not stop or even slow down the juggernaut of tribal development. In radical role transformation, we visualize a pro-active role of the bureaucracy and a sympathetic role of the larger civil society. Conceptualisation and attitudinal internalization of the revolutionary character of the legislation and changes ensuing therefrom are essential part of the current life and society.

48. In reality, the Panchayats have not come into their own as yet. One problem is that the State laws lag behind the letter and spirit of the PESA Act 1996. In states where the law has come into being, its implementation has to pick up momentum. In some states, even elections have not been held, as in the state of Jharkhand. Where the Panchayat institutions have come into being, they have hit different executive road blocks. Financial arrangements have still to be sorted out. On the whole, the authorities need to build in them full capacities along with requisite structures and systems. Some reports indicate that the "silent revolution" has tended to turn into "bloody revolution", since power, patronage and pelf have been involved. Strangely, groups which profess, in the interest of the people, the ideology of revolution ( may be through violent means) like the Naxalites and Peoples' War Group have exhibited intolerance of certain Panchayats doing sincere and dedicated work. But, notwithstanding these impediments, the local bodies as conceived in the PESA Act 1996 appear to possess great potential for exercising authority in the interests of the people in the long run. One may hope that the hurdles are temporary and will disappear after a while.

## **Salient Recommendations**

1. Since practical empowerment and legitimization of Panchayats rests, by and large, with the State Govts. as per Article 243G, appropriate action should be taken by them. The State laws should conform to the provisions of the PESA Act in letter and spirit.
2. It is seen that in quite a few states, the focus is on Intermediate and/or Zilla Panchayats. The focus should be on all Panchayats, but specially on the Gram Sabha.
3. An important provision in PESA Act is to provide power to all the Panchayat tiers to prevent alienation of land and for action for restoration of unlawfully alienated land belonging to scheduled tribes. In some States only the Gram Sabha has been empowered and three other tiers have been omitted. All the tiers need to be empowered.
4. It is understood that consequent upon the 73<sup>rd</sup> Constitutional Amendment, the Centre desires transfer of fourteen subjects: primary and secondary education, minor forest produce, veterinary dispensaries, rural dispensaries, rural housing, drinking water supply, rural roads, poverty alleviation schemes, water-shed management, soil conservation, fair and village Haats, PDS and maintenance of communal assets as undoubtedly, all these subjects are important from tribal development point of view and the transfer should take place expeditiously. But we would single out primary and secondary education as the most important.
5. Studies indicate that, in the country at large, there is lack of definitive interface between the Panchayat system i.e. the people's deliberative and decision-making bodies on the one hand, and the delivery system i.e. the techno-

**administrative supportive executing agencies on the other. This is a serious lacuna. Full-scale tie-ups are needed.**

**6. A long-range perspective would warrant that the Panchas, in fact all Panchayat members, should exercise their respective responsibility, so that they acquire enough experience and ability to act independently and judiciously. The earlier this happens, the better it would be for tribal development in particular and for democratic planned development in general. The process can be accelerated through training instituted for office-bearers and members of the Panchayats.**

**7. We believe that the tribals' own bodies are in the best position to judge their problems, needs and aspirations in the physical and socio-economic environment obtaining. The Sarpanches may be regarded as arch-priests and the Panchas and other members high priests in the matter of planned development at these levels. They should prepare annual and five-year programmes and plans. The process should start at the very bottom i.e. at the level of Gram Sabha which, in our view, should be regarded as the pivot of the Panchayat system. The development plans prepared by Gram Sabha may be collated and coordinated by the Gram Panchayat in whose jurisdiction the Gram Sabhas lie, supplementing/adding to the plans what was missed out or what specifically pertains to items/subjects within the province of the Gram Panchayats. The process has to be replicated upwards relative to plans prepared by Gram Panchayats and Panchayat Samities to be collated and coordinated at the levels of respectively the Panchayat Samiti and the Zilla Panchayat. For the Zilla Panchayat, the Block plans should be collated and coordinated by the ITDP/ITDA organization headed by a Project Director/Project Administrator. The district Tribal sub-Plan should thus emerge. In short, the Zilla**



**Panchayat being at the apex of the Panchayat system, should collate and coordinate with the lower and higher hierarchies, becoming a nodal point for both plans and resources.**

**8. On account of the fact that the Ministry of Rural Development has been assigned the subject of Panchayats under the business rules of the Government of India, the PESA Act 1996 also is being dealt with by them. We feel it is more appropriate for the Ministry of Tribal Affairs to deal with this Act, while retaining the overall subject of Panchayats with the Ministry of Rural Development.**

**9. It is important to recall that Article 243G does not limit the role of Panchayat to planning only. It charges them with the task of implementation also. For instance, the Gram Sabha may have included a minor irrigation scheme within its plan. The Gram Sabha should also undertake its execution, preferably directly by a member with technical help. Should that be not possible, the execution may be through a professional individual or bodies. Similar should be the case with Gram Panchayat, Panchayat Samiti and Zilla Panchayat. For the purpose, the Panchayat bodies should be properly staff-equipped.**

**10. The Commission is of the opinion that, considering variations in the different states, the task of designing suitable administrative infrastructure for each of the four tiers has to be undertaken by State Govts. In order to achieve this objective, the Commission indicate following steps:**

- (a) The Gram Sabha in tribal areas being intrinsically the most effective body closest to the people, and in that capacity the recipient of a prior attention in the PESA Act, should be looked at carefully. In its rejuvenated form, it is a comparative new-comer in the comity of Panchayats and it needs to be infrastructurally equipped. The staff**

infrastructure presently available at each other tier should be evaluated and deficiencies made up to fulfill the requirements and to excise redundancies, if any.

- (b) It seems that since engineering works like roads, buildings, wells, irrigation schemes are indispensable part of the development plans, engineering personnel at most levels (including the Gram Sabha) would be a prime need. Secondly, extension agents for education, health, agriculture and allied sectors would be a necessity but careful consideration would have to be given to the level to which each of them should be attached. It is not difficult to see that it is possible to err on both the sides. Hence, discrimination would need to be exercised.
- (c) Having evaluated the administrative infrastructural requirements, the next requisite would be to link hierarchical Gram Sabhas and Panchayats with each other with a view to optimally achieving understanding, integration, coordination and efficiency. The representative hierarchical bodies should forge into a strong flowing chain in the cause of planned socio-economic development of tribals, each performing its role in its jurisdiction. The important elements of transparency and accountability should be built in the system.

11. In some cases, the additionalities provided by the Centre like the special Central assistance, grants-in-aid under Article 275(1) have, to an extent, been appropriated for purposes other than they were intended for. In the end result, although, theoretically, a large quantum of resources may appear to have been pumped into the TSP system, in practice the picture may be different. Other ills like diversion of funds have diminished availability for tribal development. Taking a broad overview, one may conclude that there is need, at present, to devise procedures which would enable the field formations to assuredly receive funds and enforce on them accountability for utilization of those funds. The district rural

development agencies (DRDAs) procedure offers ready example. Just as the Ministry of Rural Development makes direct devolutions to the DRDAs, the Central Ministries, including and certainly the Ministry of Tribal Affairs, should open direct channels to the districts and ensure direct flow of funds to District Panchayats, which should earmark them timely for ITDPs/TTDAs, MADA pockets, clusters, etc. The demand that the Centre should fund the Zilla Panchayats directly instead of channeling finances through the state governments, as is being currently done for DRDAs, needs to be considered seriously.

12. It is pertinent to point out that the Bhuria Committee, 1995 recommended that education and health should be the first charge on Panchayat finances. We also have singled out primary and secondary education as the most important sector for tribal development. Hence, we recommend that a substantial percentage of the total funds from State and Central budgets for these two sectors earmarked into TSP budget should devolve on the Zilla Panchayats in Scheduled Areas and tribal areas and, further, that the Zilla Panchayats should devolve 50% of these funds on the Gram Sabhas while the balance 50% should be shared among the Zilla Panchayats, Panchayat Samities and the Gram Panchayats.

13 According to section 4(a) of the PESA Act, a State legislation on the Panchayats that may be made should be in consonance with the customary law, social and religious practices and traditional management practices of community resources. After examination of the PESA provisions of various states, it is felt that the responsibility of creation of consonance between State legal enactments and the Central PESA Act lies with State Govts under the supervision of the Central Ministry of Rural Development. Hence, they should take steps accordingly.

14. According to section 4(d) of the PESA Act, the State legislature shall not make any law on Panchayats in tribal areas which is inconsistent with the traditional management practices of community resources. This implies that the natural and physical resources vest in the community as of yore, in contradistinction to recent concept of eminent domain of the state, and they should be managed by it as per its traditions. Some states have created legal frameworks to regulate natural resources like water, forest through their regulatory authorities which are at variance with in the provisions of the PESA Act. Further, new committees and groups have been organized and they seem to have replaced consciousness of the total communitarian and consensual ethos by insistent sense of individual rights, contributing their share to the dismemberment of traditional management and security systems. The stance of the two sets of legislation and policy needs to be resolved.

15. On the ground, the phenomenon of growth of multiplicity of committees, some of them having formal backing like Van Suraksha Samities, joint forest management committees, water-users groups, water-shed groups, ayacat committees, DWCRA groups, womens' groups, has had the effect of setting up parallel committees co-existent with Panchayats. This may tend to negate coordinated approach and integral perspective. It is desirable to evolve rational and effective net-work. It is desirable to evolve rational and effective net-work so that the programmes of other functional groups and those of the Gram Sabha dove-tail into one another.

16. It is suggested that States not having Scheduled Areas but having tribal population should act on the provisions of PESA Act for the benefit of tribals.

**17. Tribal individuals need to be educated and trained as they are new to Panchayati system. While training can be imparted even to semi-literate members of Panchayats on adhoc basis, education comes through long study and application. Hence, our hounding concern in this report has been education of tribal children as well as adults, to which we attach top priority.**

**18. Since the ST Panchayats members may be new to the present tasks, they would need to be educated, trained and grounded in the art of governance and planned development, particularly in the matter of accounts and accountability. Appropriate and relevant training syllabi and modules need to be devised and organized. Some states have already instituted training courses. Those that have not, may do so at the earliest. Fortunately, tribal communities have been living in self-management modes for centuries past and they can be expected to pick up threads of modern administration, wielding their new power and authority in the larger interest of the community, though instances of elites grabbing power and misusing it for sometime cannot be ruled out.**

**19. It is observed that the Panchayats have not come into their own, as yet. One problem is that the State laws lag behind the letter and spirit of the PESA Act, 1996. In states where the law has come into being, its implementation has to pick up momentum. Steps need to be taken to harmonise other relevant laws like Land Acquisition Act 1894 and the Indian Forest Act 1927 in consonance with the PESA Act. States should look into this aspect and take remedial measures.**

**20. Rampant tribal land alienation continues in some parts of Scheduled Areas, sometimes, because of prominent presence of non-tribals in Panchayats. The Commission strongly feels that vigorous efforts should be made to check the**

practice of alienation of poor tribals' land, specially with the help of ST members of Panchayats rightfully in position.

21. There are some impediments to the functioning of the Panchayats in Scheduled Areas. The crux, however, is that the PESA Act embodies guidelines and it calls upon the state legislatures to "endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government ..... safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha [Section 4(n)]. In fact, it enjoins that the legislature of a state shall not make any law under Part IX of the Constitution which is inconsistent with the features it describes in clauses (a) to (d). Thus, the responsibility of legal enactments in assonance with PESA Act lies with the state legislatures. When we examine some of them, we find that they do not correspond to the PESA Act in letter and spirit. This is evident from comparison made in the Annexure. Taking the example of Orissa law, it is clear that its focus is on the Zilla Panchayat called Zilla Parishad, while the PESA Act focuses on Gram Sabha. Gujarat Act defaults on the question of ownership of minor forest produce among other items. In the first place, there is need for congruence between the state and Central laws both in letter and spirit, since underlying the Central law there is a certain concept involved.

22. For the state laws to be operative, the requirement of a set of rules under the State Act voted by the legislature is a sine qua non. This condition remains to be fulfilled in many cases. Further, the operation of the law and rules thereunder can be expected to daylight any discrepancies between traditional practices and the laws, the gray areas between the requirements and available provisions in the laws, the contradictions, problems etc. at the grassroot. For instance, gray areas may be said to exist in the PESA Act: Section 4(a) calls for state legislation that should be in tune with the traditional management practices of community resources. The questions arise which items are covered by the term community resources and who (the state or the Panchayat) commands ownership of the community resources.

23. A third important factor is that incompatibilities between the provisions of the PESA Act and other laws re manifest. In terms of Section 4(i), a Gram Sabha or

the Panchayats at the appropriate level have to be consulted before making acquisition of land and before resettlement or rehabilitation of displaced persons. Since no such provision exists in the Land Acquisition Act, 1894, which is a colonial hang over, amendment of the latter becomes necessary. To give another instance, the PESA Act confers ownership of minor forest produce on Gram Sabhas and Panchayats in Section 4(m)(ii), but the Indian Forest Act 1927 implicitly and perhaps even explicitly vests the entire range of forest produce, whether major or minor, in the state, meaning thereby the forest department. Evidently, the two need to be harmonized with each other. Any number of such examples can be multiplied.

24. Article 243E prescribes a life of 5 years for a Panchayat, the maximum period of a break on dissolution or otherwise being 6 months. In other words, an elected Panchayat is a body in perpetuity. For the purpose of elections to the Panchayats, a State Election Commission has been prescribed in Article 243K. But elections have not been held in some states, even after the coming into force of the 73<sup>rd</sup> Constitutional Amendment resulting in Article 243. For instance, in Jharkhand, the elections have not been held so far. The last elections were held in Bihar in 1978. Even the Constitutional provisions and the PESA Act have failed to move the authorities to hold elections. The lack of a formal status is a big handicap in the ability of Gram Sabhas and Panchayats to put programmes through as well as in dealing with other organizations.

**Annexure- I**

**Comparative Provisions of the PESA Act 1996 (Central Act) and the Orissa Panchayat Act as amended by Orissa Act No. 15 of 1997**

S.No	PESA Act 1996 (Central)	Orissa Act NO. 15 of 1997	Comments
1	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources [Section 4 (a)]	Not indicated.	
2	A village shall consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community, managing affairs in accordance with traditions and customs [Section 4 (b)]	Same as in Central Act [Section 4, proviso]	
3	Constitution of a Gram Sabha [Section 4, (c)]	Same as in Central Act [Section 4 (2)]	
4	Every Gram Sabha shall be <b>competent</b> to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution etc [Section 4 (d)]	Departure in as much as after the words "dispute resolution", the words "consistent with relevant laws in force and in harmony with the basic tenets of the constitution and human rights" have been added. These words seem unnecessary, as the laws, tenets and rights have to be enforced even otherwise.	
5	Powers of the Gram Sabha to approve the plans, programmes and projects for social and economic development prior to implementation by the Panchayat at the village level [Section 4 (e) (i)]	Same as in Central Act, except that "Gram Panchayat" has been substituted for by " the Panchayat at the village level" [Section 5 (3) (a)]	



6	Power of Gram Sabha to identify or select beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii)]	Same as in Central Act [Section 5 (3) (b)]	
7	Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certificate of utilization of funds by that Panchayat for the plans, programmes and projects referred to in SL. No 5 and 6 [Section 4 (f)]	Same as in Central Act [proviso to Section 5 (3) (a) and (b)]	
8	<p>The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g)]:</p> <p>(i) Provided that the reservation for the STs shall not be less than a one-half of the total number of seats;</p> <p>(ii) Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the STs.</p>	<p>This provision has not been inserted.</p> <p>Same as in Central Act [Section 6 (i) proviso]</p> <p>Same as in Central [Section 6 (ii) proviso] Whereas in the Central Act, all seats of chairpersons of Panchayats at all levels have been reserved for Scheduled Tribes, in the Orissa Act, the office of Sarpanches at Gram Sabha level has not been reserved</p>	
9	The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level.	This provision has been inserted in the Orissa Act for Panchayat Samiti and Zilla Parishad and not for the two other lower Panchayats.	

	Provided that such nomination shall not exceed one-tenth of the total number of members to be elected in that Panchayat [Section 4 (h)]		
10	Consultation with Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and before resettlement or rehabilitation of affected persons. The actual planning and implementation of the projects in the Scheduled Areas to be coordinated at State level [Section 4 (i)]	It is significant that neither the Palli Sabha (roughly corresponding to Gram Sabha), nor the Gram Panchayat, nor even the Panchayat Samiti have been allowed such consultation and only the Zilla Parishad is so empowered. Empowering any Panchayat below the Zilla Parishad was that relatively large areas of land need to be acquired and the matter should fall within competence of the Zilla Parishad. Since cases for acquisition of smaller small land patches with which the Gram Sabha or Gram Panchayat or Panchayat Samiti may be locationally or jurisdictionally concerned, consultation with these bodies should be deemed essential.	
11	The planning and management of minor waterbodies in Scheduled Areas shall be entrusted to Panchayats at the appropriate level [Section 4 (j)]	Neither the Gram Panchayat nor the Panchayat Samiti has been entrusted with such functions.	
12	Mining leases – the recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory before grant of prospecting license or mining lease for minor minerals [Section 4 (k)]	The power has been conferred only on the Zilla Panchayat.	

13	Similarly, prior recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of minor minerals by auction is mandatory [Section 4 (l)]	-do-	
14	While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a state legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-		
14-A	(i) the power to enforce prohibition or to regulate and restrict the sale and consumption of any intoxicant [Section 4 (m) (i)]	Such power has been vested in the Gram Panchayat subject to the control and supervision of the Gram Shashan.	
14-B	(ii) ownership of minor forest produce [Section 4 (m) (ii)]	-do-	
14-C	(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe [Section 4 (m) (iii)]	-do-	
14-D	(iv) the power to manage village markets. [Section 4 (m) (iv)]	-do-	
14-E	(v) the power to exercise to control over money-lending to the Scheduled Tribes [Section 4 (m) (v)]	-do-	
14-F	(vi) the power to exercise to control over institutions and functionaries functioning in all social sectors.	This power does not vest either in the Palli (Gram) Sabha or in the Gram	

		Panchayat. The Panchayat Samitis have been empowered to exercise control and supervision, the nature and extent of which shall be such as may be prescribed over institutions and functionaries of various social sectors in relation to the programmes and measures, as the Government may, by notification, specify. Thus the power; has not been clarified, but circumscribed.	
14-G	(vii) the power of control over local plans and resources for such plans including TSP [Section 4 (m) (vii)]	No such power has been conferred either on the Palli Sabha or Gram Panchayat. It vests in the Panchayat Samiti. It is presumed that by extension it vests also in the Zilla Panchayat.	
15	The State Legislature may endow Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government and shall contain safeguards to ensure that Panchayats at the higher level do not assume the power and authority of any Panchayat at the lower level or at the Gram Sabha by Panchayats at higher level [Section 4 (n)]	This provision is totally absent.	
16	The State Legislature shall endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the Panchayats at district level in the Scheduled Areas [Section 4 (o)]	This provision is totally absent.	

17	Notwithstanding anything in Part IX of the Constitution, with exceptions and modifications made in this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which PESA received the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which the PESA receives the assent of the President.	Not indicated.	
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**Comparative position of the provisions of the PESA Act, 1996 (Central Act) and the Gujarat Panchayat Act  
( as amended up to 13<sup>th</sup> July, 1998)**

S.No.	PESA Act 1996 ( Central)	Gujarat Act, 1998	Comments
1.	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources. [Section IV (a)]	Not indicated.	
2.	Village shall consist of a habitation or a group of habitation or hamlet comprising a community, managing affairs in accordance with traditions and customs. [Section IV (b)]	Same as in Central Act (Section 3)	
3.	Constitution of a Gram Sabha [Section IV, (c)]	Same as in Central Act [Section 4 (2)]	
4.	Gram Sabha shall be competent to safeguard and preserve the traditions and customs etc. [Section IV (d)]	Same as in Central Act, excepting the substitution of the word "competent" by "endeavour" [Section 3 (a) ]	
5.	Powers of the Gram Sabha to approve the plans, programmes and projects for social and economic development prior to implementation by the Panchayat at the village level. [Section 4 (e) (i)]	Section 3 (b) (i)	
6.	Power of Gram Sabha to identify beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii)]	Same as in Central Act, Section 3 (b) (ii)	
7.	Panchayat at the village level shall be required to obtain certificate of utilization of funds from the Gram Sabha [Section 4 (f)]	Same as in Central Act, Section 12 (1A)	
8.	The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for		

	<p>whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g)]:</p> <p>(i) Provided that the reservation for the STs shall not be less than a one-half of the total number of seats.</p> <p>(ii) All seats of Chairpersons of Panchayats at all levels shall be reserved for the STs.</p>	<p>Same as in Central Act Sec. 4 is for reservation in every village Panchayat Sec. 5 is for every Taluka Panchayat Sec. 6 is for every District Panchayat respectively.</p> <p>Same as in Central Act in respect of Sarpanch of village Panchayat and President of Taluka Panchayat (Section 8 (i) and 9 (i) and reservation for President of District Panchayat provided under Section 10 (i).</p>	
9.	State may nominate such Scheduled Tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level. Section (h)	If for any reason an election does not result in the return of any member of ST in a taluka Panchayat or district Panchayat, then the State Govt. may nominate from amongst members belonging to STs who are qualified to be elected, such number of members as not to exceed one-tenth of the total members to be elected in that panchayat.	The two provisions are different. The contingency visualized in the State Act may occur rarely. The provision in the PESA Act needs to be followed.
10.	Consultation of Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and rehabilitation of affected persons. Section 4 (i)	Power given to Taluka Panchyat in respect of land acquisition and resettlement of persons displaced by development projects. Section 13	It should be given to Gram Sabha also, depending on Jurisdiction.
11.	Planning and management of minor waterbodies entrusted to Panchayats. Section 4 (j)	Planning and Management of waterbodies. Section 14 (2) (k-i)	

12.	Mining leases – the recommendation of Gram Sabha or the Panchayat at the appropriate level is mandatory before prospecting of minerals lease of minerals. Section 4 (K)	Not indicated.	
13.	Similarly, prior recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of mining minor mineral by auction is also mandatory. Section 4 (I)	- do -	
14.	<p>While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a state legislature shall ensure that the Panchayats at the appropriate level and the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with –</p> <p>(i) the power to enforce prohibition to regulate and restrict the sale and consumption of any intoxicant. Section [4 (m) (i) ]</p> <p>(ii) ownership of minor forest produce. Section 4 (m) (ii)</p>	<p>Same as in Central Act. Section (14) (I) (a)</p> <p>Section (11) (5) (a). There shall be vested in the village Panchayat minor forest- produce found (except found in the areas of national parks or sanctuaries) in such area of a forest as is situated in the jurisdiction of that village.</p>	
15.	The power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore and unlawfully alienated land of a	Not indicated.	Conferment of this power on the Gram Sabha and Panchayat at the appropriate



	Scheduled Tribe. Section 4 (m) (iii)		level essential.
16.	Power to manage village markets. Section 4 (m) (iv)	Not indicated.	
17.	Power to exercise to control over money-lending to the Scheduled Tribes. Section 4(m) (v)	Same as in Central Act by amendment of the Bombay Money Lenders Act, 1946.	
18.	Power to exercise to control over institutions functioning in social sectors.	Section 14 (3) same as in Central Act.	
19.	Power of control over local plans and resources for such plans including TSP. Section 4 (m) (vii)	Section 15 (e) same as in the Central Act.	
20.	Panchayats to function as institution of self-government and safeguards against erosion of authority of Panchayat and Gram Sabha by Panchayats at higher level. Section 4 (n)	Not indicated.	Should be included in the State Act.
21.	Replication of Sixth Schedule pattern while designing the administrative arrangements in the Panchayat Act at district level in the Scheduled Areas. Section 4 (o)	Not indicated.	- do -
22.	Continuance of existing laws and Panchayats, unless dissolved by a resolution passed by State Legislative Assembly.	Not indicated.	- do -

**Comparative Provisions of the PESA Act 1996 ( Central Act) and the M.P. Panchayat Raj Adhiniyam 1993 amended from time to time**

<b>S.No.</b>	<b>PESA Act 1996 (Central)</b>	<b>M.P. Panchayat Act. 93 (97, 99.2001)</b>	<b>Comments</b>
1.	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources. [Section IV (a)]	Section 129 C (i) of M.P. Panchayat Act 1997. Gram Sabha shall safeguard and preserve the traditions and customs of the people, their cultural identity and community resources and customary mode of dispute resolution.	
2.	A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community, managing affairs in accordance with traditions and customs [Section 4 (b)]	Section 129 (A) (b). Village means village in the Scheduled Areas which shall ordinarily consist of habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs.	
3.	Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the Village level. [Section 4 (c)]	Section 129 (A) (a). "Gram Sabha" means a body consisting of persons whose names are included in the electoral rolls relating to the area of a Panchayat at the village level, or part thereof, for which it is constituted.	
4.	Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution etc. [Section 4 (d) ]	Please see reply to serial 1 above.	

5.	Powers of the Gram Sabha to approve the plans, programmes and projects for social and economic development prior to implementation by the Panchayat at the village level [Section 4(e) (i)]	According to Section 129 C (v), Gram Sabha in Scheduled Areas shall also have the following powers and functions, namely (i) To safeguard and preserve the traditions and customs of the people, their cultural identity and community resources and the customary mode of dispute resolution. (ii) To manage natural resources including land, water and forests within the area of the Village in accordance with its traditions and <u>in harmony with the provisions of the Constitution and with due regard to the spirit of other relevant laws for the time being in force.</u> (iii) To manage village markets and Melas including cattle fair, by whatever name called <u>through the Gram Panchayat.</u> (iv) To control local plans, resources and expenditure for such plans including Tribal sub-Plans, and (v) To exercise and perform such other powers and functions as the State Govt. may confer on or entrust under any law for the time being in force.	Already given against sl. 1.  The underlined words are additional and modify the Central provision.  - do -  Please see sl. 14 F & G
6.	Power of Gram Sabha to identify or select beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii) ]	No corresponding provision in M.P. Act.	
7.	Every Panchayat at the Village level shall be required to obtain from the Gram Sabha a certificate of utilization of funds by that	- do -	

	Panchayat for the plans, programmes and projects referred to in SL. No. 5 and 6 [Section 4 (f)]		
8.	<p>The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g)]:</p> <p>(i) Provided that the reservation for the STs shall not be less than a one-half of the total number of seats;</p> <p>(ii) Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the STs.</p>	<p>Same as in Central Act vide section 129 E of M.P. Act, 1997.</p> <p>Same provision as in the Central Act.</p> <p>Same provision as in the Central Act.</p>	
9.	<p>The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level.</p> <p>Provided that such nomination shall not exceed one-tenth of the total number of members to be elected in that Panchayat [Section 4 (h)]</p>	<p>Same as in the Central Act, vide section 129 E (2) of M.P. Act of 1997</p> <p>Same as in the Central Act.</p>	
10.	Consultation with Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and before resettlement or rehabilitation of affected	Not indicated.	Provision should be made for consultation in respect of land acquisition and resettlement as in the Central Act,

	persons. The actual planning and implementation of the projects in the Scheduled Areas to be coordinated at State level [Section 4(i)]		
11.	The planning and management of minor water bodies in Scheduled Areas shall be entrusted to Panchayats at the appropriate level. [Section 4 (j)]	Section 129 F. Without prejudice to the generality of powers conferred by this Act, the Janapad Panchayat or the Zila Panchayat, as the case may be in Scheduled Areas, shall also have the powers, namely to plan, own and manage minor water bodies up to a specified water areas.	The Gram Sabha and Gram Panchayat also should be empowered.
12.	Mining leases. The recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory before grant of prospecting license or mining lease for minor minerals. [Section 4 (k)]	There is no clear-cut provision in the M.P. Act.	Gram Sabha and other Panchayats should be involved as about 80% mining is located in the vicinity of Tribal Bastis.
13.	Similarly, prior recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of minor minerals by auction is mandatory. [Section 4 (1)]	There is no clearcut provision in the M.P. Act.	Gram Sabha and other Panchayat should be involved as about 80% mining is located in the vicinity of Tribal Bastis.
14.	While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a state legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with.	Not indicated.	
14-A.	(i) the power to enforce prohibition or to regulate and restrict the sale and consumption	M.P. Abkari (Sanshodhan) Adhiniyam 1997 permits preparation of home brewed	

	of any intoxicant [Section 4 (m) (i)]	liquor for domestic consumption and for social and religious functions.	
14-B	(ii) ownership of minor forest produce [Section 4 (m) (ii)]	Gram Sabha have been empowered in respect of ownership of MFP	Gram Panchayats intermediate Panchayats and Zilla Panchayats have not been brought into the picture.
14-C	(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe [Section 4 (m) (iii)]	According to M.P. Land Revenue Code, only the Gram Sabha has been empowered in this behalf	The Panchyat Law should empower the Panchayats suitably.
14-D	(iv) the power to manage village markets. [Section 4 (m) (iv)]	Section 129 C (v) confers power on Gram Sabha to manage village markets and Melas including cattle fair, by whatever name called through the Gram Panchayat. Section 129 D (ii) 2 confers power on the Gram Panchayat to manage village market and Melas including cattle fair, by whatever name called.	Power does not seem to have been conferred on Janpad Panchayat and Zilla Panchayat.
14-E	(v) the power to exercise to control over money-lending to the Scheduled Tribes [Section 4 (m) (v)]	Information is awaited from Government of M.P.	Nothing indicated in the Panchayat Act.
14-F	(vi) the power to exercise to control over institutions and functionaries functioning in all social sectors.	Provisions in section 129 F (ii) same as in PESA Act, 96.	
14-G	(vii) the power of control over local plans and resources for such plans including TSP [Section 4 (m) (vii)]	M.P. Panchayat Raj Act empowers control over local plans, resources and Expenditure for such plans including Tribal sub-Plans on  The Gram Sabha in section 129 (vi) the	

		Gram Panchayat in Section 129 D (vii) the Janpad and Zilla Panchayats in section 129 F (iii)	
15	The State Legislature may endow Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government and shall contain safeguards to ensure that Panchayats at the higher level do not assume the power and authority of any Panchayat at the lower level or at the Gram Sabha by Panchayats at higher level [Section 4 (n)]	Not indicated.	The State Government may consider.
16	The State Legislature shall endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the panchayats at district level in the Scheduled Areas [Section 4 (o)]	Not indicated.	The State Government may consider.
17	Notwithstanding anything in Part IX of the Constitution, with exceptions and modifications made in this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which PESA received the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year	Not indicated.	The State Government may consider.

	from the date on which the PESA receives the assent of the President. [Section -5]		
18		<b>New provisions in the M.P. Act</b>	
19		1. Section 129E (3). In a Panchayat in Scheduled Areas such number of seats shall be reserved for persons belonging to other backward classes, which together with the seats already reserved for Scheduled Tribes and Scheduled Castes, if any, shall not exceed three-fourths of all the seats in that Panchayat.	
20		2. Section 27 of M.P. Panchayat Raj (Sanshodhan) Adhiniyam, 2001. The provisions of the Madhya Pradesh Panchayat Raj Sanshodhan Adhiniyam, 2001 shall not apply to Scheduled Areas so far as they are inconsistent with the provisions of Chapter XIV A of the M.P. Panchayat Raj Act 1997 and "The provisions of the Panchayats (Extension to the Scheduled Areas) Act. 1996 (No. 40 of 1996)	
		3. Section 129F (iv). To exercise and perform such other powers and functions as the State Government may confer on or entrust under any law for the time being in force.	



**Comparative Provisions of the PESA Act 1996 (Central Act) and the Himachal Pradesh Panchayat Raj Act, 1994 amended from time to time**

S. No.	PESA Act 1996 (Central)	H. P. Panchayat Raj (Second Amendment) Act, 1997	Comments
1	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources [Section 4 (a)]	No indicated.	
2	A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community, managing affairs in accordance with traditions and customs [Section 4 (b)]	Section 97-B As in Central Act.	
3	Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the Village level. [Section 4 (c)]	Not indicated.	
4	Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution etc. [Section 4 (d)]	Section 97-C as in Central Act.	
5	Powers of the Gram Sabha to approve the plans, programmes and projects for social and economic development prior to implementation by the Panchayat at the village level [Section 4 (e) (i)]	Section 97- C (2) (i) as in Central Act.	
6	Power of Gram Sabha to identify or select beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii)]	Section 97-C (2) (ii) as in Central Act.	

7.	Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certificate of utilization of funds by that Panchayat for plans, programmes and projects referred to in sl. 5 and 6 [Section 4 (f)]	Section 97-C (3) (ii) as in Central Act.	
8.	The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g):  (i) Provided that the reservation for the STs shall not be less than one-half of the total number of seats;  (ii) Provided further that all seats of Chairperson of Panchayats at all levels shall be reserved for the STs.	Section 97-D. The reservation of seats in the Scheduled Areas to every Gram Panchayat and Panchayat Samiti shall be in proportion to the population of the communities in that Gram Panchayat Samiti, as the case may be:  Same as in the Central Act, but limited to two tiers.  -do-	Reservation is limited to Gram Panchayat and Panchayat Samiti and the other two tiers have been omitted.
9.	The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level.  Provided that such nomination shall not exceed one-tenth of the total number of members to be elected in that Panchayat [Section 4 (h)]	Section 97-E. Same as in Central Act,  Section 97-E. Same as in Central Act.	
10.	Consultation with Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and before resettlement or rehabilitation of affected persons. The actual planning and implementation of the projects in the Scheduled	Section 97-F The Gram Sabha shall be consulted before making the acquisition of land in the scheduled areas for development of projects and before re-settling or rehabilitating persons evicted by	Only Gram Sabha has been empowered and other tiers have not been.

	Areas to be coordinated at State level [Section 4 (i)]	such projects in the scheduled areas; the actual planning and implementation of the projects in the Scheduled Areas shall be co-ordinated at the State Level.	
11	The planning and management of minor water bodies in Scheduled Areas shall be entrusted to Panchayats at the appropriate level [Section 4 (j)]	Section 97-G Planning and management of minor water bodies in the scheduled areas shall be entrusted to Gram Panchayats, Panchayat Samitis or the Zilla Parishads, as the case may be, in such manner as may be prescribed.	The words " as may be prescribed" have been added, with uncertain implications.
12	Mining leases. The recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory before grant of prospecting license or mining lease for minor minerals [Section 4 (k) ]	Section 97-H. The recommendations of the Gram Sabha, <u>made in such manner as may be prescribed,</u> shall be taken into consideration prior to grant of prospecting license or mining lease, for minor minerals in the Scheduled Areas.	Except Gram Sabha, other tier Panchayats do not find any role in the HP Act. Further, the underlined words have uncertain implications.
13	Similarly, prior recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of minor minerals by auction is mandatory [Section 4 (l)]	Section 97-H (2). The prior recommendation of the Gram Sabha, <u>made in such manner as may be prescribed,</u> shall be taken into consideration for grant of concession for the exploitation of minor minerals by auction.	<ol style="list-style-type: none"> <li>1. Except Gram Sabha, other tier Panchayats do not find any mention.</li> <li>2. The underlined words have uncertain implications.</li> <li>3. The recommendation is not mandatory.</li> </ol>
14	While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, the state legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with	Section 97-I. The Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of the following matters, namely:-	The intermediate Panchayat and Zilla Panchayat have been left out.
14-A	(i) the power to enforce prohibition or to regulate and	Section 97-I (b). Same as in Central Act.	-do-

	restrict the sale and consumption of any intoxicant [Section 4 (m) (i)]		
14-B	(ii) ownership of minor forest produce [Section 4 (m) (ii)]	Section 97-I (a). Same as in Central Act.	-do-
14-C	(iii) the power to prevent alienation of land in the Schedule Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe [Section 4 (m) (iii) ]	Not indicated.	The State has left out an important provision.
14-D	(iv) the power to manage village markets. [Section 4 (m) (iv) ]	Section 97-I (c). Same as in Central Act.	The intermediate Panchayat and Zilla Panchayat have been left out.
14-E	(v) the power to exercise control over money-lending to the Scheduled Tribes [Section 4 (m) (v) ]	Section 97-I (d). Same as in Central Act.	-do-
14-F	(vi) the power to exercise control over institutions and functionaries functioning in all social sectors.	Sections 97-I (2) The Panchayat Samiti shall exercise such powers and performs such functions in such manner and to such extent as may be prescribed, in respect of the following matters, namely:- (a) exercising control over institutions and functionaries in all social sectors.	The three other tiers viz. Gram Sabha, intermediate Panchayat and Zilla Panchayat have been left out.
14-G	(vii) the power of control over local plans and	(b) control over local plans and resources	

	resources for such plans including TSP [Section 4 (m) (vii)]	for such plans including Tribal sub-Plans..	
15	The State Legislature may endow Panchayat with such power and authority as may be necessary to enable them to function as institutions of self-government and shall contain safeguards to ensure that Panchayats at the higher level do not assume the power and authority of any Panchayat at the lower level or at the Gram Sabha by Panchayats at higher level [Section 4 (n) ]		
16	The State Legislature shall endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the Panchayats at district level in the Scheduled Areas [Section 4 (o)]	Not indicated.	
17	Notwithstanding anything in Part IX of the Constitution, with exceptions and modifications made in this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which PESA received the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which the PESA receives the assent of the President. [Section 5]	Not indicated.	

**Comparative Provision of the PESA Act, 1996 (Central Act) and the Andhra Pradesh Panchayat Raj Act, 1994 amended by Act No. 7 of 1998.**

S.No.	PESA Act 1996 (Central)	The Andhra Pradesh Raj (Amendment) Act, 1998	Comment
1	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources [Section 4 (a) ]	Not indicated.	
2	A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community, managing affairs in accordance with traditions and customs [Section 4 (b) ]	Section 242 B. Same as in Central Act.	
3	Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level.[ Section 4 (c)	Not indicated.	
4	Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution etc [Section 4 (d)]	Section 242 C(1). Every Gram Sbha shall be competent to safeguard and preserve the traditional and customs of the people, their cultural identity, community resources and <u>without detriment to any law for the time being in force,</u> the customary mode of dispute resolution.	Underlined words have uncertain implications.

5	Powers of the Gram Sabha to approve the plans programmes and projects for social and economic development prior to implementation by the Panchayat at the village level [Section 4 (e) (i) ]	Section 242 C(2)(i) Same as in Central Act.	
6	Power of Gram Sabha to identify or select beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii) ]	Section 242 C(ii). Same as in Central Act.	
7	Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certificate of utilizations of funds by that Panchayat for the plans, programmes and projects referred to in sls. 5 and 6 above [section 4 (f)]	Section 242 (3). Same as in Central Act.	
8	<p>The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g)]</p> <p>(i) Provided that the reservation for the STs shall not be les than one-half of the total number of seats;</p>	<p>Section 242 D. the reservation of sears in the Scheduled Areas to every Gram Panchayat and Mandal Parishad shall be in proportion to the population of the communities in that Gram Panchayat or the Mandal Parishad as the case may be:</p> <p>Section 242 D. Same as in Central Act.</p>	Zilla Parishad has been omitted.

	(ii) Provided further that all seats of chairpersons of Panchayats at all level shall be reserved for the STs.	All seats of Sarpanchs of Gram Panchayats and President of Mandal Parishad shall be reserved for STs.	Zilla Parishad has been omitted.
9	The State Government may nominate persons belonging to such Scheduled tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level.  Provided that such nomination shall not exceed one-tenth of the total number of members to be elected in that panchayat [Section 4 (h)]	Section 242 E. Provision made in only Mandal Parishad (Intermediate level).  Section 242 E. Provision made in only Mandal Parishad (Intermediate level)	- do -  - do -
10	Consultation with Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and before resettlement or rehabilitation of affected persons. The actual planning and implementation of the projects in the Scheduled Areas to be coordinated at State level [Section 4 (i)]	Section 242 F. The Mandal Parishad shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons evicted by such projects in the Scheduled Areas, the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State Level.	The provision omits mention of Gram Sabha Gram Panchayat and Zilla Parishad.
11	The planning and management of minor water bodies in Scheduled Areas shall be entrusted to Panchayats at the appropriate level [Section 4 (i)]	Section 2442 G. Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Gram Panchayats, Mandal Parishad or the Zilla Parishad, as the case may, <u>in such manner as may be</u>	<u>Underlined</u> words have <u>uncertain</u> implications.



		<u>prescribed</u>	
12	Mining leases. The recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory before grant of prospecting license or mining lease for minor minerals. [Section 4 (k)]	Section 242 H (1). The recommendations of the Gram Sabha Panchayat made <u>in such manner as may be prescribed</u> , shall be taken into consideration prior to grant of prospecting license or mining lease, for minor minerals in the Scheduled Areas.	a) Except Gram Panchayat other Panchayat tiers do not figure in the State Act. b) The underlined words have uncertain implications.
13	Similarly recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of minor minerals by auction is mandatory [Section 4 (10)]	Section 242 H (2). The prior recommendation of the Gram Panchayat, made <u>in such manner as may be prescribed</u> , shall be taken into consideration for grant of concession for the exploitation of minor minerals by auction.	- do -
14	While endowing Panchayat in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, the state legislature shall ensure that the Panchayat at the appropriate level and the Gram Sabha are endowed specifically with.	Section 242I (10). The Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent <u>as may be prescribed in respect of the following matters:</u>	(a) Zilla Parishad and Mandal tiers do not figure. (b) Underlined words have uncertain implications from (a) to (e).
14-A	(i) the power to enforce prohibition or to regulate and restrict the sale and consumption of any intoxicant [Section 4 (m) (i) ]	Section 242 I (1) (a). Same as in Central Act.	
14-B	(ii) ownership of minor forest produce [Section 4 (m) (ii) ]	Section 242 I (1) (b). Same as in Central Act.	

14-C	(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe [Section 4 (m)(iii)]	Section 242 I (1) (c). Same as in Central Act.	
14-D	(iv) the power to manage village markets. [Section 4 (m) (iv)]	Section 242 I (1)(d). Same as in Central Act.	
14-E	(v) the power to exercise control over money-lending to the Scheduled Tribes [Section 4 (m) (v) ]	Section 242 I (1) (e). Same as in Central Act.	
14-F	(vi) the power to exercise control over institutions and functionaries functioning in all social sectors.	Section 242 I (2). The Mandal Parishad shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed, in respect of the following matters, namely:- (a) exercising control over institutions and functionaries in all social sectors.	Except Mandal Parishad other tiers have been excluded.
14-G	(vii) the power of control over local plans and resources for such plans including TSP [Section 4 (m) (viii)]	Section 242 I (2) (b). control over plans and resources for such plans including tribal subplans.	-do-
15	The State Legislature may endow Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government and shall contain safeguards to ensure that Panchayats at the higher level do not assume the lower level or at the Gram Sabha by Panchayats at higher		

	<b>level [Section 4 (n) ]</b>		
<b>16</b>	<b>The State Legislature shall endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the Panchayats at district level in the Scheduled Areas [Section 4 (o)]</b>	<b>Not indicated.</b>	
<b>17</b>	<b>Notwithstanding anything in Part IX of the Constitution, with exceptions and modifications made in this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which PESA received the assent of the President, which is in consistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which the PESA receives the assent of the President. [Section 5].</b>	<b>Not indicated.</b>	

**Comparative Provisions of the PESA Act 1996 (Central Act) and the Rajasthan Panchayati Raj Act, 1994.  
amended from time to time.**

S. No	PESA Act 1996 (Central)	The Rajasthan Panchayat I Raj (Modification of provisions in their Application to the Scheduled Areas) Act, 1999.	
1	State legislations on Panchayats should be in consonance with state customary law, social and religious practices and traditional management practices of community resources [Section 4 (a)]	Not indicated	
2	A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community, managing affairs in accordance with traditions and customs. [Section 4 (b)]	Not Indicated	
3	Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level. [Section 4 (c)]	Section 3 (a). Same as in Central Act.	
4	Every Graam Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution etc [Section 4 (d)]	Section 3 (b). Same as in Central Act	

5	Powers of the Gram Sabha to approve the plans, programmes and projects for social and economic development prior to implementation by the Panchayat at the village level [Section 4 (e) (i)]	Section 3 c (i). Same as in Central Act.	
6	Power of Gram Sabha to identify or select beneficiaries under poverty alleviation and other programmes. [Section 4 (e) (ii)]	Section 3c (ii). Same as in Central Act.	
7	Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certificate of utilization of funds by that Panchayat for the plans, programmes and projects referred to in sl. 5 and 6 [Section 4 (f)]		
8	The reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution [Section 4 (g)]  (i) Provided that the reservation for the STs shall not be less than one – half of the total number of seats:  (ii) Provided further that all seats of chairpersons of Panchayats at all levels shall be reserved for the STs.	Section 3 (e). Same as in Central Act.  Section 3(e). Same as in Central Act.  -do-	
9	The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at intermediate level or the Panchayat at the district level.  Provided that such nomination shall not exceed	Section 3(e). Same as in Central Act  -do-	

	one-tenth of the total number of members to be elected in that Panchayat [Section 4 (h)]		
10	Consultation with Gram Sabha or Panchayats before acquisition of land in the Scheduled Areas for development projects and before resettlement or rehabilitation of affected persons. The actual planning and implementation of the projects in the Scheduled Areas to be coordinated at State level [Section 4 (i)]	Section 3 (g). Same as in Central Act.	
11	The planning and management of minor water bodies in Scheduled Areas shall be entrusted to Panchayats at the appropriate level [Section 4 (j)]	Section 3 (h). Planning and management of minor water bodies, as maybe specified by the State Government, in the Scheduled Areas shall be entrusted to Panchayati Raj Institution at such level as may be prescribed.	The words "as may be proscribed" have been added with uncertain implications.
12	Mining leases. The recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory before grant of prospecting license or mining lease for minor minerals [Section 4 (k) ]	Section 3 (i). No prospecting licence or mining lease for minor minerals in the Scheduled Areas shall be granted to any person or body of persons without obtaining prior recommendation of the Gram Sabha or the Panchayat Raj Institution at such level and in such manner as may be prescribed.	-do-
13	Similarly, prior recommendation of Gram Sabha or the Panchayat at the appropriate level for exploitation of minor minerals by auction is mandatory [Section 4 (1)]	Section 3 d (i). No concession for the exploitation of minor minerals by auction in the Scheduled Areas granted without obtaining the recommendation of the Gram Sabha or the Panchayat Raj Institution at such level and in such manner as may be prescribed.	-do-

14	While endowing Panchayats in the Scheduled Areas with such authority as may be necessary to enable them to function as institutions of self-government, the state legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with	The Panchayati Raj institution at appropriate level, or Gram Sabha as may be prescribed, in a Scheduled Areas, shall have	The words "as may be prescribed" have been added, with uncertain implications.
14-A	(i) the power to enforce prohibition or to regulate and restrict the sale and consumption of any intoxicant [Section (4) (m) (i) ]	Section 3 (k) (i). The power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant subject to such rules as may be made by the state Government in this behalf.	Rules should be notified without further delay.
14-B	(ii) ownership of minor forest produce [Section 4 (m).	Section 3 (k) (ii). The ownership of minor forest produce <u>subject to such rules as may be prescribed by the State Government as to control and management of minor forest produce.</u>	The underlined words qualify the ownership of the Panchayat bodies.
14-C	(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe [Section 4 (m) (iii) ]	Section 3(k)(iii). The power to prevent alienation of land in the Scheduled Areas and to take appropriate action in accordance with laws in force in the State, to restore any unlawfully alienated land of a Scheduled Tribe.	
14-D	(iv) the power to manage village markets. [Section 4 (m) (iv)	Section 3 (k)(iv). The power to manage village market by whatever name called subject to such rules as may be made by the State Government in this behalf.	Rules should be notified without further delay.
14-E	(v) the power to exercise control over money-lending to the Scheduled Tribes [Section 4(m) (v)]	Section 3 (k)(v). Same as in Central Act.	

14-F	(vi) the power to exercise control over institutions and functionaries functioning in all social sectors.	Section 3(k) (vi). The power to exercise control over institutions and functionaries in all social sectors to <u>the extent and in the manner to be specified by the State Government from time to time.</u>	The underlined words detract from the unqualified control envisaged in the Central Act.
14-G	(vii) the power of control over local plans and resources for such plans including TSP [Section 4 (m) (vii)]	Section 3 (k) (vii). The power of control over local plan and resources of such plan including Tribal sub-Plan <u>to the extent and in the manner to be specified by the State Government from time to time.</u>	-do-
15	The State Legislature may endow Panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government and shall contain safeguards to ensure that Panchayats at the higher level do not assume the power and authority of any Panchayat at the lower level or at the Gram Sabha by Panchayats at higher level [Section 4 (n)]		
16	The State Legislature shall endeavour to follow the pattern of the Sixth Schedule while designing the administrative arrangements in the Panchayat at district level in the Schedule Areas [Section 4 (o) ]	Not indicated	
17	Notwithstanding anything in Part IX of the Constitution, with exceptions and modifications made in this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which	Not indicated.	



	<p>PESA received the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which the PESA receives the assent of the President. [Section 5]</p>		
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## Implementation of the Provision of Panchayats ( Extension to Scheduled Areas) Act, 1996 (PESA, 1996)

S.No	Component Mandatory provisions	Andhra Pradesh	Chhattisgarh	Jharkhand	Gujarat	Himachal Pradesh	Madhya Pradesh	Maharashtra	Orissa	Rajasthan
1	2	3	4	5	6	7	8	9	10	11
1	Acquisition of land - Prior consultation with Gram Sabha or Panchayats at appropriate level	The AP Act has assigned this responsibility to intermediate Panchayat. However, actual planning and implementation will be coordinated at the State level.	The Chhattisgarh Act has made provision that before acquiring land for development projects, Gram Sabha will be consulted.	The Jharkhand Act has no provision in this regard.	The Gujarat Act has assigned this responsibility to Intermediate Panchayat.	The HP Act provides that Gram Sabha will be consulted before making acquisition of land.	Provision made	The Maharashtra Act says that every Panchayats shall be consulted by the authority while every Panchayat shall consult Gram Sabha before conveying its decision.	The Orissa Act has stated that District Panchayat shall be consulted before land is acquired.	Many powers provided to Gram Sabha.
2	<u>Planning &amp; management of Minor water bodies</u> - To be entrusted to Panchayats at the appropriate level	The AP Act has assigned this power to either of the three tiers of Panchayats as the case may be.	The Chhattisgarh Act has assigned powers on Gram Sabha. Intermediate and District Panchayat have powers to plan, own and manage minor water bodies upto a specified water areas	The Jharkhand Act has assigned this power to Gram Panchayat	The Gujarat Act entrusts this power to Gram Panchayat.	The HP Act has assigned these powers at the appropriate level of panchayats with powers to planning and management.	MP Govt. has assigned functions to Gram Sabha to plan, own and manage bodies situated within its territorial jurisdiction	The Maharashtra Act does not make a mention in this matter.	The Orissa Act has assigned this subject to District Panchayats.	Many powers provided to Gram Sabha.
3.	<u>Grant of prospecting license or mining minerals</u>	The AP Act provides for recommendatio	The Chhattisgarh Act has no	The Jharkhand Act has no	The Gujarat Mines & Mineral	The HP Act says that the recommendati	Prior recommendation of Gram Sabha	The Maharashtra Act says that Panchayat shall be	The Orissa Act has assigned	Prior per. on

	- Prior recommendations of Gram or Panchayats at the appropriate level	ns of Gram Panchayat which shall be taken into consideration prior to grant of prospecting license.	provision in this regard.	provision in this regard.	(Regulating & Development) Act provides that prior to granting the quarry lease and quarry permit; recommendations of the GP shall be obtained.	ons of Gram Sabha shall be taken into consideration. Prior to granting license. In other areas, resolution of GP is mandatory.	is mandatory.	competent to make recommendations to licensing authority prior to grant license or permit. Proposal for devolution powers to Gram Sabha is under process.	this power to District Panchayat.	Gram Sabha or PRI made compulsory.
4	<u>Grant of concession for exploitation of minor minerals</u> - Prior recommendations of Gram or Panchayats at the appropriate level	The AP Act has provided that prior recommendations of GP shall be taken into consideration.	The Chhattisgarh Act has no provision in this regard.	The Jharkhand Act has no provision in this regard.	The Gujarat Mines & Mineral Act provides that prior to granting the quarry lease land quarry permit, recommendations of GP shall be obtained.	The HP Act has stated that prior recommendation of Gram Sabha shall be mandatory for grant of concession.	Yes	The Mines & Minerals (Reg. & Dev) Act provides powers to Gram Sabha in this matter.	The Orissa Act has assigned this power to District Panchayat.	Recommendation of Gram Sabha or the PRI made compulsory for the concession.
5.	<u>Enforce prohibition regulate or restrict sale &amp; consumption of any intoxicant.</u> - Panchayats at the appropriate level and the Gram Sabha to endowed with powers.	The AP Act has assigned this function either to Gram Panchayat or Gram Sabha as the case may be.	The Chhattisgarh Act has assigned this power to Gram Sabha.	The Jharkhand Act has assigned this power to Gram Panchayat.	The Gujarat Act has no provision as the State has adapted prohibition in the whole State.	The HP Act has assigned this power either to Gram Panchayat or Gram Sabha. Gram Panchayat may by vote 2/3 <sup>rd</sup> majority of members, direct not to	Gram Sabha empowered.	The Maharashtra Act says that Gram Sabha shall be competent to enforce prohibition or to regulate through Panchayat. Accordingly powers have been assigned to all three tiers.	The Orissa Act has assigned powers to Gram Panchayat to be exercised under direct supervision of Gram Sabha.	PRI at the appropriate level is empowered to enforce prohibition.

						sold intoxicant within that Panchayat.				
6.	<u>Ownership of MFP</u> - Panchayats at the appropriate level and the Gram Sabha to endowed with powers.	The AP Act says that Gram Panchayat or Gram Sabha as the case may be shall exercise powers in this matter as may be prescribed.	The Chhattisgarh Act has no provision in this regard.	The Jharkhand Act has assigned these powers to three tiers of panchayat.	The Gujarat Act has given the right to ownership of MFP to Gram Panchayat. Sale proceeds shall be paid into & form part of village fund.	The HP Act says that either Gram Panchayat or Gram Sabha shall exercise these powers.	The 'Madhya Pradesh Laghu Van Upaj (Gram Sabha Ko Swarnitwa Ka Sandan) Vidheyak 2000' submitted by the Forest Department of MP is under revision to include issues such as 'Ownership of Minor Forest Produce', 'Jurisdictional Issues' etc. raised by the Min. of Rural Development.	The Maharashtra Act provides that every GS shall issue to Panchayat with regard to exploitation and regulation of trading of 33 MFPs and every Panchayat shall be competent to regulate exploitation management and trade of MFPs.	The Orissa Act has assigned powers to Gram Panchayat to be exercised under direct supervision of Gram Sabha	PRI at the appropriate level is endowed with the ownership and control to manage the minor forest produce.
7.	<u>Prevention and restoration of Tribal Alienated Land</u> - Panchayats at the appropriate level and the Gram Sabha to endowed with powers.	The AP Act says that either Gram Panchayat or Gram Sabha shall perform such functions.	The Chhattisgarh Act has no provision in this regard.	The Jharkhand Act has assigned this power to District panchayat.	The Gujarat Act has assigned this power to District Panchayat.	The HP Act has no provision in this regard as tribals in HP cannot alienate their land to non-tribals under the Hp 'Transfer Land Regulation Act'.	Gram Sabha Endowed with such powers.	The Maharashtra Act has assigned this power to Gram Sabha to recommend through Panchayats. IP and DP have also assigned these powers.	The Orissa Act has assigned powers to GP to be exercised under direct supervision of Gram Sabha.	PRI at the appropriate level is empowered to prevent alienation of land in Scheduled Areas and to restore unlawful alienation of an ST.

8	<u>Managing village markets</u> - Panchayats at the appropriate level and the Gram Sabha to endowed with powers.	The AP Act has assigned power to Gram Panchayat or Gram Sabha as the case may be.	The Chhattisgarh Act provides that Gram Sabha shall have powers to manage village markets and melas through Gram Panchayat.	The Jharkhand Act has assigned this power to all three tiers of panchayat.	The Gujarat Act has assigned this power to Gram Panchayat.	The HP Act has assigned powers to Gram Panchayat or Gram Sabha.	The Gram Sabha has been assigned with powers to manage village markets and melas including cattle fair through the Gram Panchayats.	The Maharashtra has not made any provision in this regard.	The Orissa Act has assigned powers to GP to be exercised under direct supervision of Gram Sabha.	PRI at the appropriate level is empowered to manage village market.
9	<u>Money lending to STs</u> - Panchayats at the appropriate level and the Gram Sabha to endowed with powers.	The AP Act says that either Gram Panchayat or Gram Sabha shall perform such functions.	The Chhattisgarh Act has no provision in this regard.	The Jharkhand Act has assigned this power to District panchayat.	The Gujarat Act has assigned this power to Gram Panchayat.	The HP Act has assigned powers to Gram Panchayat or Gram Sabha.	Gram Sabha endowed with powers.	Under the Maharashtra Act such license can be granted by Registrar after consultation with Gram Sabha (s) and concerned Panchayat(s).	The Orissa Act has assigned powers to GP to be exercised under direct supervision of Gram Sabha.	PRI at the appropriate level is empowered to exercise control over money lending to the members of ST

# **Policy of Reservations for Scheduled Tribes**

The Commission has gone into the concept of reservation or positive discrimination for the Scheduled Tribes in the jobs and services and also the operationalisation of the provisions under Article 330 and 332 of the Constitution for reservation of seats in the Lok Sabha and State Vidhan Sabhas. With a view to improve the effectiveness of implementation of reservation policy for STs and to achieve the objective of reaching the prescribed percentage of reservation for them in the posts and appointments as also in admission in educational and professional courses, the Commission had circulated a comprehensive questionnaire to ascertain the views of Central Ministries, State Governments, PSUs, Autonomous Institutions etc., besides holding consultation at National, State and local levels over a period of more than one year. Based on the responses received and the consultations held, following recommendations are made for priority action:-

- (1) At present there is no single nodal Ministry for coordinating reservation policy for STs in the Government of India. DoPT deals with reservation in posts and appointments but is not concerned with reservations in educational/professional courses nor in relation to socio-economic development programmes. There is very little communication with State Governments on this issue who look upto the Government of India for guidance. Therefore, the Ministry of Tribal Affairs may be made the nodal Ministry for planning, implementation and monitoring the reservation policy for Scheduled Tribes.
- (2) The National Commission for Scheduled Tribes can play an important role in monitoring the implementation of reservation policy. But for that it would be necessary to see that the Chairman and the Members are carefully

chosen keeping in view their capability, commitment and experience. Suitable guidelines should be framed for selection and appointment of Members and Chairperson of the National Commission for Scheduled Tribes.

- (3) Implementation of reservation policy through Executive instructions has not succeeded in achieving the desired objectives. Therefore a comprehensive legislation to regulate reservation for STs in posts and services as also in admissions in educational/professional courses may be enacted at an early date.
- (4) There is an urgent need to extend reservations to STs in recruitment to the Armed Forces which has so far been denied without valid and justifiable reasons. Immediate action should be taken to initiate discussion with the concerned authorities on this issue paving the way for making provision for reservations for STs in Armed Forces.
- (5) For recruitment in most of Central PSUs at Officers level minimum 60% marks is prescribed for eligibility to appear in the entrance examination. As a result large number of ST candidates having less than 60% marks in engineering or other professional courses are denied opportunity even to compete for those jobs and large number of reserved vacancies in these PSUs remain unutilized. Concerned recruitment agencies should be instructed to bring down the eligibility criteria to a reasonable level so that the ST candidates are not deprived of their legitimate rights.
- (6) For different levels of cadres, the reservation percentage should be corresponding to proportion of tribal population at that level. For example, for recruitment to district cadre posts if ST population proportion in a district is 50 or 60% the ST candidates should get reservation benefit at the same level, as is already happening in many of the States. Government of India should issue instructions in this regard.

- (7) For admission in educational and professional courses, the UGC has issued detailed instruction. But, it has no authority to enforce it and as a result these instructions are not followed by most of the Universities and Institutions. Effective mechanism should be evolved for proper monitoring and implementation of UGC guidelines.
- (8) Government should immediately initiate action for formulating a policy for continuation of reservation policy in PSUs etc., after disinvestments or privatization as also for extending reservation policy for STs in private sector.
- (9) We further recommend that the clause 3 of Article 80 of the Constitution may be amended to provide reservations for STs in the President's nominations in the Council of States.
- (10) According to the rough estimate, Scheduled Tribes constitute about 8 to 10% of the total population of Delhi. Having regard to this significant size of the tribal population a Presidential Order under the Constitution may be made for providing reservations in jobs and services by relaxing criteria of nativity as it has been a persistent demand of the Tribes of the country who have settled down in Delhi.



## **Tribal Health and Medical Services**

There are immense diversities among the nearly 698 Scheduled Tribe communities in the country. The demographic structure varies from one tribal community to another. Since many tribal communities belong to pre-industrial stage and depend on farm and forestry for their subsistence, the condition of environment has significance for them, which is not generally appreciated. In a meaningful relationship with nature not only do they directly interact with elementary forces of nature like the Earth, Sun, Wind, Rain and Forest during their everyday life, but they also derive their subsistence from primary resources like land and forest. There has been depletion of forest as well as large-scale destruction of wild life.

The shrinkage of these resources also had considerable effect on availability of food for tribals. It has been reported that for every case of frank nutritional deficiency, there are several cases of twilight zones of malnutrition. The ill-nourished groups live in an environment which has been degraded and has been disease-infested, say with malaria, filaria, tuberculosis, leprosy, skin diseases. A general lack of hygiene and sanitation aggravates the problems. On the whole, tribal enjoys a lower level of health as indicated by various health indices like low birth weight, life expectancy at birth, maternal mortality rate, infant mortality rate and prevalence rate of various communicable diseases, genetic disorders, alcoholism and drug addiction.

An Indigenous system of tribal medicines has sustained them for generations. They have recently gained access to modern medicine and more and more of the numbers are taking to it. But health and medical care services are not easily accessible and affordable and they are inequitable inefficient and are of poor quality. The delivery system and health care institutions should conform to the unique condition in tribal areas. In the light of above, the Commission make the following observations and recommendations.

### **Village Level :-**

1. There should be Village Health Guide in each village, which has been recommended by NHP -1983 also. He would assist male/female multi-purpose health workers (MPHW) in implementing various National Health Programme. He should be supervised by PRI and should be given honorarium. Preference should be given to tribal traditional medicinal men, to whom the tribals trust the most.
2. Each *mohalla*, *basti* or *pada* should have at least one trained traditional birth attendant. She should have a delivery kit with aseptic liquid and

scissors for cutting cords. She should be given suitable honorarium. Her work should be strictly supervised by female health workers and PRI.

3. The supervision of the village health guides, TBA (Dai), Anganwadi workers, mid day meal employees should be handed over to Gram Panchayat and Gram Sabha.
4. For every 500 population of tribals, there should be one Anganwadi with building and storeroom etc. At present for every 700 population one Anganwadi is sanctioned. The Anganwadi worker should belong to tribal community, from the same village and should be given adequate salary. The breakfast and other eatables should be provided regularly. Antenatal check up and nutritional programmes should be carried out meticulously and regularly. Anganwadies should have toys and other amusement equipment, which will attract the children and ultimately acclimatize the tribal children for their education.
5. As per the guideline of the Supreme Court and government of India. Mid Day Meal should be regularly given and should be according to Menu prepared by the Nutritional Research Laboratory, Hyderabad. The food should be cooked. PRI should be given responsibility to supervise mid - day meal programme.
6. All the village habitations should be connected by all whether roads. In hilly regions like in Himachal Pradesh and Uttaranchal, each habitation should be connected to main roads by walkable roads, hanging walk able pools. Snow scooters and earth movers should be provided in the snow clad areas to keep the road connectivity for the entire season.
7. All the *bastis* should be provided safe drinking water through tap and regular chlorination should be done to prevent communicable diseases. This responsibility should be given to PRI.
8. Regular spraying of the insecticide to prevent diseases like malaria, filaria and other communicable diseases etc.
9. Drug and alcohol addicts should also be screened out and properly treated and rehabilitated.
10. Under weight new born, infants and children should be detected and be taken proper care by various nutritional programmes. Weighing machine along with delivery kit should be provided to TBA.

11. Information, awareness regarding the family planning, various communicable diseases and genetic disorders should be provided by documentaries, advertisements, posters and lectures etc. at regular intervals.
12. Because of lack of facility for medical care in tribal areas, quackery has flourished in their tribal areas. PRIs should be given power to take action against the quacks.

### **SC Level :-**

13. Where at every 3000 of population in tribal area Sub Centres have not been established; it should be done at the earliest and all Sub Centres should have government building with residential accommodation for the multi purpose female/male health workers. The Sub Centre should be provided with the laboratory facilities for urine; albumin and sugar which can be easily carried out by female health workers.
14. Essential minerals and vitamins should be distributed to the expectant and lactating mothers regularly through the multipurpose health worker. Female health worker should be encouraged by giving some extra honorarium if they conduct the deliveries at odd times. Immunization and other National Health Programme should be implemented through SCs.
15. Local ST girls and boys should be trained and given priority in appointment as multi purpose male/female health workers.
16. Each district must have training school for male and female multi purpose health workers exclusively for the needs of Scheduled Area sub centres.

### **PHC level :-**

17. The PHC as per the NHP norms should be established for every 20,000 of the population in tribal area but since the tribals live in scattered houses to have this 20,000 of population, one has to cover wider area compared to urban areas. So, while sanctioning PHC in tribal area, area also should be one of the norms. If needed, norms can be relaxed as has been done in Himachal Pradesh in Lahoul and Spiti area.

18. All the PHCs in tribal area should have their own buildings with full residential accommodation for all the staffs. The PHC must have fully equipped laboratory with technicians.
19. Routine medicines like ARV, ASV, TT etc., and essential drugs should be available at the PHC. The budget for the medicines and other consumables should be relaxed. PHCs should give equal importance to curative, preventive and promotive type of services.
20. Doctors at PHC should be suitably rewarded by allowances and other facilities and incentives, like out of turn promotion, preference in PG admission and after a fixed tenure (service) in tribal area, a posting of his liking.
21. As PHC in tribal area covers a vast area it should be given one ambulance vehicle, which will be useful for attending to emergencies and shifting the patient to the referral hospitals whenever necessary.
22. Doctors at the PHC should be trained to give the MTP services.
23. Such paramedical staff of the Sub Centre should be given extra allowances if they provide round the clock obstetric services at the PHC level.
24. Free immunization and vaccination should be strictly given to all expectant mothers, infants and children, which should be strictly supervised by PHCs.
25. Basic equipment like infant weighing machine, deep freezer, refrigerator and autoclave machine should be compulsorily provided to each PHC.
26. Male health assistant and female health assistant should be provided with the two wheelers, so, that they can move in the tribal area with ease and supervise various national programmes, vaccination and immunization etc.

### **CHC level :-**

27. All the specialist doctors posts of i.e. gynecologist, paediatrician, general surgeon and physician should be filled up in the tribal area as per the Central guidelines.
28. Those doctors (Medical Officers) who want to render, medical services as a specialist and for that want to pursue PG study on the condition that they would serve as a specialist in tribal area, for specific period, should be given preference in PG admission.
29. All the doctors who are interested in pursuing the PG course should be permitted to do so only after serving full tenure in the tribal area. Recently Medical Council of India has also suggested this to the government of India.
30. All the CHCs should have well equipped operation theatre with anesthetic trolley, operation table, suction machine, AC machine, oxygen equipment and specialist services of anesthetic doctors. Anesthetic doctor would be posted at each CHC without which gynecologist, general surgeon can not undertake the required operations.
31. Paramedical staff as stated earlier should also be given extra pay and allowances and out of turn promotion for working in difficult tribal areas.
32. Each CHC should have one ambulance vehicle to bring and to shift the patient and bring blood, essential medicines and oxygen etc.
33. Each CHC should have one mortuary to preserve the dead body and one post mortem, examination room.
34. Each CHC should have working x – ray machine, sonography machine, ECG machine with a technician. The lady doctor or gynecologist should have training in sonography examination for expecting mothers.
35. The PHC and CHC authorities should have budgetary powers to purchase medicine locally in emergency cases.

### **District Hospital :-**

36. It should have all the specialists with well equipped machinery, furniture, instrument, operation theatre and other facilities. District hospital must have blood bank services which should supply blood to CHCs on demand.
37. If the district hospital is located far away from the CHCs then, one of the CHCs in Scheduled Area, located centrally should be upgraded with the facilities available in district level hospitals.

### **Mobile Hospital :-**

38. Tribal areas should be provided with mobile hospitals for the curative, preventive and promotive type of services at the door step of the patients. Mobile hospital can effectively monitor the various national health care programmes.
39. This type of services also would solve the problem of medical personnel and paramedical staff. Doctors and paramedical staff would stay at their choice and would visit the tribal area, fixed and advertised earlier.
40. Through mobile hospital services health education can be given effectively through distribution of pamphlets, posters and showing film slides and documentaries.
41. Regular chlorination and decontamination process can be supervised easily and regularly at all drinking water sources.

### **Medical College :-**

42. Each medical college located close the Scheduled Area must adopt some Scheduled Area for prevention, detection and management of the various diseases.
43. Medical college should hold a month long medical camp in the Scheduled Area hospital. All the services of the specialist doctors should be provided to the tribal people. Major operations, investigation can be carried out by arranging such camps. Fresh medical graduates would be exposed to various health programmes of tribals. Project administration office should initiate, manage and monitor such type of camps with the

help of P. & S.M department of medical college. Such type of camps should be financed by tribal development department in the state.

44. In medical colleges, nursing schools and in technical courses those persons who are willing to go to tribal areas should be given preference in admission.

### **Defence and Railways Services :-**

45. Military and other defence forces have their own health care system with modern equipment, machinery and medicines with all type of medical personnel and paramedical staff. They camp in the remote inaccessible areas, where the tribals also live. Moreover, they have got modern information system also. It should be mandatory for them to give medical and health services to the inhabitants of that area. Their finance can be augmented by the central and state government for this purpose.

### **General :-**

46. Where the allopathic doctors are not available, after few months of training, the BAMS and Homeopathic doctors should be given appointment in the primary health centers.
47. There should be a separate cadre for medical personnel, paramedical staff and technicians in the Scheduled Area.
48. The tribals migrate in thousands to urban area in search of livelihood. It should be the responsibility of the government to provide medical and health services to these people, at places of their work. Regular health check up, immunization and vaccination should be carried out regularly at their temporary habitations.
49. Even though medical and health services have not reached the tribal people, surprisingly in some cases their health is relatively good as for example Jarawa community of the Andaman and Nicobar Islands. Detailed study and research should be carried out on the tribal health system.

50. Anti malarial, anti diarrhoeal measures should be augmented and strengthened in the month of June and July in the tribal area, to control the spread of malaria and diarrhoea.

### **Tuberculosis:-**

51. All the PHCs should have infrastructure for sputum microscopy and enough quantity of anti TB medicines.
52. NGOs and village traditional health attendant should be involved in carrying out, National Tuberculosis Eradication Programme. Village panchayats should also involved in this programme.
53. Since TB is a chronic disease, it is essential that the Utility, acceptability and sustainability of the DOTs strategy is evaluated. New policy should be adopted for tribal areas considering different factors like geographical, food habits, social taboo, ignorance, illiteracy and poverty.
54. Increased participation of NGOs and private practitioners should be encouraged in the programme
55. Private practitioners must have data of TB patients and they should strictly follow the norm of treatment of tuberculosis.

### **Leprosy :-**

56. The tribal area which has got high prevalence rate of leprosy and are difficult to access, case detection and MDT coverage should be intensified and services of mobile Leprosy Treatment Unit should be provided.
57. Laboratory services should be provided for leprosy detection in PHCs and CHCs. Tribal area should be provided special surveillance system for monitoring trends and prevalence of leprosy.
58. Facility for disabilities, corrective surgery and rehabilitation of such persons should be initiated in tribal area.



59. PRI/NGOs should be involved in detection and management of leprosy patients. They should do house to house survey with the help of Gram Sabha and Panchayat.

### **Genetic Disorders :-**

60. To screen out the genetic disorders, it requires lot of finance and since the health is a State subject and majority of the tribal states do not have financial resources, it is not possible for them to screen out such type of diseases. The central government must take responsibility for financing the diagnosis and screening.

### **Occupational Diseases :-**

61. Various provisions mentioned in the Safety Act must be carried out judiciously. Each factory or unit must have facility for prevention of such diseases. The workers working in the units must be screened at regular intervals and those affected should be compensated.

### **Snake Bite and Animal Bite :-**

62. Prompt treatment is required to save the patient of snakebite. Anti Snake Venom should be available at each PHC level. Refrigerators, Deep freezer must be available at the each PHC for preservation of snake venom.
63. Anti rabies should be easily available at each PHC.

### **AIDS :-**

64. Because in some tribal communities polygamy and polyandry are being practised and they being poor, are lured in to the business of sex worker, the chances of S.T.D and AIDS are more in tribal area. Moreover, there

is no effective drug for the treatment of vaccine for protection against HIV infection. AIDS is the terminal stage of diseases.

65. Multi sectoral efforts involving PRI/NGOs are needed to contain the infection and combat the adverse consequences on the affected person, family and community.
66. All the tribal districts should be provided blood banks and STD clinics.
67. Establishment of sentinel sites for monitoring the trends in prevalence of HIV infection in tribal area.
68. Promotion of IEC, voluntary testing and counseling regarding HIV/AIDS should be started in the tribal area.

### **Administration :-**

69. In tribal populated state in the health department there should be a separate post of Director of Tribal Health in the TD, who will supervise, monitor, manage, the medical and health care system in Scheduled Area.
70. There should be a separate post of Scheduled Area Health Officer at each Tribal Sub Plan Project Office, who will work under the Director of Tribal and Medical health.
71. Paramedical staff at village level like village health guide, TBA, Anganwadi worker should be under the charge of PRI.
72. The staff of the Sub Centre i.e. male/female health worker and that of PHCs medical officer and other paramedical staff should be under the block level panchayat.
73. Demographic profile and health indices are very much important for formulating the health policy. But there are no separate statistics for the tribal people. The Commission strongly recommends to have separate demographic and health data like IMR, MMR, U5MR, CBR, CDR, life expectancy at birth (LEB), % age of B.P.L. population, % age of underweight children, prevalence rate of Tuberculosis, Leprosy, Malaria etc; literacy rate, average family size, annual per capita income, average

female marriage age, population above 65 years and below 14 years, sex ratio male/female, of the tribals. The availability of these vital health indices of the STs would help in formulation of suitable tribal health policy.

74. The Human Development Report (HDR) of the central and the Scheduled Area State governments should have a separate chapter on tribal health data on the lines of the data for general population. The availability of this data for tribals would also enable the Govt. in implementation of proper health policy for scheduled tribes living in the Scheduled Area of the states, this recommendation is being made in view of the fact that the government, has a special constitutional responsibility for the all-round development of the tribals of the Scheduled Areas.

#### 75. Tribal Health Insurance

The Commission observed during the tour of various States / U.T. s that the health services in the tribal areas are inequitable, inefficient, and inaccessible and are unaffordable and are of poor quality. Government should plan equitable, efficient, affordable and good quality of health services which would result in better health status, greater quality of opportunity, better human capital development and greater productivity and competitiveness leading to improved economic status of the tribals. There are 8.5 crore (8.20 %), tribal population, consisting of approximately about 1.6 crore tribal families. The percentage of families living B.P.L is 45% of the total tribal population, which means there are 72 lakh B.P.L. families. In each tribal family, male and female both are earning member. If one of the two falls ill the whole family is affected. Government should insure these earning members of the tribal family so that they can get efficient, equitable and high quality of health and medical services to prevent them from the trap of indebtedness. Health insurance policy for tribal should cover outdoor and indoor treatment, hospitalization, investigation, operation, anesthesia and medicinal charges. As they live in remote area, transportation cover under this scheme should be borne by govt.

**76. IPR for traditional know how and herbal medicinal plants.**

The tribal communities have a storehouse of knowledge about their flora, fauna, and possess methodology for treatment of various types of diseases. This age-old knowledge has been used by the tribal medicine man in all tribal areas before accepting the modern allopathic method of treatment. Even today one can come across tribal *Bhagat* who gives efficacious treatment for many diseases for which allopathy has no treatment.

The process of globalization is threatening the appropriation of elements of the traditional knowledge for tribal folklore medicines into periphery for the commercial exploitation of the few pharmaceutical companies. Urgent action is required to protect their fragile knowledge by taking adequate steps to protect their know how and it is an area where the government intervention with involvement of tribals is urgently called for. There is a need to focus on community knowledge and community innovation and to encourage communities; it is necessary to establish linkages between innovation, enterprise and investment for achieving optimum results.

## **TRIBAL WOMEN**

### **INTRODUCTION**

The challenge of tribal women and tribal children development is a segment of the larger problem of women and child development in the country. The problem assumes greater intensity and complexity for the tribal women on account of the debilitating economic and social backwardness and the abject poverty that large number of them suffers from. Whether the life of tribal women folk has been deteriorating over the decades -as some studies indicate- is perhaps debatable. But what is not in doubt is that there has been no significant betterment or improvement in their status, despite the constitutional safeguards, legislations, policies, and the substantial monies and attention that have been invested in tribal development. In the planning process tribal women have been neglected. "Poverty, lack of basic necessities and exploitation by non-tribals have been the problems faced by all tribes, along with environmental degradation. Destruction of forests, the lifeline of tribal economy, has hit the tribals hardest"<sup>1</sup> The Commission, in its tour of tribal areas, observed the dismal condition of the tribal women and children.

The tribal population of India does not represent a homogenous group, there exist considerable variations in physical, linguistic, economic and socio-cultural make up amongst them. Developmental measures aimed to improve their parlous condition have, therefore, to cater to these diversities while, of course, addressing the shared double handicap of being a woman and a tribal. That tribal women have a better standing in their community compared to women of the mainstream society is but a small consolation to them in the face of the deprivation and poverty that face them as a group. The rapid and climactic changes occurring in the socio-economic scene of the country affect tribal areas more harshly than others. As the Eighth Five Year Plan document observes " Significantly, development processes have interfered in many cases with traditional tribal institution and ethos and have produced negative results". Thus, Tribal Women have much longer distance to traverse and much steeper gradient to clamber in their quest for empowerment and social justice in their search for a better life.

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<sup>1</sup> Tribal Women in Development - Dr. Lipi Mukhopadhyay (Pg 143)

## **SPECIAL CONSTITUTIONAL PROVISIONS FOR SCHEDULE TRIBES**

The Founding Fathers of the Constitution of India, recognizing the vulnerability of the tribes incorporated specific provisions for the protection of the Scheduled Tribes. While the tribes get the guarantees, along with all citizens, to equal rights and opportunities (Art 14) and against discrimination on grounds of sex, religion, race, caste, sex or place of birth (Art 15) there are other Articles specially to protect tribal interests. These could broadly be classified into three categories, namely,

### **1. Protective**

Art 15(3) empowers the state to make affirmative discrimination in favour of women.

Arts 15(4), enjoins upon the State to make provisions for the advancement of any socially and educationally backward classes,

Art. 16(4)(4A)(4B) empowers the State to make provisions for reservation in appointments or posts in favour of any backward class of citizens, in the matter of promotions in favour of the Scheduled Tribes, and carry forward of the unfilled vacancies.

Art. 19 (5), is an enabling provision under which the State can make laws imposing reasonable restrictions on the freedom to reside and settle in any part of India (guaranteed by clause (e) of Art. 19(1)) for the protection of interests of Scheduled Tribes.

Art 39 stipulates that the state shall direct its policy towards providing men and women equally the right to means of livelihood and equal pay per equal work.

Art. 42 directs the state to make provisions for ensuring just and humane conditions of work and maternity relief.

Art. 46 exhorts the State to promote with special care the educational and economic interests of the weaker sections of the people and in particular ..the Scheduled Tribes and enjoins upon it to protect them from social injustice and all forms of exploitation.

Art 51 (A)(e) imposes a fundamental duty on every citizen to renounce practices derogatory to the dignity of women.

Art.335 enjoins upon the State to take into consideration the claims of the members of -- the Scheduled Tribes in making appointments to public services and posts.

Art. 244 (1) (2) and the Fifth and Sixth Schedules. The Fifth Schedule lays down certain prescriptions about the Scheduled Areas and Scheduled tribes in states other than Assam, Meghalaya, Tripura and Mizoram by requiring submission of Annual Reports by the Governors to the President of India regarding the Administration of Scheduled Areas and setting up of Tribes Advisory Councils to advise on matters pertaining to the welfare and advancement of the STs. The Sixth Schedule refers to the administration of the Tribal Areas in the states of Assam, Meghalaya, Tripura and Mizoram by designating certain tribal areas as Autonomous Districts and Autonomous regions and also by constituting District Councils and Regional Councils.

## **2. Political**

Arts 330,332 stipulate reservations of seats for STs in the Lok Sabha and in the State Legislative Assemblies. Art 334 envisages these reservations for 60 years from the commencement of the Constitution.

73<sup>rd</sup> & 74<sup>th</sup> Constitutional Amendments (1993) has ensured equal access and increased participation in grass root democratic institutions viz Panchayati Raj Institutions and Local Bodies.

Art. 243 D (3) – Not less than one third (including the number of seats reserved for women belong to SC & ST) of the total number of seats to be filled by direct election in every Panchayat

to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat.

Art. 243 D (4) Not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women.

Art. 243 T (3) – Not less than one-third (including the number of seats reserved for women belonging to SC & ST) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies.

Art. 243 T (4) – Reservation of offices of Chairpersons in Municipalities for the SC & ST, and Women in such a manner as the legislature of a State may, by law, provide.

### **3. Developmental**

Art. 46 has been covered above and Art. 275(1) provides for grant-in-aid for promoting the welfare of Scheduled Tribes and for raising the level of administration of Scheduled Areas.

## **DISTRIBUTION AND DEMOGRAPHY**

Majority of the Scheduled Tribe population of the country (about 85%) is concentrated in a belt extending from Gujarat and Rajasthan in the west to West Bengal in the east through the States of Maharashtra, Madhya Pradesh, Chhattisgarh, Andhra Pradesh, Orissa and Jharkhand. Most of the remaining Scheduled Tribe population is accounted for by the northeastern and southern states. The tribal areas constitute roughly one-fifth of the geographical areas of the country.

As per the 2001 Census the ST population is 84.51 million accounting for 8.23% of the total population. The female population is 41.32 million (without Manipur) (49.43%) and the male population is 42.26 million (without Manipur) (50.57%). The ST female population is 8.33



**% of the country's female population of 495.74 million; that is every 12<sup>th</sup> female in the country belongs to a ST category.**

**There are more than 698 officially recognized Scheduled Tribe communities in India who span a broad spectrum of socio-economic and socio-cultural levels of development. Some of the tribal communities are at food gathering stage and some others at primitive agricultural stage. There are also tribal groups who have entered modern era in agriculture, industry and the service sector.**

**Tribal communities living in different regions could be broadly categorized into six administratively recognizable divisions;**

- (i) North-eastern States comprising Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Assam, Manipur, Sikkim and Tripura**
- (ii) Sub-Himalayan region comprising Himachal Pradesh and Uttranchal.**
- (iii) Central belt comprising West Bengal, Bihar, Jharkhand, Orissa and Chattisgarh.**
- (iv) Western belt comprising districts of Madhya Pradesh, Maharastra, Rajasthan, Gujarat, Union Territories of Dadra & Nagar Haveli, Daman & Diu and state of Goa.**
- (v) Southern zone comprising Andhra Pradesh, Karnataka, Kerala and Tamil Nadu**
- (vi) Island regions of Andaman and Nicobar and Lakshadweep.**

State-wise ST population (2001) with the breakup between male and female population is given below: -

**CENSUS OF INDIA 2001 SEXWISE**

S.N.	State	*P STs 2001	#M STs 2001	\$F STs 2001
1.	Andhra Pradesh	5024104	2548295	2475809
2.	Andaman & Nicobar	29469	15127	14342
3.	Arunachal Pradesh	705158	352017	353141
4.	Assam	3308570	1678117	1630453
5.	Bihar	758351	393114	365237
6.	Chhattisgarh	6616596	3287334	3329262
7.	Chandigarh	0	0	0
8.	Dadra, Nagar & Haveli	137225	67663	69562
9.	Daman & Diu	13997	7190	6807
10.	Delhi	0	0	0
11.	Goa	566	299	267
12.	Gujarat	7481160	3790117	3691043
13.	Haryana	0	0	0
14.	Himachal Pradesh	244587	122549	122038
15.	Jammu & Kashmir	1105979	578949	527030
16.	Jharkhand	7087068	3565960	3521108
17.	Karnataka	3463986	1756238	1707748
18.	Kerala	364189	180169	184020
19.	Lakshadweep	57321	28611	28710
20.	Madhya Pradesh	12233474	6195240	6038234
21.	Maharashtra	8577276	4347754	4229522
22.	Manipur	930582	Not available	Not available
23.	Meghalaya	1992862	996567	996295
24.	Mizoram	839310	422963	416347
25.	Nagaland	1769561	910950	858611
26.	Orissa	8145081	4066783	4078298
27.	Punjab	0	0	0
28.	Pondcherry	0	0	0
29.	Rajasthan	7097706	3650982	3446724
30.	Sikkim	651321	328917	322404
31.	Tamil Nadu	111405	56940	54465
32.	Tripura	993426	504320	489106
33.	Uttaranchal	256129	131334	124795
34.	Uttar Pradesh	107963	55834	52129
35.	West Bengal	4406794	2223924	2182870
	INDIA	84511216 without manipur 83580634	42264257 without manipur	41316377 without manipur

\*P = for Person

# M = for Male

\$ F = for Female.

Note: Population of Manipur according Sub-Plan (Manipur) estimated.

## **EMPOWERMENT (SWAYAM SIDHA)**

Women and children constitute 65.6% of the country's population and account for 673.80 million as projected in the 2001 census. Women alone accounts for 495.74m representing 48.3% of the population. Out of this 41.32m (2001 census without Manipur) or 8.3% belong to the ST. Taking these figures into consideration and for the overall benefit/advancement of the country, the empowerment of women and development of children should be given significant priority in our development agenda. STs being at the bottom deciles of the Indian society, their position is far worse and need special attention. There is no doubting the fact, that there is an increasing awareness for the need to improve the status of women. As pointed out in the earlier paragraphs, the principle of gender equality is enshrined in the Constitution. Though, the development of women has been a focus area from as far back as the Fifth Five Year Plan however, there still exists a wide gap between the goals enunciated and the situation on the ground. The position of the weaker sections including the Scheduled Tribes, majority of whom are in the rural areas and in the informal and unorganized sectors is particularly pathetic. Their access to education, health and socio-economic resources among others is grossly inadequate.

The National Policy for the Empowerment of Women has been described as a landmark achievement. The main objectives of the Policy are the advancement, development and empowerment of women; elimination of all forms of discrimination and ensure their active participation in all spheres of life and activities. It also prescribes affirmative action taking into account the new developments initiated by the process of economic reforms and the impact of globalisation and liberalization particularly in the informal sector. The Department of Women and Child Development is in the process of finalizing a Plan of Action with achievable goals by the year 2010. The POA will also identify commitment of resources, responsibilities for implementation, structures for monitoring and strengthen institutional mechanisms. **It is urged that while formulating this Plan of Action, the distinctive features of the tribal women's life and her place in the different tribal societies must be reflected in order to ensure full implementation of the Plan. There is an urgent need to have a separate division/section on ST women.**

The following paragraphs will deal with various sectoral issues, that should help towards the advancement, development and empowerment of women in particular tribal women.

**(a) Education**

Literacy level among the ST females is indeed serious and unless strenuous efforts are made this group is unlikely to garner benefits of developmental investments made in other social and economic sectors. Conversely, the observation that those Scheduled Tribes, which acquired education "have more awareness of their situation and take maximum advantage of the privileges given to STs under the Constitution. They have also taken up leadership of their own tribes,"<sup>2</sup> succinctly reinforces the fact that education is the key to empowerment; it brings about awareness of one's rights and catalyses overall development.

The literacy rate among the rural tribal population is considerably lower than those of their counterpart non-tribal population. The Scheduled Tribe literacy rate, according to the 1991 census, is only 29.6 %; the female literacy rate among the group is a low 18.19%(ranging from 4.42% in Rajasthan to 78.7% in Mizoram –i.e the lowest and the highest female literacy rate is among the tribal women) against the all India average female literacy rate of 39.29%. Added to the low literacy rate is the alarming drop out rate. The drop out rate of ST girls in different stages of school education has been estimated, sometime back, to be approximately 68.73 in primary, 81.45 in middle and 89.91 in secondary stages. State wise data reveal that AP, Bihar, Meghalaya, Tripura, Gujarat, M.P. Maharashtra, Orissa and Rajasthan had more than 90% dropout at secondary stage.

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<sup>2</sup> Tribal Women in Development - Dr. Lipi Mukhopadhyay (Chp. 10 Pg 72).

The States and UTs could be grouped into 6 categories as below according to the range of ST female literacy:

<b>Range of literacy level</b>	<b>States/ UTs</b>
(1) Above 70%	Lakshadweep, Mizoram
(2) 60-70%	Nil
(3) 50-60%	Kerala, Nagaland, Sikkim
(4) 40-50%	Andaman & Nicobar Islands, Daman & Diu, Manipur, Meghalaya
(5) 30-40%	Assam, Himachal Pradesh
(6) 20-30%	Arunachal, Goa, Gujarat, Karnataka, Mahahrastra, Tamilnadu, Tripura
(7) Below 20%	Andhra Pradesh, Bihar, Dadra & Nagar Haveli, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh, West Bengal

From the above table it will be seen that only 5 States/UTs have more than 50% of their ST females as literates. At the other end 8 States/UTs have ST females with less than 20% literates. Only 9 States and UTs (A&N, Daman & Diu, Kerala, Lakshadweep, Manipur, Meghalaya, Mizoram, Nagaland, and Sikkim) having only 6.45% of the total ST female population of the country ranked equal to or above the all-India average female literacy rate (39.29) for total population.

While it can be said that about 70-90% of ST population clusters in various States have primary schools within a radius of 1km distance “there is no uniformity in the enrollment ratios among the States and there is wide variation when the primary and middle schools are compared. It is always much less enrolment in middle schools as compared to primary schools, instead of increasing the enrolment ratios, over the years, it has been on the decrease in many of the states. It can also be inferred that girls education has been neglected mostly at the middle school level for various reasons”.<sup>3</sup>

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<sup>3</sup> Ibid (pg 73)

The major reasons cited by Commissions and Sociologists who have examined the problem at various points of time are:

- 1) Poor economic conditions of parents, lack of proper equipment in schools and communication facilities, unsuitable school medium of instruction, inappropriate content and coverage of syllabus.
- 2) Lack of special textbooks, need for medium of instruction through local language, sufficiently and efficiently trained teachers.
- 3) Tribal children live in isolated areas and can hardly assimilate information about history and geography of the country, or outdated stories and personalities unknown and unheard of in tribal areas.
- 4) Process of implementation of different incentives not effective. There should be a common environment to both tribal and non-tribal students when setting up educational institutions and hostels.
- 5) School hours and holidays not convenient.
- 6) Educational institutions in tribal areas not equipped with proper facilities and equipment and run by unsuitable teachers and not properly maintained.
- 7) Ignorance and reluctance of parents, family environment, unhappy school atmosphere and medium of teaching through unfamiliar language.

From the above, it can be seen that even after 50 plus years, the reasons cited for low literacy levels still remain, although equality of access to education, including higher education is a fundamental right as per Supreme Court Judgement in 1992 (Mohini Jain Vs the State of Karnataka). Besides, free and compulsory education to all children below 14 years is a Constitutional directive. "The National Policy on Education, 1986 and Programme of Action 1992, have perceived education as fundamental to all round development of children and stipulate free and compulsory education of satisfactory quality to all children upto 14 years of age. The National Policy on Education also emphasizes universal enrolment of children and is directly addressed to setting right the traditional gender imbalances in education ----- further strengthen the commitment made in the constitutional provisions and lay special emphasis on education of the girl child. In the expanded vision of education that emerges, the most important

key element is making girl's education a major priority.”<sup>4</sup> The National Perspective Plan, 1998 also laid emphasis on the importance of educating girls. However, despite this, the male-female disparity continues and the ambivalence regarding the importance of women's education remains; the mind-set has to change. This disparity is even more amongst the tribals. Much more needs to be done to raise the literacy levels. Education brings about awareness which leads to empowerment. As such education for girls must be given top priority. Efforts have to be made to address the socio economic and cultural obstacles. Parents have to be motivated through appropriate campaigns as also financial compensation to send their children to school. The Government, on its part has to set up schools at all levels. Most of the tribal children are from remote and rural areas. Schools particularly primary, should be located within walking distance of the child's home. Ashram or residential schools serving a cluster of villages should be established. Provision for hostels in the middle, higher secondary, college and university levels must be made. Book Banks must be made available for students who cannot afford expensive textbooks. Special coaching classes should also be organized.

During the Commission's tour to tribal areas, it was noticed that in areas where the economic status was better, all school going children were at school. Obviously, key factors for school enrolment, attendance and retention are closely linked to economic development, household incomes and poverty. **In order to ensure attendance and prevent dropouts, incentives, such as mid-day meals, financial support, free uniforms and books must be provided.**

**More often than not the girl child has to help at home. They are entrusted with the domestic responsibilities of fetching fuel, fodder, water, as also looking after their siblings. Schools, therefore, have to be responsive to the girl's need from physical location, convenient timings, curriculum and ancillary facilities like drinking water, toilets etc. Childcare facilities should also be made, to relieve them from their siblings responsibilities. Anganwadis should be opened in each village even if the number of children are less than 10 to 15. A local community girl who has passed 5-7 class could be selected, trained and deputed as a teacher, with a nominal honorarium. For those who remain outside the formal**

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<sup>4</sup> Annual Report of the Department of Women and Child Development 2002-2003- (pg. 60)

**system, non-formal education may be more relevant. This could be specially designed and made functional. Panchayats and local bodies should be roped into assisting.**

A number of schemes are operating some of them are relevant to tribal areas. These should be extended to tribal areas if not already done. To name a few –

**Sarva Shiksha Abhiyan (SSA)** was initially to be implemented in low female literacy districts only, however it has now been extended to all districts in the country. A new scheme of National Programme for Education of girls at Elementary level has been launched under SSA with additional interventions for the blocks having female literacy below the national average and gender gap above national average. According to Ministry of Human Resource & Development 2656 blocks with low SC & ST female literacy have been covered. The scheme is yet to be evaluated. STs should be separately covered. Depending on the results further expansion should be undertaken. The National Council for Teacher Education in collaboration with IGNOU developed a programme entitled “Certificate in Primary Education” of six months duration through distance mode. This programme is targeted at untrained primary teachers working in the state-run schools in the northeastern states including Sikkim which have sizeable tribal population. This is aimed at meeting the shortage of trained teachers at primary stage of education. Another scheme which may be considered is that instead of outside teachers local persons who have passed 10<sup>th</sup> standard may be employed with an honorarium. Teaching in the mother tongue upto 4<sup>th</sup> standard maybe made compulsory.

During the tours of the Commission, the shortage/absence of teachers was observed. **These schemes should be extended to all parts of the country which will help towards meeting the shortage of teachers as well as generate employment.**

**The Mahila Samakhya Scheme** is in operation in rural areas covering women from socially and economically marginalized groups. It is basically an empowerment programme - which obviously includes STs. The districts and blocks taken up in this scheme are those with the highest figures of gender disparity and lowest female literacy rates. The scheme according to Ministry of Human Resource & Development covers 12,024 villages in 58 districts of Andhra Pradesh, Gujarat, Karnataka, Bihar, Assam, Jharkhand, Uttaranchal and Kerala. The programme



has enabled women's collectives to address the larger socio-cultural issues that have traditionally inhibited the participation of women and girls in the education system. Through its strategy of building grass root women's organizations, the scheme has created a forum and an environment for women's education at the community level. The scheme needs to be evaluated and thereafter extended to other states and thus help in the process of improving the dismal lot of women, particularly tribal women in rural and remote regions.

**Vocational training** must be given importance. The involvement of girls in vocational educational programmes is crucial. They must be encouraged to participate in non-traditional and emergent technologies. There is an urgent need to extend, particularly in tribal areas, the existing network of regional vocational training centers. Provision should be made for the STs in the Women's Industrial Training Institutes and Women's Wings with General Industrial Training Institutes with residential facilities. These Institutes are required to be set up in more districts and sub-districts. Vocational Training should be in marketable skills. Studies on skills for which a demand exist or are likely to arise, require to be commissioned.

In the tribal sub-plan, efforts have been directed towards education and special attention has been made towards female education. There is also a scheme for construction of girls hostel for which the center allocates 50% of the outlay. **More such hostels should be constructed so as to motivate the parents to send their daughters to school.**

Much thought and planning has gone into devising schemes for education including for girl child and women. However, implementations on the ground and results have fallen short of expectation. Schemes of incentives based on results could be thought of.

## **(b) Health & Nutrition**

Majority of the Scheduled Tribes Community in the country have, in general, failed to benefit in any significant measure from the developmental efforts in various spheres including health.

The following observations in the matter of health care of tribals in general and tribal women in particular have been made in Reports, Studies, etc.

1. Despite the existence of quite a vast net work of institutions to study and research ST communities, there is dearth of information concerning the health status of Tribal Women. Whatever data are available are fragmentary, scattered and isolated. There is, for eg, hardly any study on maternal mortality among the tribal population. Different studies on the health concerns of different communities at different times have been made but composite study / picture is lacking.
2. The nutritional problems of different tribal communities located at various stages of development are full of obscurities and very little scientific information on dietary habits and nutritional status is available due to lack of systematic and comprehensive research investigations. Maternal malnutrition which is quite common among the tribal women is also a serious health problem. The linkage of forests cover with nutrition may be mentioned. Deforestation has affected nutritional status of the tribals. Disturbance of tribals' habitation and eco-systems has had deleterious effects on their health as has the uncontrolled use of pesticides .
3. Tribal people are prone to diseases such as Malaria, Filaria, TB, Yaws, STD, sickle-cell-anemia. As tribal women work hard even during advanced stage of pregnancy, they suffer from different types of gynecological disorders.
4. Due to large scale deforestation, tribal women have to walk longer distance and work much harder to gather provisions for basic necessities like food, fuel, medicine, housing material etc. from the forest. This adds to their work load and physical and mental strain.
5. The nutritional levels of the tribal people varies from tribe to tribe depending upon their socio economic and ecological background. However their dietary habits and nutritional

levels are grossly inadequate. In fact, most women suffer from nutritional anemia that lowers resistance, fertility and working capacity and increases susceptibility to diseases.

6. Tribal women enjoy high social status in tribal societies, but they have low health status. The women folk work in the fields, forest, and at home as much as 15-16 hours a day. Even during pregnancy and postnatal stages, they work hard. They have a negative energy balance, high morbidity and low output.
7. The infant mortality rates and general morbidity rates have remained high in India, particularly in tribal areas because of the lack of well coordinated health care and family welfare services. The health care services are not only scarce, their quality is questionable. This has a negative impact on family welfare planning program.
8. In the tribal areas the objective of empowering women with a view to developing their decision- making capabilities concerning fertility has special relevance. The objective will be served only if, in addition to literacy and gainful employment, they have reasonable access to a range of reproductive services and child health services.
9. It is hoped that the Panchayati Raj Institutions would infuse a fresh élan to the family planning program.
10. The approach to family planning program in the tribal areas need to be examined afresh. Different Scheduled Tribe Communities in the country are in different stages of socio-cultural and economic development. As such the approach in the matter has to be observed carefully after a correct comprehension of the situation on which appropriate tribal population policy can be built. This policy should be Scheduled tribe Community specific, oriented to the democratic and socio-cultural milieu of each tribal society.

The special health needs of women and the girl child, which includes tribal population, is recognized. The reduction of infant mortality and maternal mortality, which are sensitive indicators of human development, is a priority concern. There are many indicators to point out that the neglect of health needs of women, specially that of pregnant women, adolescent girls and girl babies is responsible for the present high rate of IMR/ CMR/ MMR. A holistic approach which includes both nutrition and health needs of women and the girl child at all stages of the life cycle must be adopted. Taking into account the multiple roles including physical labour that tribal women living in the backward rural areas have to shoulder, efforts should be made to

ensure that the health services become more responsive towards women-specific health problems. In this direction, women must have access to appropriate, affordable and user-friendly health care services. Primary health care services should be extended and priority should be given to the rural and urban poor living below the poverty line.

Malnutrition and disease is the bane of the tribal women. Focused attention needs to be made in meeting the nutritional requirement of women at all stages of the life cycle. Intra-household discrimination in nutritional matters vis-à-vis girls and women must be tackled. Widespread nutrition education ought to be introduced. Women's participation in the planning, supervision and delivery of end service should be encouraged and supported.

During the tours of the Commission, the inadequacy of the infrastructure for health services was observed. Medical care remains inaccessible to large sections of the population, particularly in the remote and rural areas, where the majority of the tribes reside. Government has laid down norms for the network of sub-centers, primary health centers and community health centers. However, there is a severe shortfall. The inadequacy of manpower in the rural primary health care institutions, with vacancies and absence of staff in critical posts has very serious implications for the health care of the people. Large numbers of posts remain vacant due to slow recruitment and unwillingness of the selected persons to report in the rural duty posts. Government must devise incentive schemes, (financial, good housing facilities, educational arrangement for their children etc.) for posting to difficult stations. Special training for local dais should be given top priority. Local youth from remote villages could be selected and basic health training for a short period may be given. They should be supplied with a medical kit for first aid treatment. Mobile clinics should be introduced for remote areas. What is most essential is the proper implementation of these schemes.

The infant mortality rate is very high among the tribals. Major health problems of the females occur during pregnancy, childbirth and lactation, mostly due to unhygienic conditions. The ICDS programme is expected to provide a package of services covering nutrition, education and immunization of children. However, better coordination and monitoring is required for the proper implementation of the schemes.

Traditional medicines should be encouraged. However, with the restrictions imposed by the various Forest Acts collection of herbal medicines is becoming difficult. Government is urged to address this problem. Loss of traditional systems and knowledge can be an irreparable national loss, all out efforts must be made to keep them above.

**(c) Economic And Work Scenario**

One of the means of improving the status of women, like that of any sector of the population, is by strengthening their economic sinews. However, women's economic strength in India is far from satisfactory and there is a long way to go, particularly in the face of a societal mindset that discriminates against them. It cannot be gainsaid that changes have been taking place; but that is restricted mainly to the urban and semi-urban areas where education, technology and training have given women skills with which they have seized new opportunities. It is, however, only a thin veneer of the upper strata of Indian women who have been absorbed into the modern sectors like medicines, management, civil services, engineering, technology, etc. Tribal women, however, are few and far between in these modern professions. The rural societies to which the majority of tribal women belong are, by and large, still tradition bound and both education and opportunities have been denied them. At the same time, one must not overlook or underestimate the contribution of tribal women to tribal economy, brought out in a number of studies by sociologists and anthropologists.

The tribal scenario should cause us to pause and reflect on our approach to tribal women. In the first instance, she has been ignored by the development process. In the Sixth Plan (1980-85) the shift from "welfare" to "development" of women was recognized. "Empowerment of Women" became one of the primary objectives of the Ninth Plan where the approach was to create an enabling environment where women could freely exercise their rights both within and outside the home as equal partners along with men. This is a far cry as far as tribal women are concerned. "Even the Tribal Sub-Plan designed to focus squarely on the tribal people never got down to focus genderly. From the vantage hindsight perspective one can see that the facile assumption that once the development process got into the stride the fruits would flow on tap for

tribal men, women and children alike, was flawed. It can now be argued that development formulations should have appreciated the gender differentials and should have, therefore, created the apposite planning strategies. Nevertheless, the time has now come to consider the matter in the correct perspective. Plans, programmes and schemes should scrutinize gender wise implications and make requisite appropriate provisions. Due discrimination needs to be exercised. Taking the example of agriculture, the extension agencies spotlighted the male. The tribal female has been out of the picture, notwithstanding the fact that she is dominantly involved in sowing, transplantation, weeding, cutting, harvesting operations. Her role in forestry is even more preponderant. In fact, part of the failure of the total planning strategy may lie in the sidetracking of the female. Secondly, the tribal female is an overworked person and is conservative by nature. Her birth in a tribal society confers on her certain advantages. As compared to her sister in non-tribal societies, relatively speaking, she is not suppressed or confined. She has the freedom to walk with gait erect in the expanses of the hills and dales. She can participate in the deliberations of her community more than the non-tribal female can. All these endow her a position and status in her society which have been overlooked by planners.”<sup>5</sup>

According to UNDP Administrator James Gustav Speth “sustainable development is people centred, participatory, pro-poor and therefore pro-women.” Recognition has to be accorded to the largely sustainable modes of economic activities of the tribal societies. Whether it is farming or forestry, they have been practising such modes. An overwhelmingly favourable land-man ratio formed the base. Even shifting cultivation called Podu in Orissa, Jhum in the Northeast and by other names in different tribal regions of the country and branded as anti-ecological by some, has not been really harmful in the past, because of the relative abundance of land and longer Jhum cycle. The tribal customs, beliefs and traditions have been geared to maintain the balance between their needs and preservation of natural resources. Tribals have been champions of sustainable development and among them, the women have been the chief protagonists. It is through their patient, prolonged labour that stone terraces have been built, contour bunds and ridges constructed, alder and other soil binding devices planted. The role of tribal women in the minor forest produce component, which can be as high as upto 60% in the total household income budget, has not been precisely evaluated, but it is seen as preponderant.

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<sup>5</sup> Report on Tribal Women and Employment, National Commission For Women, 1998 – (pg.9-10)

But the dwindling forests are a cause of concern, as it has robbed them of a sizeable slice of household income, which have traditionally been added by the women.

Commercial exploitation of tribals is rampant. Tribal commodities are purchased at cheap rates and the middle-man makes huge profits. "All government efforts to shield them from exploitation through interventionist strategies like establishment of fair price purchase and sale shops, LAMPS, PACS, Tribal Development Corporations, Forest Development Corporations have borne little fruits owing either to lack of understanding of tribal mores by government officials manning them, or plain bad intent. Certain State Governments have entrusted procurement of minor forest produce items from tribals, which really means from tribal women at rates dictated by these organizations. The original intention presumably was to protect tribal women from exploitation. But in practice, these government organizations have been acting as monopolist middle-men. The freedom to sell MFP items in the market without the obligation to sell them to a particular organization is likely to benefit, tribals. Government organizations should, however, continue to operate as one of the players but not as a monopoly procurement agency. In other words, Government should play merely a salutary interventionist part"<sup>6</sup>. This is an urgent requirement.

Women are deeply involved in the conservation of the environment and control of environmental degradation. The vast majority of rural women still depend on the locally available non-commercial sources of energy, such as animal dung, crop waste and fuel wood. Non-conventional energy resources such as solar energy, biogas, smokeless chulahs have to be encouraged. Women have also taken keen interest in the conservation and restoration of forests. The Chipko movement led by the women has contributed to control felling of trees. The Innovative Women Farmers Club of Chinchpur, Gujarat has changed the face of agriculture in the village and brought success and prosperity in their village. Though there are other such success stories but barely enough. Women have to be encouraged and motivated to take the initiative to push ahead.

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<sup>6</sup> Ibid - (pg. 48).

There are a number of programmes and schemes formulated by the Government aimed towards empowerment of women. These would, no doubt, be beneficial for women in general. However, it is hoped that the benefits will reach the tribal women who live in the geographic and societal fringe. No data is available on this.

The following schemes would be particularly beneficial for the tribal women and should be given extensive coverage in the tribal areas.

**Swayamsidha:** - An integrated programme for women's empowerment with the concept of convergence of all women related schemes of the State and Central Government at the block level through Swayamsidha through the network of Self-Help Groups of Women. It aims to create confidence and awareness among the members of the SHGs regarding women's status, health, nutrition, education, sanitation and hygiene, legal rights, economic upliftment and other social, economic and political issues, help in accessing micro credit and involve women in local level planning. With sufficient support and motivation the SHGs should do well. During the Commission's tours in different states excellent work done by the SHG's in energy, entrepreneurship, agriculture, horticulture, plantation, etc. was observed. Networking is very essential for the SHGs in the different regions to learn from each other's experience, this should be encouraged.

**Swa-Shakti Project** also known as the Rural Women's Development and Empowerment Project. Started in 1998 it aims at setting up of self-reliant Self Help Groups (SHG) and developing linkages with lending institutions to ensure women's access to credit facilities for income generation activities. Thus ensuring better quality of life. This is particularly suited for tribal women and should be extensively propagated.

The Musahar women in Bihar were mobilized under this scheme and have greatly benefited from it. So also the Gollas of Karnataka and the Birhors of Jharkhand. The transformation is gradual but it is a move forward. More primitive and backward tribes must be brought within its fold.



### **Support to Training and Employment Programme for Women (STEP) –**

This programme was launched in 1987. Women beneficiaries are organized into viable and cohesive groups or co-operatives. A comprehensive package of services such as training, extension, infrastructure, market linkages etc are provided besides linkage with credit for transfer of assets. Thus the women's traditional occupations such as agriculture, animal husbandry, dairying, fisheries, handlooms, handicrafts, khadi and village industries, sericulture, social forestry and wasteland development have been enhanced and helped them in their income generation. These are the sectors of tribal's involvement, and the scheme must be extended to them extensively. Tribal women's Cooperatives can play a key role in their economic advancement.

**Swawlamban** launched in 1982-83 with the assistance from the Norwegian Agency for Rural Development (NORAD) may provide training and skills to women to facilitate them to obtain employment or self-employment. The target group includes tribes. Financial assistance is provided to women's development corporations, autonomous bodies and voluntary organizations to train women mostly in non-traditional trades and to ensure their employment. Some of the popular trades under the programme are computer-programming, medical transcription, electronics, watch assembling, radio and television repair, garment making, handloom weaving, secretarial practice, community health work, embroidery etc. This scheme helps in opening up new opportunities for the tribal women and accelerate their upliftment.

### **Agriculture and Land Management**

As the majority (89.5%) of the female work force is concentrated in the agricultural sector, they are often marginalized, first as women and second as landless labourers with no inheritance rights of land or other productive assets. Thus Government has to ensure effective implementation of land reform legislations, ceiling and distribution of surplus land, issue of joint pattas etc. Special training should also be conducted in soil conservation, social forestry, dairy development, agriculture and its allied activities of horticulture, small animal husbandry, poultry, fisheries etc and also in the latest technology which will help women in meeting the market demands.

### **Non-Agricultural Sector**

Different tribal communities produce their own distinctive handlooms and handicrafts which are attractive and of great artistic value. These could be cloth for everyday wear, shawls, rugs, carpets etc. Each community has its own pattern, designs or colour which distinguishes them from each other. The tribals of the north-east produce beautiful and colourful hand woven textiles. The Arunachalis weave exquisite carpets. The Bhotias of U.P and the Spitians and Lahaulis of H.P. are known for their wool-work. The Bondo, a primitive tribe of Orissa produces a textile made from a fibre plant found locally. The Todas of the Nilgiris create their own unique clothing. The Bhils of Central India make Beed clothing while the Banjaras of the north and south make colourful dresses with in-land mirror work. Apart from handlooms, the tribal women are engaged in arts and crafts. These could be utility, religious or decorative objects such as baskets, vessels, combs, headgear, musical instruments, jewellery and ornaments etc. Unfortunately not much data is available on the quantum of production or to what extent the production of these items appropriates the family's time, labour and income. It is important to preserve these traditional crafts. Improved technologies should be infused to bring about greater efficiency and production. The tribals should be allowed to decide on the appropriate technology. Numerous examples are available, Tribal women are making leaf plate and cup by machines in Mayurbhanj in Orissa. In Ranchi district of Jharkhand reeling of tassar cocoons is done both manually and mechanically. Therefore, it is essential to make concerted efforts to develop appropriate technologies suited to tribal women's needs so as to reduce their drudgery and also help towards their economic empowerment.

There is need for greater involvement of women in science and technology. Girls should be motivated to take up science & technology for their higher studies. Special training should be conducted in areas like communication and information technology. This will, in the long run, bring about a greater bonding amongst the different tribal groups.

**Industry** – Women must be encouraged to equip themselves with the necessary professional / vocational skills in sectors such as electronics, technology, food-processing, agro-industry and textiles which are crucial to development. They have to be trained to make entry into newer areas. Suitable support services such as child care facilities, transport, security etc must be provided.

**Unorganised / Informal Sector** – Women and majority of the tribals account for more than 90% in the informal sector. Efforts must be made to ensure that they are provided better work conditions and welfare services. As per the constitutional commitment they must get “equal pay for equal work.”

**Rashtriya Mahila Kosh** – Set up in 1993 as a national level mechanism to meet the credit needs of poor and asset less women in the informal sector has established its credentials as a premier micro-credit agency. It has helped to popularize the concept of micro-financing, therefore, credit, formation and stabilization of SHGs and also enterprise development for poor women. Tribal women’s cooperative groups will greatly benefit from Rashtriya Mahila Kosh.

**Women’s Component Plan** – The Tenth Plan promises to make the Women’s Component Plan more effective by identifying schemes and programmes of various ministries/departments. It will also direct that 30% of fund / benefit are earmarked in all women related sectors. Also the flow of funds will be monitored to ensure that the strategy of empowering women is a multi-sectoral approach towards holistic development and advancement of women. It may be useful to extend this concept to a ST Women’s Component Plan incorporating therein the share of resources for the ST women with linked policies, programmes and schemes.

**Legislation** – It has been stated earlier that the Constitution of India grants equality to women and also empowers the State to adopt measures of positive discrimination in favour of women. The preamble speaks of equality of status and opportunity and of social, economic and political justice. The Fundamental Rights, among others, ensure equality before the law, equal protection of law, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth. The Government has enacted several women specific and women related legislations to protect women against social discrimination, violence and atrocities and also to prevent social evils like child marriage, dowry, rape, etc. Such acts as Equal Remuneration Act of 1976 and the Prevention of Atrocities Rules of 1995, just to name a few, have not prevented discrimination against women. Various reviews reveal the low status of women on many counts and there is a wide gulf between what was intended in the Constitution and what prevails in practice.

For the tribal regions the traditional and customary laws have their due importance. Although, the tribal women have a high status in their community and their role (hard work) towards the family and community is recognized and invaluable, however, the customary laws are not necessarily in their favour, particularly on the issues of inheritance, divorce, economic independence, local governance, etc. Even in the matriarchal societies where the women's role is vital, the status is not much better. These laws need to be reviewed and changes brought about so that the tribal woman is allowed to progress. Of course, changes in social attitudes and institutions cannot be brought about by legislative fiat or brought about overnight. But the Government and the Community, through women's organizations and voluntary organizations should mobilize public opinion and help towards changing some of the oppressive ways and systems. This could lead towards greater equality.

The National Commission of Women, a statutory body set up in 1992, safeguards the rights and interests of women. The NCW has reviewed 32 of 41 legislations having direct bearing on women and have suggested remedial legislative measures. NCW has also requested the State Governments to reserve a certain percentage of resources for women even at village programmes for water supply, health services, nutrition, sanitation etc. It has also organized workshops for tribal women thus helping towards greater awareness about each other. Networking amongst tribal communities should be a priority.

### **Political Status**

From the dawn of independence, women in India were granted equal political rights as men, including the right to vote and the right to hold public office. This was an extension of the women's large-scale participation in India's freedom movement. Article 326 of the Constitution guarantees political equality to women and Article 325 prohibits exclusion from electoral role on the basis of sex.

Women have through collective movements, effected changes in their circumstances, such as social movement against alcoholism, (which is a real scourge in the rural/tribal areas), trafficking of drugs, gambling etc. As mentioned earlier the Chipko Movement has helped in

safeguarding of forest wealth. The Total Literacy Campaign in Andhra Pradesh has resulted in prohibition throughout the State. This also happened in some other states. While women have been in the forefront in various movements, their presence has not been strongly felt in decision-making institutions. However, they have participated in the political process, as voters, candidates and members in the State Assemblies and Parliament. They have also held office at different levels. At the individual level they have reached positions of power and influence as Prime Minister, Chief Minister, Ambassador etc. However, the majority of them have been marginalized, more so amongst the tribals.

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments in 1993 were historic and brought forth a definite impact on the participation of women, in terms of absolute numbers, in grassroot democratic institutions viz Panchayati Raj Institutions and Local Bodies. The significance of these amendments is to be seen not only in the decentralization of powers but in cession of power to women, assigning them a third of the membership in the Panchayats and their Presidencies and in proportion for the Scheduled Castes and Scheduled Tribes. Holding of periodic elections to the local bodies is mandatory, so that there is democratic renewal of reservations. The response to this strategy has been successful. “ Of the 475 Zilla Parishads in the country, 158 are being chaired by women. At the Block Level, out of 51,000 members of Block Samitis, 17,000 are women. In addition, nearly one-third of the mayors of the Municipalities are women. In the elections to PRIs held between 1993 and 1997, women have achieved participation even beyond the mandatory requirement of 33 ⅓ percent of the total seats in states like Karnataka (43.45 per cent). Kerala (36.4 per cent) and West Bengal (35.4 per cent). However, the all India figures for women show that their representation in 2001 is still low.”<sup>7</sup>

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<sup>7</sup> 10<sup>th</sup> Five Year Plan – 2002-2007 (pg. 235)

### Women in Panchayati Raj Institutions (1995-2001)<sup>8</sup>

Year	Women	Men	Total
(1)	(2)	(3)	(4)
1995#	318 (33.5)	630	948
2001@	725 (26.6)	1,997	2,722

Note: Figures within parentheses indicate percentage to total.

# Data refers to 9 states – Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Punjab, Rajasthan, Tripura and West Bengal.

@ For whole of India. (As on 18.10.2001).

The challenge now is to transform this large presence into effective participation supported by real delegation of powers and responsibilities. This is what the women's movement has been demanding for a long time. The National Policy for the Empowerment of Women has also given a strong emphasis to efforts to increase the critical mass of women in decision making at all levels by calling for continued affirmative action to make this happen. Certainly doubts have been raised about the capability and availability of women for elections to the local bodies. However, as stated above, experience has disproved these doubts. At the same time, women members are often confronted with problems of gaining recognition from their peers and the bureaucracy. Often they have been accused of being the front for their menfolk. Being aware of their lack of experience and lack of exposure, they look to the Government and voluntary organizations for support, guidance and training. During the Commission's tour, the women's organizations emphasized the need for training. They were aware of their responsibilities and felt that with proper orientation, their role in the PRIs would be effective and informed. Quite a number of NGOs and other training institutions are imparting training to women. More should be done. Studies indicate that women have a greater perception of the needs of the village. They, therefore, are prioritising provision of drinking water, education, health, hygiene, establishment of mother and child care centers, road constructive, check dams, etc in executing developmental works. They have also been active in campaigns and drives against alcoholism. When more and more women are positioned at various levels of decision-making it is bound to have a definite impact on public policy and societal benefit.

<sup>8</sup> Ministry of Rural Development, GOI, New Delhi

There has also been a demand from various sections including political parties, NGO etc to reserve seats for women in the state legislatures and the National Parliament. A Bill (85<sup>th</sup> Constitutional Amendment) seeking to institute one-third reservation for women in Parliament and State legislatures is under consideration, but its passage has proved difficult.

### **Conclusion**

From the above, it is apparent that if equality and gender justice is to be ensured, women will have to be socially, economically and politically empowered. Education is the key to social empowerment as it generates awareness and helps them to realize their own potential. For economic empowerment, they have to be given vocational training in appropriate skills including managerial and entrepreneurial, then provided employment and income generation activities, access to micro-credit and given greater visibility. For political empowerment there is need for affirmative discrimination and their presence ensured in decision-making bodies and services so that their voices are heard. For the tribal women, Government assisted by the voluntary organizations/institutions will have to make concerted efforts to bring them out of their isolation and misery. It will not be easy nor rapid, but change has to take place and the tribal women given their due place in the Indian milieu.

## TRIBAL POLICY

According to the 2001 Census, the population of scheduled tribe in the country was 8.45 crores, representing 8.14 % of the country's total population of 102.70 crores. There are 698 scheduled tribe communities spread all over the country mostly in far-flung areas, barring some states and UTs like Chandigarh, Haryana, Pondicherry and Punjab. Each of them has its own unique cultural characteristics, common outstanding among them being communitarian spirit. More than 75% of them live in Scheduled Areas notified by the President from time to time. Seventy-five of the 698 scheduled tribe communities have been identified by the Government of India as primitive tribal groups, considering their pre-agricultural stage of economy, backwardness, very low literacy-rates, stagnation or declining population etc.

2. The National Policy should recognize that a majority of the scheduled tribes experience continued vulnerability to exploitation, live below the poverty-line, have poor literacy rates, suffer from ill-health and mal-nutrition, have been victims of displacement. At the same time, their contribution to maintenance of ecology, economy, indigenous knowledge, culture has been of no mean order.

3. The list of Scheduled Areas should be reviewed to add to or abstract from it such areas as require fresh consideration.

4. Specific attention to raise the socio-economic levels of the scheduled tribe communities has been directed through the procedure of the Tribal sub-Plan which commenced in the Fifth Five Year Plan (1975-80). It calls for aggregation of all available financial resources from the State and Central Ministries as well as non-State resources, at the level of integrated tribal development projects (ITDPs)/integrated tribal development agencies (ITDAs), and concerted and coordinated execution of sectoral programmes and schemes with the help of such resources at that level. The ITDPs/ITDAs should be headed by officers of the Indian Administrative Service or Indian Forest Service. So far, the involvement of scheduled tribes in the process has been inadequate. In recognition of this, the Tribal Policy should ensure that the plans and programmes are prepared by the ST communities themselves commencing from



below, i.e from the Gram Sabha/village councils Gram Panchayat level moving upwards through Panchayat Samitis to Zilla Panchayats and State levels.

5 The Constitution in its Article 243G enjoins that the Panchayats have to be endowed through state legislations such powers and authority as may be necessary to enable them to function as institutions of self-government and the concerned law may contain provisions for the devolution of powers and responsibilities upon Panchayats for the preparation of plans for economic development and social justice as well as implementation of related schemes. Further, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996 calls for approval by the Gram Sabha of plans, programmes and projects for social and economic development before being taken up for implementation by the Panchayat at village level. Importantly, the Act confers powers on the Panchayats and Gram Sabhas of control over local plans and resources for such plans, including Tribal sub-Plan.

6. Steps will be taken to prepare a Project Report for every ITDP/ITDA in the country. The need-based project reports will reflect balanced inter-sectoral programmes relative to the natural resource endowment in the ITDP/ITDA area, the skills and aptitudes of people and resource availability. The Tribal sub-Plan for a state will represent an aggregate of the various project reports, articulating in sum priorities, needs and aspirations of the tribal people in the state, duly matched to the financial resources available. At the national level, the concerned Ministries will prepare Tribal sub-Plans based on earmarked resources in the concerned sectors, in consultation with the Ministry of Tribal Affairs. Annual and Five Year Tribal sub-Plan of the states and the Ministries will be discussed in the Planning Commission for clearance.

7. The planning process should start at the Gram Sabha level. The Gram Sabha plans should be collated and coordinated at the Gram Panchayat level, the Gram Panchayat plans being similarly collated and coordinated at the Panchayat Samiti (block) level and the Panchayat Samitis plans being collated and coordinated at the Zila Panchayat level. Indications of resource availability in advance will enable each of these plans to be sized appropriately.

8. In view of the concept of the Tribal sub-Plan and the provisions of Article 243G of the Constitution as well as the PESA Act 1996, the Tribal Policy should ensure

(a) all plans and programmes are prepared in accordance with these provisions

(b) sectoral emphases should relate to the locale and situation in each ITDP/ITDA area

(c) resources are allocated to the Panchayat and Gram Sabhas accordingly

(d) panchayat bodies and the Gram Sabhas implement the plans and programmes

(e) for implementation, the requisite techno-administrative structures are provided in place and the requisite techno-administrative personnel are in position

(f) monitoring of planning and implementation is done at the district and state levels.

9. The Centre having a constitutional responsibility towards the scheduled tribe and Scheduled Areas, the role of Central Ministries and Planning Commission assumes significance. They should quantify and earmark funds atleast equivalent to ST population-percentage for tribal areas under their programmes, formulate appropriate need-based programmes, adapt the on-going programmes to meet the specific requirements of scheduled tribes and identify a senior officer in the Ministry to monitor the progress of implementation of the programmes.

10. Every Ministry should prepare a Tribal sub-Plan indicating the programmes and available financial resources to be distributed amongst states as per the prescribed formula. These documents will be circulated to project administrators, making it possible for the field units to have a clear picture of the programmes for implementation.

11. The state line departments and the Central Ministries should exhibit financial provisions earmarked for tribal areas in their respective budgets. Their utilization should be effected in consultation with the Tribal Development Department in the State and by the Ministry of Tribal Affairs at the Centre.

12. It is seen that there have been short-falls in expenditure relative to the outlays. But a more serious drawback has been the near-absence of records of physical achievements flowing from the investments. The Panchayat bodies, district level organizations, the state line departments and the Central Ministries will have to devise

procedures for maintenance of financial accounts and physical achievements. Focused attention will have to be paid to physical achievements and monitoring.

13. Since non-Plan finance for tribal areas has been neglected, the Central and the concerned State Governments should review the matter to ensure flow of adequate non-Plan funds to relieve pressure on Plan funds in the different sectors of tribal development. The devolutions of the Finance Commissions will have to be sought.

#### **14. Land**

In respect of land, the following should engage the attention of Tribal Policy

- (i) Anti-alienation laws of the State Government will be amended to make them fool-proof to prohibit transfer of tribal lands to non-tribals without the permission of the State Governments and to prevent further erosion of tribal land
- (ii) Laws to prevent alienation of tribal land in urban areas should be passed
- (iii) Reliable data-base of tribal lands alienated through legal and illegal transfers, and acquisitions, should be prepared
- (iv) Land Acquisition Act 1894 be amended to orient it to the democratic spirit of the present times
- (v) Land acquisition will be strictly need-based, to be resorted to after consideration of "no-displacement" and "least displacement" alternatives
- (vi) In the package of rehabilitation, socio-cultural community relocation will have to be regarded as indispensable for tribals
- (vii) The provisions of the anti-alienation land laws, Land Acquisition Act 1894, Coal Bearing Areas (Acquisition and Development) Act 1957 and National Mineral Policy 1993 will have to be harmonized with those of the Provisions of the Panchayat (Extension to Scheduled Areas) Act 1996
- (viii) Land records to be updated regularly at periodic reasonably short intervals and computerized for wide-accessibility
- (ix) The provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 should be invoked in respect of offences pertaining to ST land

(x) Money-lending laws applicable to Scheduled Areas and tribal areas should be amended as necessary and their effective enforcement will be ensured.

## 15. Forest

- (i) The symbiosis between tribals and forest should be fully recognized by all
- (ii) The critical question relating to regularization of the so-called encroachments of tribal people in forests will have to be resolved early
- (iii) Disputed claims, issue of Pattas, leases etc. of the tribespeople and forest land should be disposed of early
- (iv) Inter-disciplinary scientific studies to unfold strategies that make shifting cultivation contextually viable and, at the same time, to enable shifting cultivators to adopt higher yielding strategies
- (v) Forest villages to be converted into revenue villages and occupants in such villages to be conferred heritable and inalienable rights over the land
- (vi) Forest labour cooperative societies should be organized
- (vii) JFM committees will have to be converted into community forest management committees
- (viii) The rights and privileges of tribespeople over access to minor forest produce, thatch grass, poles should be codified and consolidated
- (ix) First-processing of MFP should be undertaken through cooperatives of primary collectors
- (x) The Indian Forest Act 1927 should be amended to make it tribal and user-friendly
- (xi) The Indian Forest Act 1927 and the Provisions of Panchayats (Extension to Scheduled Areas) Act 1987 should be made mutually compatible
- (xii) The provisions of the Forest (Conservation) Act 1980 will have to be examined for relaxation to enable expedite development works
- (xiii) Pending final settlement of rights under the Wild Life (Protection) Act 1972, ad interim restrictions on collection of forest produce for bonafide use under section 18A(2) of the Act will have to be removed to enable tribespeople exercise their rights

- (xiv) Forest education should include courses on empathetic tribal studies
- (xv) Adequate funds should be earmarked for natural forest management and forest working

#### **16. Agriculture and allied sectors**

- 1) Intensive research will be undertaken in the national and regional agricultural research institutions in the country to evolve high-yielding varieties of crops grown mostly and disseminated by tribals, which are dry-land crops.
- 2) Intensive and extensive steps will be taken to provide irrigation in tribal areas.
- 3) Efforts will be made to induct agro-processing in tribal areas.
- 4) Help will be rendered to the tribal families in marketing their produce.

#### **17. Industry**

- 1) Appropriate steps will be taken to give filip to small, village and cottage industries in tribal areas particularly in the handloom, agro-processing, MFP-processing sectors.
- 2) Only such medium and large industries will be permitted to be set up in tribal areas as are consistent with the demands of ecology and tribal ethos.

#### **18. Education**

The education sector should be regarded as a key sector for the overall progress of tribespeople. Though the literacy percentage has increased from 8.53% in 1961 to 29.60% in 1991, this does not necessarily mean that the STs have become educated in the real sense of the term. They have also not been able to catch up with the rest of the society; in fact, the gap in literacy percentage as between the STs and non-STs continues to widen.

19. The tribal policy will aim at

- (i) Making pedagogy suitable to tribal life and milieu
- (ii) attuning curricula and syllabi to tribal life and culture
- (iii) imparting teaching in the tribal child's mother-tongue, at least up to primary level.
- (iv) focusing national programmes like the Sarva Shiksha Abhiyan on the tribal population, since it constitutes the most illiterate section of the society
- (v) providing scholarships, hostel maintenance costs, free school uniforms etc. up to the matriculation stage
- (vi) in the first instance, setting up educational institutions in the Scheduled Areas and tribal areas, as per the prescribed norms Further, considering, lowering of the norms in view of the scattered tribal populations
- (vii) repair and renovation of school and hostel buildings lying in a state of disrepair. Provision of toilet facilities in all schools and hostels, particularly those meant for girl students
- (viii) establishment of atleast one residential school for boys and one residential school for girls in each development block.
- (ix) establishment of one Navodaya Vidyalaya in each tribal block
- (x) establishment of one model residential school of the pattern evolved by the Ministry of Tribal Affairs in ITDP/ITDA.
- (xi) provision of supplementary nutrition and mid-day meals to children in tribal areas up to middle stage
- (xii) emphasis on vocational and professional education, setting up polytechnics for studies in subjects like farming, forestry, horticulture, dairying, veterinary sciences etc. Orientation of these studies towards self-employment.
- (xiii) devising measures for meeting the problem of absenteeism of teachers, particularly in far-flung areas, like constituting village education committees, contractual employment, appointment of ST teachers.

## **20. Health**

- (i) Health indices and other statistical data for tribal areas and tribal people being sparse for planning purposes, special steps will be taken for compiling information, data etc.**
- (ii) The National Human Development Report and such State Reports will**
- (iii) have separate sections on tribal health data on the lines of data for general population.**
- (iii) Considering the large number of vacancies in para-medical and medical staff in health sub-centres, primary health centres, community health centers and hospitals all over the country, concerted steps will be taken to fill them up**
- (iv) Normative deficiencies in the establishment of health sub-centres. PHCs and CHCs should be made.**
- (v) Since tribal areas are far-flung and population is scattered, mobile medical vans and mobile hospitals will be provided in selected areas.**
- (vi) On account of remoteness, generally there is deficiency of equipment and medicines. Health authorities will pay special attention to make up the deficiencies.**
- (vii) Adequate arrangements should be made to meet the situation arising out of heavy incidence of diseases like T.B., Leprosy, malaria and specific diseases afflicting the tribal people like genetic disorders, AIDS etc.**
- (viii) Since tribal areas suffer from certain handicaps like remoteness, lack of communication, lack of educational facilities and other amenities, competent and educated para-medical and medical personnel should be posted in tribal areas. Special incentives should be provided to them to compensate for the hardships. Sub-cadres may be constituted in the States and Centre as necessary.**
- (ix) Earning members of the tribal families living below poverty line will be provided health insurance to save the families from distress.**
- (x) Tribal communities being store-house of knowledge of their flora and fauna and their use, appropriate action will be taken to protect the intellectual appropriate rights over their knowledge and resources.**

- (xi) IMR being high in tribal areas, each Basti/Para/Mohalla in tribal villages will be equipped with at least one trained traditional birth attendant.
- (xii) There will be one ananganwadi for every 500 ST population..
- (xiii) All hamlets/Bastis will be provided with safe drinking water.
- (xiv) Special attention will be paid to arrangements for sanitation in tribal
- (xv) hamlets and villages.
- (xvi) Information and awareness about communicable diseases, genetic disorders, hygiene, sanitation family planning will be disseminated intensively and widely throughout the tribal areas.
- (xvi) The indigenous tribal medicinal systems will be researched, validated and promoted.

21. Since the task of planning and development in full is being assigned to the Panchayat bodies, requisite administrative structure will be provided for both planning and implementation at the Gram Sabha and the three higher Panchayat tiers. For the purpose, the available development personnel at the district level will be placed at the disposal of the Zila Panchayat, similarly the available techno-administrative machinery at the block level will be provided to the Panchayat Samiti and the requisite administrative structure and personnel will be attached to the Gram Panchayats and the Gram Sabhas. As required by Section 4(m)(6) of the Provisions of the Panchayats (Extensions to the Scheduled Areas) Act 1996, the power of control over institutions and functionaries will vest in the Panchayats and the Gram Sabhas.

22. Sub-cadres of cadres like education, health, agriculture personnel will be constituted to serve in tribal areas and proper incentives will be given to them.

23. In the matter of benefits – flow in all fields, gender entitlements will have to be ensured.

24. The extant executive orders on reservations in services will be converted into statutes.



25.

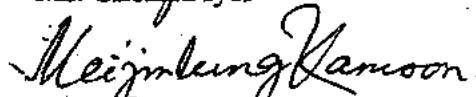
The demand of the people in the north-east region for Sixth Schedule councils will be considered. Attention will be paid to improvement in the performance of the Autonomous Councils, including by means of direct funding.

  
Dileep Singh Bhuria

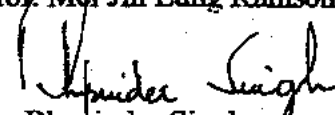
Chairperson

  
Ms. Chokila Iyer

Vice-Chairperson

  
Prof. Mei Jin Lung Kamson

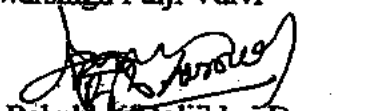
Member

  
Dr. Bhupinder Singh

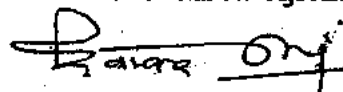
Member

  
Kurwarsingh Fulji Valvi

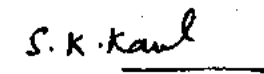
Member

  
Dr. Babubhai Doljibhai Damore

Member

  
Prof. Diwakar Minz

Member

  
S.K. Kaul

Member

  
Dr. P.K. Patel

Member

  
P.S. Negi

Member Secretary

8-16.7.2004



# REPORT

OF THE

SCHEDULED AREAS AND  
SCHEDULED TRIBES COMMISSION

GOVERNMENT OF INDIA

Volume II

2002-04



Drokpa Tribe of Darchik, Ladakh

# **Volume-II**

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# ANDHRA PRADESH

## 1. Introduction

1.1 Andhra Pradesh State endowed with a variety of physiographic features ranging from high hills, undulating plains to a coastal deltaic environment has a glorious past. It has references in epics like Mahabharata, Ramayana and Aitareya Brahmana. The Andhra Kingdom was a part of Mauryan empire during the reign of Ashoka. According to historians people belonging to several sects, such as, Andhras, Pulindas and Savaras lived in this region, south of the Vindhya mountains. According to a belief Andhra people are children of Viswamithra. Adilabad is known for Gond kingdom where even today the Gonds live. Gonds of Gondwana region of Madhya Pradesh visit their ancestral places on socio-religious occasions.

1.2 According to 2001 Census, total population of Andhra Pradesh State is 7.57 crores and that of STs 0.50 crores constituting 6.63% of the total population of the state. The Scheduled Areas under the Fifth Schedule of the Constitution of India extend over 31,485.34 sq. kms. which is about 11% of total area of the state with 5936 villages distributed in Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahaboobnagar Districts. There are 35 ST communities of which twelve have been specified as Primitive Tribal Groups(PTG). Literacy rate of STs as compared to total population as per 1991 census is as under:

### Literacy Rate

	Total	Males	Females
A.P. State	44.09	55.13	32.72
Schedule Tribes	17.16	25.25	8.68

Some other features are as under:

#### Sex ratio

Total	972
S. T.	960

#### Dropout rates (1993-94 Classes I-VIII)

Total	62.8
S. T.	88.1

#### Work Participation rate (1991)

Total	45.1%
S. T.	54%

### Cultivators

Total	27.7%
S. T.	41.2%

### Agricultural Labourers

Total	40.9%
S. T.	46.6%

### Below Poverty Line 1999-2000 (% age)- Rural      Urban

Total	11.14	26.53
S. T.	23.82	44.99

## **1.3 The Scheduled Tribes**

1.3.1. Andhra Pradesh was constituted on 1.11.1956 by merger of territories from erstwhile Madras and Hyderabad States. There were notified STs in both these States. After reorganization, the STs were notified with respect to the erstwhile areas of Madras and Hyderabad by reproducing the ST list of their respective States.

1.3.2. In 1956, Valmiki, Nayak and Goudu (Goud) communities were included in the list of STs in the agency tracts and Sugalis, Lambada and Yerukulas were also added as Scheduled Tribes throughout the State. In 2002, certain sub-tribes and synonyms were added and deleted from the main tribes mentioned in the ST list and two more communities were added into the list of STs.

## **1.4 Major Scheduled Tribes: -**

Koya, Yenadi, Yerukula, Gond, Sugali (Lambada), Konda dora, Savara Jatapu and Bagata.

## **1.5 Major PTGs:**

Konda Savara, Kondareddi, Dongaria Kondh, Kutia Kondh, Kolam and Chenchu.

1.6 The Commission visited Andhra Pradesh during March 23 to April 2, 2003 to see the socio-economic conditions of STs and the pattern of administration of the Scheduled Areas in six ITDAs out of 10 namely, Utnoor (Adilabad), Bhadrachalam (Khammam district), Paderu (Vishakhapatnam district), Parvathipuram (Vizianagaram district), Seethampeta (Srikakulam district) and Srisailem (Kurnool district). The Commission began their field visit from ITDA, Utnoor in Adilabad district, after a homage to the statue of Kumaran Bheem, a Raj Gond who fought against Nizam for protecting the interests of tribals.

1.7 Tribal Welfare Department is the nodal department for the development of Scheduled Areas and the STs. It is headed by a Minister, who is assisted by a Secretary to the Government, a Commissioner and a Managing Director of Girijan Cooperative Corporation. The Department is supported by the Project Officers of Integrated Tribal Development Agencies (ITDA), District Tribal Development Officers in non ITDA districts, Chief Engineer and Director, Tribal Research Institute.

## **2. Tribal Unrest and Action Plan**

**2.1 Tribal Unrest -** The tribals of Andhra Pradesh have a long history of struggle for their survival against exploitation by non-tribals, money-lenders, landlords, liquor vendors, administrators and political leaders or against stringent forest conservation laws, land assignment policies and judicial procedures. The tribal areas of Andhra Pradesh have been periodically experiencing tension in one part or the other. A brief note containing background information is placed at Appendix-I. The unrest in the Scheduled Areas of the State has not subsided.

**2.2 Measures taken by Government-** Govt. have constituted a Cabinet sub-Committee with the Minister for Revenue, Minister for Tribal Welfare and Minister for Higher Education to look into all aspects concerning the land disputes between the tribals and non-tribals in West Godavari district. The Cabinet sub-Committee held extensive discussions with the representatives of tribals, non-tribals, political parties and peoples' representatives. It also examined the various orders passed by the High Court and the legal and administrative aspects of the problem. The law enforcing apparatus has been strengthened by deploying adequate force in the mandals of Polavaram, Buttayagudem and Jelugumilli. The Collector has been permitted to hire *jeeps* to improve the mobility of the Mandal Revenue Officers (MROs) in these mandals. In addition, instructions have been issued to the district collector to take the following action to diffuse the situation:

- (1) To constitute an all party committee at the district level and to convene it at least once in a month to discuss the various steps proposed to be taken for verification of enjoyment and other related measures.
- (2) To constitute village peace committees involving the tribals, non-tribals and other interested parties.
- (3) To take up fresh verification of title and possession of land in the Agency villages as per the procedure indicated below:
  - i. Mandal Revenue Officer will prepare a Village Enjoyment Map showing the lands belonging to tribals and non-tribals as per 1933 Revenue Settlement Record (RSR) in different colours.
  - ii. The LTR, assessed waste dry, Porambokes and D Form Patta lands of tribals under occupation of non-tribals will be left blank.
  - iii. Verification programme is to be drawn up in advance and given wide publicity by beat of tom-tom. In addition, the verification programme is to be communicated in writing to the tribals, non-tribals voluntary organizations, political parties and other interested persons well before the actual commencement of the verification.
  - iv. Simultaneously, copies of Adangal, RSR and the list of enjoyers and list of Govt. lands are to be published in the village.
  - v. The areas left blank in the Map will then be filled by conducting physical verification in the presence of tribal, non-tribals and other interested parties. The names of all the *pattedars* and enjoyers which have been incorporated in the map are to be read out in the Gram Sabha and the tribals and non-tribals or their representatives are to be allowed to raise any objections.
  - vi. In addition, time is to be given to both the tribals and non-tribals to produce documentary evidence, if any, in support of their claims.
  - vii. The various cases pending before various Courts are also to be read out in the Gram Sabha.

- viii. After finalizing the objections of the tribals and non-tribals, the Govt. land detected in the enjoyment verification has to be identified and list of such lands is to be published in the village. Along with this list of lands, a list of eligible tribal beneficiaries is to be finalized.
- ix. The lands identified in this exercise shall be distributed to the eligible land less tribals and they should be extended economic support from the ITDA for taking up cultivation.

To resolve land disputes in Scheduled Areas, the Collector, W.G. District took up comprehensive land survey in the agency areas and also constituted village level committee comprising village Sarpanch VAO, one member from S.Cs, one from S.Ts, one from B.Cs, one from other castes (O.C) and two women. This committee will verify the disputed lands in the villages. The Collector had informed in all-parties meeting which was held on 17<sup>th</sup> July, 1997 that the survey was launched in Scheduled Areas in January 1997 by posting additional surveyors and revenue officials exclusively for this work.

The survey has been completed in all villages except Singanapally village, Polavaram Mandal where the survey could not be taken up as the tribals and non-tribals are not cooperating with revenue officials. The Commissioner Tribal Welfare has instructed the District administration to take up the survey taking in to account the register maintained by the erstwhile *Jamindars* wherein the names of the tribals are recorded.

**2.3** There was an attack by the naxalites on the Chief Minister on October 1, 2003. A former Uttar Pradesh DGP is investigating the security lapses that led to the attack. According to him the naxalite problem is not only a law and order issue but its root causes are the socio-economic problems of the tribals relating to land, forest and non-implementation of moneylenders' act etc. etc. The Fifth Schedule to the Constitution directs the Governor to make regulation for the 'peace and good government' in the Scheduled Areas. The Commission notes that instead of peace and good governance, there is widespread unrest in most of the Scheduled and tribal areas. Factors relating to tribal unrest are interwoven into issues relating to land problems, exploitation by moneylenders, tacit understanding between administrators, political leaders and non-tribals, stringent forest conservation laws and so on. The remedy to control unrest, therefore, does not lie in one segment alone and what is necessary for handling of the situation is an attack on all fronts. The first and foremost need is to listen to the grievances of tribals in totality and thereafter these can be sorted out by respective line departments. Today, the Revenue, Forest and Police Departments are overburdened with their multifarious duties and there is very little interaction between these Departments in regard to the problems faced by the tribal people.

**2.4** The Ministry of Tribal Affairs is the nodal Ministry for overseeing the various constitutional and legal provisions relating to tribal affairs. The ineffective implementation of the provisions of the Fifth and Sixth Schedules to the Constitution since Independence has created unrest and distrust against the Govt. machinery. Tribals feel that in spite of the provisions made in the Constitution, their interests are not safeguarded and administrative structures that have been created are proving ineffective.

**2.5** Under the Constitution, the President has a responsibility for the protection and welfare of Scheduled Tribes and the Central Govt. cannot divest itself of this responsibility by taking the plea that protection and development of the Scheduled Tribes is the prime responsibility of the State Govts. From day one of the commencement of our Constitution,



there has been series of turmoil in the tribal areas and treating these as simply law and order problem will not meet the situation and satisfy the tribals. Half-hearted developmental measures could not improve the quality of life of the people and the tribals continue to remain the poorest segment of our society. It is a pity that in a State like, Andhra Pradesh, the percentage of literacy is the lowest among the Scheduled Tribes of the country. In spite of alienation laws against land, the process of land grabbing by non-tribals in the Scheduled Areas continues unabated. According to the State Government about 49% of the land in the Scheduled Areas is under the control of the non-tribal persons. The tribals living in 5,000 forest villages in the country have not been given pattas and are denied minimum needs of drinking water, electricity, schools, roads and all this is justified in the name of protection of forests. In Andhra Pradesh there are 101 forest enclosures in the districts of Mahbubnagar, Prakasam, Kurnool and Guntur, where tribals faced hardships. The State Govt. is reluctant to devolve powers to the Gram Sabha under the PESA Act. **The Commission after its extensive tours in the tribal areas and meetings with the tribal representatives and serving and retired experienced administrators recommends that a Grievances Redressal Authority under the charge of a retired High Court Judge may be set up to look into the grievances of the tribals and this Authority should have its headquarters in the Scheduled Areas so that, it can be easily accessible to the tribals. The State Govt. should set up this authority by enacting a legislation.**

**2.6 One of the causes of tribal unrest has been delayed pronouncement by the judicial authorities to the detriment of tribal interests. It is therefore recommended that a Bench of the High Court should be set up for the Scheduled Areas at a convenient place in or around the Scheduled Areas so that the cases which come up to the High Court are readily and promptly dealt with. The Commission also recommends that to co-ordinate the activities of revenue, forest, police, excise, health, education, agriculture and tribal development departments for all round development of the Scheduled Areas and implementation of the constitutional safeguards the Secretary, Tribal Development Department should be of the rank of Additional Chief Secretary.**

### **3. Protective Measures for Tribal Development**

**3.1 Land Alienation-** The Government of Madras Presidency promulgated the agency tracks in 1917 to protect the land of tribals. According to this Act, the land of the tribal can only be transferred to a non-tribal with District Collector's (Agent) permission. In the Hyderabad State also similar provisions were made in the notified area regulation, 1946 and 1949.

**3.2** After the formation of Andhra Pradesh State in 1959, Anuhra Pradesh Schedule Area Land Transfer Regulation came into force totally prohibiting transfer of land by Tribals to non-tribals. This regulation, "did not contain any provision for the maintenance of tribal Panchayat, and more importantly stripped the social service officers of the authority and judicial powers with which the Hyderabad regulation and rules had invested them." An extract from the book of Haimendorf at Appendix II, gives an account of how "large areas of tribal land were in fact illegally occupied by non-tribals in the years 1970 to 1979." 1959 LTR was amended in 1970 prohibiting transfer of land between non-tribals. However the Supreme Court ruled that land transfer protection for tribals is applicable since 1959 only (not from 1917) and the amendment of 1970 is prospective. The Tribes Advisory Council

recommended to make this amendment retrospective from 1959. The High Court of Andhra Pradesh ruled that settlement process prevails over LTR process and cannot be challenged in the LTR court.

**3.3** Some of the protective laws against alienation of tribal lands and other laws are listed below:

- (i) Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (APSALTR, 1959) [Regulation I, 1959]
- (ii) Regulation II of 1963
- (iii) A.P Mahals (Abolition and Conversion into Ryotwari) Regulation, 1969 (Regulation I of 1969)
- (iv) A.P Mutta (Abolition and Conversion into Ryotwari) Regulation, 1969 (Regulation II of 1969)
- (v) A.P Scheduled Areas Ryotwari Settlement Regulation, 1970 (Regulation II of 1970)
- (vi) Regulation I of 1959 amended by Regulation I of 1971
- (vii) Regulation I of 1959 amended by Regulation I of 1978
- (viii) A.P Scheduled Areas Money Lending Regulation, 1960
- (ix) A.P Scheduled Areas Debt Relief Regulation, 1970
- (x) A.P Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979
- (xi) A.P Scheduled Areas Ryotwari Settlement Regulation, 1970
- (xii) The S.C.S.T. Atrocities (Prevention) Act, 1989

**3.4** The salient features of these enactments are given at Appendix III.

**3.5** The Muttahs in the erstwhile agency tracts of Madras State were granted to tribal chiefs to maintain watch and ward duties. The Zamindari system was also prevalent in the agency tract and the villages under the Zamindars are called Estates. In addition, there were Mokhasa villages for performing of prescribed duties. The Muttahs were abolished and the lands were settled by Regulation 2/69 and the Estates were abolished and settled by Regulation 2/70. **The Mokhasa villages were abolished in 1990 but settlement operations have not commenced.**

**3.6** The District Collector was delegated powers of Director of Settlement who is appellate authority for the settlement *pattas* issued after abolishing the Muttahs. The Govt. did not delegate such powers to the Collectors for issue of *pattas* after abolishing the estates.

**3.7** A settlement officer was appointed in 1996 in West Godavari district to dispose the pending petitions of non-tribals for the issue of settlement *pattas* under 2/70 regulation. These non-tribals did not apply for settlement *pattas* since the settlement process began in 1970s. The non-tribals in 1996 approached the settlement officer, filing applications for *pattas*. The settlement officer disposed of petitions of non-tribals for an extent of 1500 acres. The tribals are agitating for distribution of lands - measures to settle lands to non-tribals aggravated the unrest in West Godavari district. The Govt. issued guidelines to resolve the land disputes in the West Godavari in a participatory process. These guidelines can be a model for settling the land disputes in the tribal areas of not only in

Andhra Pradesh but in other States also given at Appendix IV. The Collector, Khammam also issued similar guidelines to resolve the land disputes but there was no follow-up.

**3.8** It was stated by the tribals that in Telangana area (erstwhile Hyderabad State) civil courts are staying the LTR judgements and that appeals preferred by Deputy Tahsildars under LTR are negligible.

**3.9** In 1994, Commissioner, Tribal Welfare circulated the guidelines enumerating the records and the acts, which are applicable to decide the ownership of non-tribals in Scheduled Areas, Appendix V. The District Collectors permission is necessary for the transfer of land between tribals. It was however alleged that in Vishakapatnam Scheduled Area, the Registrar Office in Paderu is registering the transfers without the Collectors' permission. The Commission was informed that the Tribal Welfare Deptt. promised to IFAD to bring a regulation preventing transfer of land between PTGs and other tribals but this did not materialize.

**3.10** The progress of implementation of Andhra Pradesh Scheduled Areas Land Transfer Regulation in Scheduled Areas of the state till the end of January 2003 is as follows:

1. Total No. of cases detected	71,155
2. Extent covered (Acres)	3,10,779
3. Total No. of cases disposed	68,001
4. Extent covered (Acres)	2,98,798
5. Total No. of cases decided in favour of tribals	29,154
6. Extent covered (Acres)	1,16,025
7. Total No. of cases in which land was restored to the tribals	27,498
8. Extent covered (Acres)	1,09,931

**3.11** A large extent of land could not be restored in favour of tribals because of stays obtained by non-tribals in various Writ Petitions from the High Court. Gram Sabha has been vested with the powers to take up cases of alienation of land and its restoration under A. P. Panchayatraj (Amendment) Act, 1998 (No. 7 of 1998). The State Govt. is yet to issue rules for the purpose.

**3.12** As regards, computerization and modernization of land records State Govt. has taken up this task on priority. **The Commission recommends that alongwith the settlement operations, the Project Officers of the ITDAs should also be associated and final records exhibited on the notice boards of the Panchayats.**

**3.13** Some non-officials brought to the notice of the Commission that in Talwandi Mandal, of Adilabad district, Nawab Hamidia Khan a relative of Ex-Nizam of Hyderabad has possession over 500 acres of tribal land which required investigation. The representatives of NGOs in a meeting with the Commission on 02.04.2003 brought to their notice that land owned by tribals continue being passed on to non-tribals by fraudulent means.

**3.14** It has therefore become necessary that survey of land may be held every five years so that land grabbers were brought to books. Government may also consider assigning lands exclusively to tribals in the Scheduled Areas. LTR cases not decided in favour of tribals should be sent to higher courts in appeal. The LTR regulation may also be extended to non-Scheduled Areas. The tribal welfare department held the view that offenders of LTR may also be booked under the SC & ST (Prevention of Atrocities) Act, 1989. The Commission also recommend that implementation of Land Transfer Regulation needed to be more strictly done as non-tribals have found many loopholes and they continued to usurp tribal lands. Wherever, necessary special administrative machinery may be created.

**3.15** The Commission has observed that whenever uprisings or violent activities take place in the tribal areas, the State Govt. makes the LTR 1959 more stringent. What is also important is to ensure that there is effective implementation of the provisions of the LTR Act, 1959. In this connection, based on meetings with the tribal representatives, non-official agencies and Govt. officers, the Commission suggests that the State Govt. should examine amendment to LTR, 1959 as indicated below:

- (i) To amend Section 2 (g) of LTR to include the local methods of hypothecation of crops, mortgage, lease like kandagutha, Namu, Payida, Thirmanam Kaulu, Kaulu Amarakam etc. under definition of transfer to effectively curb the various modes of circumvention of LTR.
- (ii) To amend Section 3 (1) (a) of LTR to prohibit transfer of land to a female member of a Scheduled Tribe who is married to a non-tribal or kept as concubine by a non-tribal.
- (iii) To incorporate a Section casting the burden of proof on the transferee, even though under Section 3 (1) (b) of LTR, the non-tribal in possession of immovable property in Scheduled Areas is required to prove that he acquired that immovable property validly and it is not void under LTR. However, in most cases where the tribals institute cases against the non-tribals transferees, the onus of proving that the transfer of immovable property is in violation of LTR is cast on the tribal transferor.
- (iv) To insert a new clause in Section 3 (2) of LTR to confer overriding effect on the decree or orders passed by the competent authorities under LTR over any order passed by the authorities specified in A.P Mahals (Abolition and Conversion into Ryotwari) Regulation, 1969 and A.P Scheduled Areas Ryotwari Settlement Regulation, 1970. This is necessary because the High Court has held that Section 15 of A.P Scheduled Areas Ryotwari Settlement Regulation 1970 confers overriding effect on the provisions of said Regulation over all other laws in Scheduled Areas.
- (v) To ban assignment of lands to non-tribals in Scheduled areas under Para 5 (1) of the Fifth Schedule because there is very limited cultivable land in the Scheduled areas and the pressure on land is mounting with the increase in tribal population and immigration of non-tribals.
- (vi) A time of 3 months to be fixed to give actual possession to tribals after passing of orders by the competent authority for restoration of alienated land to them.

**3.16** The above suggestions have been made taking into account the judicial pronouncements by the Courts and the Commission recommends that amendments suggested above should be examined and necessary changes made in the Regulation to save the tribals from approaching the courts for redressal of their land problems.

**3.17** There are many dubious methods employed by the non-tribals in taking control of the tribal lands. As mentioned earlier, the money-lenders threaten the tribals when they are not in a position to repay the interest on the loan advanced to them by taking control of the land of the tribals. It is necessary that the revenue authorities should conduct every year verification of the actual person who is cultivating the land to eliminate such cases of land alienation which originate due to indebtedness. In the tribal areas of Srikakulam, Vishakapatnam and East Godavari districts, the tribals have preserved a social institution called the traditional bond friendship or 'NESTAM'. This institution is known by different names in other districts. The tribals irrespective of tribal group or castes or sect or creed enter into traditional friendship by exchanging gifts. The non-tribals entering into this bond of friendship purchase the land in names of their tribal friends and continue to enjoy benefits. In some tribal areas, landlords employ tribals as their domestic servants/agricultural labourers and purchase the lands in the names of their tribal labourers. It was brought to the notice of the Commission that on a large scale, members of communities belonging to Kapus, Kammaras, Reddis from the plain areas have obtained bogus tribal certificates as Konda Kapus, Konda Kammaras and Kondareddis and grabbed tribal lands and secured admission in educational and professional courses and jobs in Govt. services.

**3.18** As mentioned earlier, Valmiki, Nayak and Goudu communities were included in the list of STs in the agency tracts in 1956 and Sugali, Lambada and Yerukulas were further added as STs throughout the State. After the inclusion of Lambada as a Scheduled Tribe, large scale migration of Sugali and Lambada tribe has taken place from other States into Andhra Pradesh. The Sugali population was 1,32,464 in 1971; by 1981 the Sugali and Lambada population together became 11,58,342 an increase of 777.4 per cent. By 1991, they were 16,41,897 and have largely spread in the districts of Adilabad, Khammam, Warangal, Mahaboobnagar, Kurnool, Nalgonda and Prakasam as well as in other districts. They have taken over the lands of the local tribals like the Gonds, Chenchus, Koyas, Kolams etc. The Chenchus have been worst affected by this migration. **The Commission recommends that to prevent land alienation from lesser-developed tribal communities, the first thing that should be done is to extend LTR Act to STs living outside the Scheduled Areas or by enacting a separate legislation for the areas other than Scheduled Areas. The other point is that if a tribal cultivator, who on account of domestic reasons wants to sell off a part of his agricultural land, holdings house or any other immovable asset, the State Govt. or the G.C.C or any other Authority on their behalf should accept such lands as mortgaged property. For this purpose, a corpus fund may be created by the Govt. of India and a Tribal Property Protection Authority set up.**

**3.19** In case a tribal is not able to repay the loan and get back the mortgaged property, the ownership of such an asset shall vest in the Govt. This property can be leased out to the STs of that locality for a specified period.

**3.20 Money Lending and Debt Redemption Laws-** As regards impact of A. P. Scheduled Areas Money Lender Regulation 1960, and A. P. Scheduled Tribes Debt Relief Regulation 1960, the State Govt. held the view that indebtedness has decreased due to implementation of developmental activities, which have empowered the tribals economically. Village Tribal Development Agencies, Thrift Societies, Self Help Groups and Girijan Cooperative Corporation have extended production and consumption credit to tribals at grassroots levels. Owing to strict implementation of these Acts a non-tribal/creditor cannot take possession of tribal lands against non-payment of loans/borrowings. There are no instance where the Co-operative Societies have taken possession of tribal lands for default of payments due to societies. Gram Sabhas will be associated in exercising control over money lending in Scheduled Areas after Rules are notified in accordance with PESA Act.

**3.21** Under the A. P. (Scheduled Areas) Money Lenders Regulation 1960 the money lenders operating in tribal areas are required to obtain the license and charge only a permissible rate of interest. **The Commission has observed that the State Government does not maintain information about the number of licensed and unlicensed money lenders operating in the tribal areas. The high rate of interest is charged by the money lenders and when the tribals are not able to repay the loan amount creditors take away the land of tribals. The Commission have observed that the money lender continues as an agent of land alienation in the scheduled areas and effective steps have not been taken by the administrative machinery in the field to contain his stranglehold.**

**3.22** Similar is the position regarding the operation of the Debt Relief Regulation of 1970. The State Government could not furnish the information about the number of cases in which scaling down of the debts was done. The Commission was informed that the Dy. Collectors who are saddled with the work of LTR are not monitoring effectively the working of the Money Lenders & Debt Relief Regulations. **The Commission recommends that a special Tehasildar in each district should be entrusted with the implementation of the legislation and should have powers to issue search and arrest warrant in case of creditors who fail to attend the Courts after receiving summons.**

**3.23** As regards prevalence of Bonded Labour system, the Govt. of A. P. has informed that Central Act, i. e., Bonded Labour System (Abolition) Act, 1976 is in force in the State. Although debt bondage is not prevalent now, 334 labourers were identified as bonded labourers in the State. State Govt. has opined that most of the bonded labourers identified are from SC and B.C. communities and few from among the tribals.

**3.24 Excise Policy-** Country liquor is banned in A.P. State. Provision for allowing brewing by tribes for their domestic and social consumption has been dispensed with. It was informed that the tribals take *Jeelugu* toddy, which is a natural tree extract from palm trees. The Commission visited Chonpunguda village in ITDA Utnoor where the Women Self Help Group succeeded in motivating their men folk to give up drinking. The SHGs and social activists should launch a movement of temperance against liquor consumption.

**3.25 Panchayats in Tribal Areas-** In accordance with the provisions of the Central Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act), the State Government has also enacted an enabling legislation in 1998. Accordingly elections were held in November 2001. Total number of Zilla Parishads in the State are 22, of which two are reserved for STs. Total number of Mandal Parishads (intermediate panchayats) in the State are 1095, of which 83 posts are reserved for ST. Total number of gram panchayats in the State are 21,943 and those reserved for STs are 1,755. Out of 29 subjects included in the 73<sup>rd</sup> Amendment, 18 subjects have so far been delegated to local bodies. A Cabinet sub-committee has been constituted on devolution of further functions to the panchayats. State Government has informed that the rules under Act 7 of 1998 would be issued shortly. **The Commission recommends that the rules to be issued by the State Government should be in consonance with the spirit of the PESA Act.**

**3.26 The Commission recommends that the State Government should arrange training/orientation courses to the functionaries of the Panchayati Raj Institutions in carrying out the activities of the Panchayats effectively. Creating awareness among the tribals is very essential.**

#### **4. Tribes Advisory Council (TAC)**

**4.1** The TAC set up by the Govt. of Andhra Pradesh is headed by the Minister in charge of the Welfare of Scheduled Tribes, however, the State Govt. has agreed to a suggestion that the Chairperson of the TAC should be Chief Minister and Chief Secretary to the State Govt. and Secretary to the Governor could be its Members. During the period 1992-2002 the TAC held 25 meetings and took several policy decisions, in particular the following:

- (i) To consider the definition of the term 'Mutta' as defined in Sec.2 (G) of the A. P. Muttas (Abolition and Conversion into Ryotwari) Regulation, 1969 so as to include sub-muttas. This also includes Mutta Muttadar and sub-muttas and sub-Muttadars.
- (ii) To consider the definition of the term 'Mutta' as defined in the A. P. Muttas (Abolition and Conversion into Ryotwari) Regulation, 1969 to modify suitably so as to bring certain Mokhas as of East Godavari district within the ambit of the said Regulation. It also includes Mokhas-Mokhasadars.
- (iii) All the members unanimously recommended to amend the A. P. (Andhra Scheduled Areas) Estates (Abolition and Conversion into Ryotwari) Regulation, 1951, A. P. Mahals (Abolition and Conversion into Ryotwari) Regulation -I/1969, A. P. Muttas (Abolition and Conversion into (Ryotwari) Regulation III/1969 and A. P. Scheduled Areas Ryotwari Settlement Regulation-III/1970 to entrust to the District Collectors, and Agents to the Government, appellate and suomotto powers instead of the Director, Survey and Settlements, Hyderabad.
- (iv) In the meeting held on 20.07.1995 a decision was taken by all the members unanimously resolving not to amend A. P. Scheduled Areas Land Transfer Regulation.
- (v) In the meeting held on 26.09.1996 a decision was taken to amend A. P. Scheduled Areas Land Transfer Regulation 1959 to declare the lands purchased in the name of tribal women married or kept as concubine by non-tribal men as null and void.
- (vi) TAC laid emphasis on electrification of tribal hamlets, checking illegal adoption of tribal children and stopping allocation of house sites to non-tribals in Scheduled Areas.

Although the TAC has been quite active, its impact on tribal communities was not clearly visible. In response to a question whether setting up of National Tribes Advisory Council was necessary to debate discuss and take policy decisions on issues concerning tribals at central level, Govt. of Andhra Pradesh responded positively.

**4.2 The Commission recommends that 15 Scheduled Tribe MLAs to be nominated to the TAC under sub-para (i) of para 4 of Part 'B' of the Vth Schedule should represent all scheduled and tribal areas of the state as far as possible so that grievances and aspiration of the STs can find a voice in the deliberations of the TAC. The remaining 5 nominated members to the TAC should be drawn from PTGs, social workers, NGOs and other experts.**

## **5. Review of Scheduled Areas**

**5.1.** In the erstwhile State of Madras, there were agency tracts in the districts of Srikakulam, Vijaynagaram, Vishakapatnam, West Godavari, East Godavari and Bhadrachalam Taluka and in Hyderabad State, there were "notified areas" in the districts of Khammam, Warangal, Adilabad and Mahabubnagar. In 1949, 20 villages of agency tracts of West Godavari district were deleted. After the formation of Andhra Pradesh, the agency tracts and notified areas were termed as Scheduled Areas.

**5.2 Omissions in the notification of Scheduled Area** - There is confusion about the non-inclusion of 23 villages of Warangal district in the Scheduled Areas. Non-tribals were issued show-cause notice under Andhra Pradesh Areas Land Transfer Regulation (APALTR) for eviction from the lands under their control. The non-tribals approached the High Court. The High Court ruled (W. P No. 1413/of 1973, dt. 13<sup>th</sup> November, 1973) that "The presidential notification as contemplated in Section 3 (1) of the Regulation was notified on 7<sup>th</sup> December, 1950 notifying the Scheduled Areas in part 'B' states. The villages in which the petitioners' own lands, with regard to which show-cause notice has been issued, are not those notified in the Presidential order. Therefore, they are not part of the Agency tracts as contemplated under the Regulation. It is further clear that section 3 (1) of the Regulation is not applicable to them and no show-cause notice as has been done can be given to them with regard to the lands in their possession in these villages. The impugned show-cause notice has therefore been given without jurisdiction by the Special Deputy Collector, (Tribal Welfare) Warangal." In this connection, it should be mentioned that the proposals were turned down by the Govt. of India, Ministry of Home Affairs, who directed to take up inclusion of those villages in general revision vide their D.O letter No. 12020/4 (1) 76-SCI-III, dt. 22.3.1979." In the meantime, the State Govt. has proposed to the Govt. of India inclusion of 790 villages in the Scheduled Areas. The Commission pointed out to the State Govt. that inclusion of above mentioned 23 villages has not been done in the proposal containing 790 cases sent to the Govt. of India. The State Govt. has agreed in principle to correct this omission. The list of these 23 villages is given at Appendix -VI.

**5.3 The Commission however feels that the interest of the tribals living in these 23 villages in terms of protection against land alienation and other protective measures has been denied since 1950 for no fault of theirs. This is a matter, which should have been settled between the State and the Central Governments and therefore, Commission recommends that the case of 23 villages of Warangal district should not be tagged with the proposed inclusion of other villages into the Scheduled Areas and examined separately for their inclusion in the Scheduled Areas forthwith.**



**5.4** Another point which came to the notice of the Commission was that 6 villages, namely, Palonchha, Borgampad, Ashwaraopet, Dammamet, Kukunur and Nelipaka of Warangal district were excluded from the Notified Area Regulation of Hyderabad State. These villages now form part of Khammam district and are like islands in the reserved legislative and parliamentary constituency. The "Scheduled Area" concept embraces an area approach where Scheduled Tribes are residing since times immemorial and exclusion of such villages in which Scheduled Tribes may not be in large numbers is against the spirit of the Scheduled Areas concept. The Commission therefore recommends that these 6 villages should be included in the Scheduled Areas to protect the interests of tribals and the character of the Scheduled Areas.

**5.5** The Commission further recommends that while notifying Scheduled Areas, Govt. of India should also clarify that Scheduled Area means villages, towns, cities, Blocks, Tehsil and Districts (as the case may be), in their entirety inclusive of revenue and forest lands under the control of State Govt., the local bodies and the Panchayati Raj Institutions.

## **6. Tribal – Forest Interface**

**6.1** Forest - The classification of forest areas in A. P. is as under:

(In sq. km)

1.	Reserved Forest Area	50,478.63
2.	Protected Forests	12365.34
3.	Un-notified Forests	969.76

**6.2** The forest areas in the 8 ITDAs is given in the following table:

Sl. No.	Name of the I. T. D. A.	Forest Area (Area in Hect. In Lakhs)
1.	Srikakulam	1.51
2.	Vizianagaram	1.77
3.	Visakhapatnam	4.40
4.	East Godavari	5.12
5.	West Godavari	1.61
6.	Khammam	18.62
7.	Warangal	6.02
8.	Adilabad	7.21
	Total	53.30

**6.3** Consequent to implementation of Joint Forest Management with greater delegation of power and responsibilities to the forest dependent tribals, right over the forest products has been transferred to the Vana Samrakshana Samithies. These Samithies can use the usufruct to meet their domestic needs and market the surplus. With the introduction of Subabul, social forestry has been widely popularised in the state and the requirements of fuel and small timber as well as fodder needs are adequately met.

**6.4 Shifting Cultivation-** The State Govt. has informed that the shifting cultivation (podu) was practised in 6 ITDP areas of Srikakulam, Vizianagaram, Visakhapatnam, East

Godavari, Khammam and West Godavari till 1990s covering a total area of 39,625 hectares with 45,264 families in it. In Visakhapatnam ITDA, 24,000 families were engaged in podu over an area of 20,000 hectares. The lowest was in Khammam district where 350 families practised podu over an area of 243 hectares. The tribals in their podu fields grew low yielding dry crops such as jowar, maize, ragi, bajra etc. The State Govt. has tried to discourage shifting cultivation and it was informed that due to intervention of International Fund for Agriculture Development projects, many degraded podu lands have been converted into cashew, coffee and MFP gardens. The State Govt. has in an order dated 1.12.99 clarified that A. P. Forest Development Corporation Limited should issue license to cooperatives of tribals to collect the cashew usufruct from cashew plantations Appendix VII. In ITDA Seethampet, turmeric, pineapple and in ITDA Paderu, coffee plantation with pepper as inter crop at the cost of Rs. 36 crores has been done. A Special Project costing Rs.144 crores has also been launched for coffee plantation. The Commission visited the coffee processing unit of Mudapalli village where 45 families of Kondh tribe were working. With water shed approach under IFAD many podu hill slopes were covered with green vegetation, fruit species and MFP varieties. It is claimed that podu cultivation has come down to 6149 hect. Family income level has increased from Rs. 3,000 through shifting cultivation to Rs. 10,000 by way of settled cultivation. 'Sakti' a voluntary organization identified a large number of tribal youth as beneficiaries under TRYSEM programmes who received training in trades like, cane furniture production, carpentry, blacksmithy and repair of hand pumps.

**6.5** Customary practices of tribals relating to forests pertain to right to worship in temples and shrines, right of way for the use of public roads, cart tracks, foot paths, bridle paths, right to water bodies, collection of MFP, free grazing, removal of thorny fencing material, fodder grass, green leaf manure etc. All such rights and concessions are recorded and documented in the working plan. Tribals can collect the MFP and sell it to the GCC. The Commission was informed that the state government has laid down a policy whereby the tribals enjoyed usufruct rights upon the trees. 2.17 lakh tribal families in Scheduled Areas have been associated with the Joint Forest Management and in a period of next 3 to 4 years, the tribals will enjoy the dividend out of the forest resources of the state.

**6.6 Minor Forest Produce-** The MFP is collected by the tribals not only from the revenue lands but also from the reserve forests. The State Government has mentioned that GCC is "the only authority under the state of Andhra Pradesh to procure the MFP collected by the tribals". However, after coming into force of Andhra Pradesh Panchayatraj Act, 1994 under the proposed draft rules proposed by the Forest Department, it is stated that "every Panchayat / Gram Sabha shall have ownership rights of MFP within their jurisdiction. Further, that "in the areas given in to the control of Samraksha Samiti, the Gram Panchayat/Gram Sabha shall not have ownership of MFP", the ownership of the MFP shall vest in such areas with VSS. VSS is an institution that is being promoted by the state government and has no link with the Panchayat/Gram Sabha except that the Sarpanch would be one of the members on the managing committee of VSS. If the proposed rules are notified, it will mean that GCC would be weakened and the VSS who are operating in the reserve forest in collection of MFP will play a major role in the procurement and marketing of MFP. **The Commission recommends that wherever MFP is collected by the tribals or VSS, remunerative collection charges should be paid by GCC and they alone should deal with the marketing of these products. The prices of MFP are dependent upon a number of factors and to safeguard the interests of the tribals, GCC has to play an important role in forecasting the prices that**

should be paid to the tribals consistent with the demands of the market. The Commission feels that setting up of Van Samrakshna Samitis in the Scheduled Areas of the State and giving them the power to procure and market MFP is directly against the provisions of the PESA Act and recommends that in so far as Scheduled Areas are concerned the State Government should empower the Gram Sabhas to procure and market the MFP with the help of G.C.C. Setting up V.S.S. in the Scheduled Areas would be detrimental to the long term interest, harmony and co-operation among STs living in the Scheduled Areas.

6.7 The Commission was sad to hear the grievances of tribals during their visit to tribal area and miseries over the manner in which forest conservation laws were implemented. The Commission were of the view that tribals were not given due place in the management of forests. The Tribal Welfare Department suggested that time-bound plan of action may be prepared for developing forest villages on par with revenue villages. In order to reduce the pressure on the forests, the tribals may be equipped with training in processing of MFP through self-help groups. Agricultural activity in the pre-1980 encroachments may be improved so that the productivity of crops is increased. Chief Minister desired that forest resources needed to be intelligently tapped to provide employment to the tribals.

6.8 The Commission recommends that the State Government should create a sub-cadre of forest officials to work in the forest areas located in the Scheduled Areas and for this purpose the deployment of young forest officers should be done, who will not only help in the conservation of forest but also bring about a healthy interface between tribals and forest to check growing unrest among the tribals in the tribal areas.

6.9 **Recognition of Tribals inherent right to live in forest-** The tribals have been living in the forest areas since ages. But the core-problem encountered in the tribal forest interface is that the right is being denied to the tribals in one form or other. The right to live does not mean mere existence. It has been observed that the tribals living in the forest villages established by the forest department on forest lands before the coming into force of Forest (Conservation) Act, 1980 are not able to get even minimum facilities like safe drinking water, housing, schools and electrical power supply. The living conditions of the tribals within the Wild Life Sanctuaries, Bio-diversity Projects are much worse. The Forest (Conservation) Act, 1980 is often cited by the Forest Department as an excuse. The State Government has not furnished information about encroachments on forest land prior to 1980.

6.10 But the National Forest Policy envisaged development of forest villages on par with revenue villages. This requires provision of minimum infrastructure such as drinking water, communications, minimum infrastructure for education and health institutions and appropriate minor irrigation structures. The Commission recommends that a time bound plan of action should be prepared for demarcation of forest boundaries for each of the forest villages and the provision of infrastructure facilities. This would not violate the provision of the Forest (Conservation) Act, 1980. It is also necessary to demarcate the boundaries between the revenue land under the jurisdiction of the Gram Sabha/Village and the reserved forest by constructing necessary posts. While doing so it is necessary to involve the Gram Sabha in this exercise.

6.11 The eco-development action plan in the wild life sanctuaries should ensure sharing of products without compromising Section 29 and 35 (6) of Wild Life Protection Act, 1972. Government of Andhra Pradesh has informed that there are 22 wildlife sanctuaries & 4 national parks. Shifting of tribal families from these areas will be contemplated only if the tribals are willing. As such, tribals are considered as part of the eco-system and suitable eco-development measures are being taken up through formation of eco-development committees (similar to V.S.S. under Joint Forest Management). As on date, there are 243 eco-development committees in 11 protected areas. New Eco-Development Centres (EDCs) are being formed in other protected areas. **There have been no shifting of tribal villages outside the Sanctuaries in the last 15 years. As a number of wildlife sanctuaries and national parks are located in the Scheduled Areas of the State, the Commission therefore recommends that creation of a separate institutional set up will be against the policy of the PESA Act and the state government should ensure that the Gram Sabhas in the Scheduled Areas and Gram Panchayats outside the Scheduled Areas are entrusted with the responsibility to take eco-developmental measures in consultation with the Forest Department.**

6.12 The eco-development activities for the upliftment of the tribal families should not have duplication of ITDA efforts. **The Commission recommends that micro-plans of eco-development committees should have representation of ITDA and field functionaries of that area and VTDA's in the vicinity of wild life sanctuaries. The State Wild Life Advisory Board should also have 3 tribal members to be selected in consultation with the Tribal Welfare Department. The alternative livelihoods to reduce the pressure on the forest should be viable and sustainable. There can be primary and secondary levels of processing of MFP through tribal self help groups. Agricultural activity in the pre-1980 encroachments should not be disturbed, measures for improving the productivity should be initiated. If the existing legal framework is coming in the way of improving the living conditions of the tribals living within the forests necessary amendments may be made to the Forest (Conservation) Act, 1980 so as to pave the way for the development of tribals living in the forests for centuries.**

6.13 Training and orientation of tribals in exploitation of forests for collection of MFP in a manner to preserve and further propagate the resources, is an urgent priority. This is required so as to keep the resources available for long term in abundance (e.g. prevention of situations like depletion of products such as Katechu (*Katha*) and (*Agar*). GCC has already undertaken training of departmental officers in scientific /optimal way of exploiting the MFP in order to realize higher value for the producer and/or the marketing by improving the quality and productivity. **The Commission recommends that in addition to the training of GCC officials and tribals it is also necessary to give orientation training to Forest Officers in preservation / propagation / expansion of MFP resources base which is an important component of tribals sustenance. The Forest Department is implementing a number of projects for regeneration of degraded forest areas. It should be made mandatory on the part of the Forest Department to earmark minimum programme of 50% of MFP trees in their projects.**

6.14 **Fixation and Payment of Minimum Wages by the Forest Department-** The minimum wages of forest and timber operation works were fixed for the first time in 1983. 'Sakti', a voluntary organization filed a writ petition in 1990 in the high court pointing out that the minimum wages for forest works has not been revised since 1983.

As a result of this petition, the minimum wages for forest works were revised in August, 1990. It is observed that there was no revision of minimum wages of forest works between 1990 and 2000 under Minimum Wages Act. In the meantime, 'Sakti' made a study of the Forest Scheduled Rates (FSRs) fixed by various circles of the Forest Department and compared them with the minimum wages fixed by the State Government in 2001 and found that the FSRs in various categories of works were less than the minimum wages. These findings were brought to the notice of the Forest and Tribal Welfare Departments in Dec, 2001 but no action was taken on these findings which effected the economic conditions of the tribal people in a big way. This is one of the important grievances of the tribal people in the agency tracks and is responsible for unrest among them which at times is exploited by other agencies.

6.15 The Ministry of Environment and Forest had issued guidelines on 18 September, 1990 stipulating that "uniform wage rates should be prescribed for similar pieces of work throughout the forest areas by the state government for all agencies" and "representatives of Tribal Welfare Department should sit in the Wage Board appointed by the Forest Department for fixation of daily wage rates". It is a matter of regret that the Tribal Welfare and Forest Departments are indifferent to the fixation of daily wage rates. As mentioned in the above para 'Sakti' after finding that the Tribal and Forest Departments are not taking action on the report submitted approached the high court which passed the order that the Forest Department should follow the minimum wages prescribed by the State Government. This has still not been done by the Forest Department.

6.16 In this connection it is worth mentioning that 'Sakti' was instrumental in making the horticulture department of ITDA East Godavari to pay Rs.1,55,775 as compensation to 36 unskilled tribals who were paid Rs.19 per day instead of Rs.26 under Minimum Wages Act. Many such cases of non-payment of minimum wages go unreported in the tribal areas.

6.17 The Commission therefore recommends that the Project Officer ITDA should monitor the wages that are being paid by the Forest Department and take up the matter with the concerned officials of the Forest Department if necessary for revision of the FSRs. This will go a long way in redressing the grievances of the tribals. The TRI should periodically conduct study of minimum wages that are being paid by various departments in the tribal areas and the Government should take prompt action to rectify the anomalies. It was pleaded before Commission that forest operations being scientific and systematic in nature than agricultural operations, minimum wages for forest related activity should be more than those prescribed for agricultural operations.

6.18 This issue was discussed by the Commission with the Officers of Labour and Forest Departments. The Labour Department informed that minimum wages for employment under forestry and timbering operations are taken up once in two years and that minimum wages were revised in May 2000-01 and the next revision is due from May 2003 and proposals in this regard are with the State Government. Commission brought to the notice of the Forest Department that minimum wages fixed in forestry and timbering operations are at variance with the minimum wages fixed by the Labour Department.

6.19 However, the Labour Department was categorical of the opinion that minimum wages fixed by the Labour Department will prevail over wages fixed by other departments. The

Forest Department stated that forest schedule of rates is fixed by them for each work every year. **The Commission recommends that Labour Department in consultation with forest and tribal development departments should fix piecewise minimum wages for various forests and timbering operations. It is not necessary for the Forest Department to determine the minimum wages separately. The Commission has also observed that there is no monitoring of the minimum wages that are paid to the workers employed on the forest works and for this purpose officers of the Tribal Welfare Department should also be notified as Inspectors under the Minimum Wages Act 1948 for implementation of minimum wages for forestry and timbering operations in the Scheduled Areas of the State. The Commission also recommends that the Tribal Research Institute should periodically undertake a survey in this regard and bring their findings to the notice of the Tribal, Forest and Labour Departments and also place these before the Tribes Advisory Council.**

## 7. Tribal sub-Pan (TSP)

**7.1 Tribal sub-Plan strategy** - Tribal sub-Plan strategy in the State envisages that every Department shall spend minimum 6% of its plan funds for the development of tribals. The strategy has come into effect from 1975.

**7.2** It has been noticed over the years that despite higher allocations under the Tribal sub-Plan strategy, there has been imbalance in the development of tribal areas viz-a-viz the non-tribal areas and normal allocation of 6% is not adequate to meet the gap, which can be bridged by way of development of infrastructure, such as, road connectivity, electrification and communication facilities.

The State Govt. may, therefore, consider the following Formula:

$$\text{Total Tribal Sub-Plan outlay of the State} = \frac{X + Y}{2}$$

Explanation in the above formula, the letters 'X' and 'Y' shall be construed as follows:-

- (i)  $X = \frac{\text{Total geographical area of the state under Tribal Sub-Plan X size of State's Annual plan for that year}}{\text{Total geographical area of the state}}$
- (ii)  $Y = \frac{\text{Total population under Tribal Sub-Plan X size of State's Annual plan for that year}}{\text{Total population of the state}}$

**7.3 Allocations for area development activities-** In case of allocations to be made by departments incharge of area development activities, such as, roads, electrification, housing, irrigation etc., the tribal area proportion to the district may be taken as a unit rather

than the population. For instance, the ITDA area, Paderu in Visakhapatnam district is around 56% of the total geographical area of the district, but the allocations under roads, drinking water supply etc. are at 6% only (i. e. proportion of the population). It would not bridge the accumulated gaps in tribal development. Hence, it is proposed that in case of area development TSP allocations may be proportion to the area rather than population.

**7.4 Community Development-** While making allocations for community development in core sectors like primary education and primary health; it should be relatable to development criteria rather than the proportion of ST population to the total State population. For instance, literacy in the State is 64% and that of ST it is only 36% and to make the leeway, the education sector under TSP should receive some weightage, which could be as under:

**(i) Education:@**

$$\frac{\text{Population of ST in the State}}{\text{Total State Population}} \times 100 \times \frac{\text{Total Literacy Rate}}{\text{ST Literacy Rate}}$$

**Illustration**

$$6 \times \frac{64}{36} = 10.61$$

Allocation for TSP under education sector should thus be raised from 6% to 11% which could be reduced after every 10 years depending upon growth in literacy rate of STs.

**(ii) Health #**

$$\frac{\text{Population of ST in the State}}{\text{Total State Population}} \times 100 \times \frac{\text{Tribal IMR}}{\text{General IMR}}$$

**Illustration:**

$$6 \times \frac{120}{64} = 11.25$$

**7.5** Whenever Govt. of India is launching special programmes for the backward districts, Planning Commission identifies certain districts as backward districts on certain criteria but there is arising a situation where a district may be ranked as a developed district while the tribal areas within the district are still underdeveloped. For instance, when the World Bank

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@ In Education Sector, the funds allocated should be with a loading factor to the portion in the TSP so that the ST literacy rate can be improved by additional funds. The criteria for loading factor is being suggested in terms of literacy rate which is to be calculated as total general literacy rate in the State divided by the total ST literacy rate in the State. This loading factor is essential in view of the high inequality between ST literacy and general literacy. Higher the ST literacy rate, better it is.

# In Health Sector, the funds allocated should be with a loading factor to the portion in the TSP so that the ST IMR comes down near to general IMR in the State. The criteria for this loading factor is based on IMR and is calculated as tribal IMR in the State divided by general IMR in the State. This loading factor is essential because the tribal IMR is very high in comparison with general IMR. Lower the ST IMR, the better it is supported District Primary Education Programme was launched in the State, the districts of East Godavari and West Godavari were not included in the list because both the districts had high rate of literacy, enrolment etc. which was not so for the tribals in both the districts. Hence, the Education Department had to launch another project for the tribal areas separately. **It is, therefore suggested that whenever Planning Commission or Government of India launch new programme/project for the backward district, the ITDA may also be considered as a district to be included in the list of backward areas till the gaps in the levels of development are balanced over a period of time.**

**7.6 Integrated Tribal Development Agencies (ITDAs)-** TSP strategy came into effect from 1975. Tribal sub-Plan includes details of budgetary allocation and schemes for the development of tribals and funds are earmarked out of State Plan and supplemented by Special Central Assistance, Grant under Article 275(1), Centrally sponsored Programmes and supported by Financial Institutions.

**7.7** Project Officers of ITDAs prepare Annual Action Plans covering protective, developmental and regulatory aspects for the area and the people, taking into consideration the human and material resources of the project area. In certain special cases, special project reports were also prepared by the Project Officers of ITDAs. These project reports may be project reports intended for obtaining external aid or for development of specific projects such as PTGs or for development of specific thrust areas like coffee.

**7.8** The State Government execute development programme for tribals through 10 ITDAs, 41 MADA pockets (Modified Area Development Approach), 17 clusters and 12 PTGs. The concept of single line administration is being followed at ITDA level, as Project Officer ITDA has been designated as Addl. District Magistrate and Ex-Officio Joint Collector, who has the authority to approve all development plans in tribal sub-plan area. All staff at the Project area works under direct control of the Project Officer. A list of 10 ITDAs is given at Appendix VIII.

**7.9** Single demand budget for TSP was introduced in Andhra Pradesh in the year 1987-88, but the Government dispensed with the single demand from the year 2000-01. It is observed that the State Planning Department from out of the total plan outlay available to that department indicates allocation of funds to various departments and all the departments are required to earmark 6% of their allocation for the TSP areas. It is further, observed that the heads of departments implementing TSP have shown quantification of funds under the schemes irrespective of whether these schemes have relevance to the tribals or not. Reports of actual allocation and expenditure under TSP are not regularly submitted by several departments like panchayati raj, rural development, medium irrigation, minor irrigation, health, women & child development etc.



7.10 As stated earlier, the State Government has asked all departments to earmark 6% of the planned funds for implementation of TSP. TSP strategy was started in 1975, the available figures from 5<sup>th</sup> Plan onwards with reference to TSP areas is given at Appendix IX.

7.11 **Commission recommends that the TSP component of all the departments should be placed by the Planning Department at the disposal of Tribal Welfare Department under a Single Demand Budget. The Tribal Welfare Department should finalize the inter-sectoral priorities of the TSP and communicate the same to the Departments concerned. This will ensure better utilization of funds.**

## **8. Programmes for tribals of pockets covered by**

8.1 **Modified Area Development Approach (MADA)-** There are 41 MADA pockets in the state which have predominant tribal population. As most of the tribals pursue agriculture as their main occupation, assistance is provided for improving their land based occupation by better inputs. Assistance provided to them by various agencies in some of the tribal areas visited by the Commission were as under:

- (i) **Khammam District** – Minor Irrigation, Animal husbandry, Fisheries, Industries and Business sector. (230 beneficiary in 2002-03)
- (ii) **Mahboobnagar District** – Electric lines, irrigation wells, assistance for transport through NST FDC, sheep unit, basket making, plough bullocks, borewells etc. (3471 tribal beneficiary during 1995-96 to 2002-03).
- (iii) **Nalgonda District** – road, electricity, anganwadi, minor irrigation, horticulture and self employment ventures to tribals in various hamlets.

8.2 The Commission observed that MADA pockets did not receive adequate attention of the line departments on the pretext that these were looked after by the Tribal Welfare Department. The fact is that the Tribal Welfare Deptt. allotted funds mostly for the family beneficiary oriented schemes and not for infrastructure development. **In view of this the Commission recommends that line Departments of the state should accord priority in covering tribal areas categorised as MADA pockets out of their state sector programmes.**

8.3 **Dispersed Tribal Groups (DTG)** –Population of DTGs in the state is 17.72 lakhs (42.20%) out of ST population of 41.99 lakhs as per 1991 census. The Commission interacted with a number of DTG at some places. Problems of DTGs basically relate to non issuance of patta on encroached forest lands, unemployment and migration. Yerukulas wanted permission to rear pigs in a big way which is not acceptable to the State Government. Their traditional occupation was bamboo work and they are not able to get bamboo now on concessional rates. They still make bamboo baskets but the return for which has come down due to plastic baskets. As a result of this they have now started living in urban areas in the slums. They pleaded to have a separate ITDA for DTGs on the lines of one for Chenchus (PTG) set up by the State Government at Srisailam. Development programmes launched for 572 DTG families of Khammam district in 2002-03 included minor irrigation, fisheries and industry and small

business. The issue of very little or nil political empowerment of DTG was also brought to the notice of the Commission at Dindi in Nalgonda district.

**8.4 Problem of sale of girl child in Nalgonda district** - Adoption and sale of girl child is prevalent in the Lambada tribe. It was reported that those who have 3 to 4 girl children preferred to sell one of them for Rs. 2,000 or so. It is a customary practice to sell third, fifth and seventh and ninth daughter. Sixty-seven girls were sold away by their parents mostly belonging to Chandampat Mandal. The Commission was informed that some Voluntary Agencies engaged in adoption of children in the country and outside have also been approaching Lambada community and alluring them to give their girls to them. Lambada girls are preferred by the parents as they have fair complexion unlike other tribal communities. It was informed that the State Government has formulated a special package to provide moral and financial support to such families (who number about 300). A budget provision of Rs. 14 lakhs was made for this purpose during 2001-02, which is in addition to normal on going programme.

**8.5 Child Labour** - Child labour is prevalent in the State, especially in the areas where the tribals live with non-tribals. Some tribal children are employed as household workers and some as bonded labourers for local land owners. Tribal welfare deptt. and education deptt. have been providing various educational incentives to tribal children. Women Development and Child Welfare Deptt. is running children homes at seven places in the State. State Govt. has however not undertaken any survey with regard to knowing the extent of the prevalence of child labour.

## 9. Primitive Tribal Groups (PTGs)

**9.1** PTGs numbering about two lakhs in the state are at the lowest scale of educational and economic development. Some of the PTGs are living inside the scheduled areas while others are spread over a number of districts and therefore, their development has remained uneven.

**9.2** Twelve PTGs, namely, Chenchu, Konda Reddi, Kolam, Bodo Gadaba, Gutob Gadaba, Kondh Porja, Bondo Porja, Dongaria Kondh, Kutia Kondh, Parenji Porja, Thoti and Konda Savara have been recognised by the Govt. of India. These groups continue to have symbiotic relationship with the forests and their problems by and large relate to poor health care, illiteracy and inaccessibility. For accelerated development of these groups, various developmental programmes in the fields of agriculture, horticulture, irrigation, health & nutrition and community awareness have been taken up in the ITDAs of Seethampeta, Parvathipuram, Paderu, Rampachodavaram, Kotaramachandrapuram and Srisailam with the grants released by the Government of India since 1988-99.

**9.3** The year-wise amount released is as follows:

(Rs. In lakhs)

Year	Amount released	ITDAs covered
1998-99	117.18	Srisailam
1999-2000	217.33	Parvathipuram, Paderu, Kotaramachandrapuram and Srisailam
2000-01	100.00	Seethampeta
2001-02	262.27	Parvathipuram & Rampachodavaram
2002-03	100.00	Seethampeta, Paderu, Bhadrachalam and Srisailam
	<b>796.78</b>	

**9.4** Twenty-six residential schools exclusively for PTGs have been set up from Class III onwards. Each such residential school has 420 PTG students. State Govt. has set up an exclusive ITDA for Chenchus at Srisailam. Village Tribal Development Agencies (VTDAs) and ITDAs have been playing active role in formulating and implementing plans for their development of PTGs. Department of school education has developed teachers handbooks for Savara, Kolam and Chenchus and local specific learning material for PTGs.

**9.5** Earlier attempts to introduce Chenchus to settled cultivation and dairying did not succeed. As far back as 1945, the Chenchu reserve was created in Telangana area and lands assigned to them besides distributing necessary agricultural implements, seeds, and milch cattle. The lands assigned to them were alienated and they returned back to their traditional livelihood of food gathering and hunting. Even in the Andhra area, Chenchu reserve was declared in the last quarter of the 19<sup>th</sup> century and attempts were made to introduce settled cultivation and dairying and land colonisation schemes in 1956 at Bairlutu and Nagalooty Chenchu gudems but all these efforts failed. This shows the need for careful planning from grass-root levels and evolving of a programme of development suited to the Chenchus living in two different areas.

**9.6** Commission would also like to mention that the Chenchus of the districts of Prakasam, Guntur and Kurnool and a few villages in Mahbubnagar were denied the right to participate in Panchayat elections because their names were not included in the electoral lists on the plea that Chenchus do not stay at one place and were not available when enumerators visited there. Sakti an NGO filed a writ petition in the High Court and directions were issued by the Court to the Panchayat Raj Department as well as the State Election Commission to include the Chenchus in the electoral rolls. Sakti mobilised the Chenchus and as a result 10,000 Chenchus voters were enrolled.

**9.7 Visit to Temple Trust Board, Srisailam** - The Commission visited Temple Trust Board Srisailam where it was surprised to note that none from among the Chenchus was on the 10 Member Board of Trustees, although Srisailam area is predominantly inhabited by Chenchu tribe (which is one of PTGs of the state). The Commission recommends that the Trust should have programmes for the development of Chenchus and to begin with they should be trained and given financial help in running tourism related activities in the temple town. Chenchus should also be brought on forefront of the Temple administration.

**9.8** The State Government has established one separate ITDA for Chenchus. Despite efforts made so far, they continue to be poorest among the poor. The Commission recommends that each PTG should be nursed by an NGO with adequate support by the Central Government and State Government to take up programmes of continuing nature for their sustained development. There is need for a special unit in the Directorate of Tribal Welfare to look after the overall development of PTGs. The first priority for their development should be food security and healthcare. Development schemes introduced during earlier Plan periods, such as, colonisation and dairying etc. proved disastrous because these were executed without taking into consideration felt needs of the PTGs. The Commission further recommends that Government of India should review the level of development of all PTGs in the country and classify them

according to their levels of development so that strategy and programmes are well focused. Each state having PTGs should set up a "PTG Mission" so that pace of development is speeded up.

9.9 A brief note on three PTGs, namely, Chenchu, Kondasavara and Kondareddi is furnished at Appendix X.

## **10. Personnel Policy**

10.1 State Government has initiated several steps towards personnel policy for TSP areas such as screening of personnel, single line administration, pooling of TSP funds of line departments with ITDA, designating Project Officer of Integrated Tribal Development Agency as Addl. District Magistrate etc. All ITDAs in the State are equipped with Fax, Internet facility etc., so that the communication facilities are improved. Further, computerization of all ITDAs and its schemes have been completed. Govt. of Andhra Pradesh has taken policy decisions to provide incentives to their employees posted in Scheduled Areas, such as, (a) Special Compensatory Allowance at higher rates (Rs. 225 to 540 p. m. in the State and in Rs. 275 to 615 p.m. in Scheduled Areas), and (b) Transfer to a posting of their choice after having served in Scheduled Areas for a period of three years. Several incentives such as additional HRA, Bad climate allowance etc., besides cash incentives for knowing tribal language are being granted. Chief Minister Gold Medal and Silver Medal for good work done by District Collector as well as Project Officer ITDA are other incentives introduced in 1986. It was however, informed that no such award was conferred upon any officer so far. Medical Officers working in tribal areas are given incentive of Rs.1500/- per month. Government has constituted Hospital Advisory Committees and included Project Officers of ITDAs as Vice-Chairman of the hospital committee for providing better medical care to the tribals living in agency areas. For smooth functioning of field level institutions appointment of local tribals as teachers, police constables, excise constables, forest guards, forest watchers etc., was reserved invoking the Fifth Schedule of Constitution.

10.2 Commission during their visit to tribal areas noticed at several places the paucity of government employees, frequent absenteeism, late arrival at place of posting and early departure to place of stay. Tribal leaders at many places expressed the view that Govt. employees have become delinquents and don't obey their seniors and approach the courts/SAT/CAT and bring stay orders. The Commission deprecates such an attitude of employees because it hinders the growth of tribals

10.3 The Commission was of the view that recruitment of all the posts in category 'C' and 'D' of Government service in the Scheduled Areas may be made from among the tribals only. If necessary, a Peacc Corps may be raised for multipurpose development of Scheduled Areas. Reacting to this observation, State Govt. apprised the Commission that policy of recruiting all the forest guards in Scheduled Areas from among the Scheduled Tribes is already in vogue. Seventy five percent of the police force in the Scheduled Areas is proposed to be recruited from the tribal candidates.

10.4 In regard to Personnel Policy in tribal areas, Chief Minister opined that tribals should be recruited first and sent for in service training, later. Employees in the tribal area should be fewer, a better lot, and best cared for pool of manpower.

## **11. Single line administration**

**11.1** The ITDP/ITDAs have been established with the primary object of ensuring an integrated approach towards implementation of development progress for the tribals in the Sub-plan areas. In order to facilitate better coordination among all the functionaries operating in the Sub-plan areas and to meet the needs of the tribals who can look to a single agency for representing their grievances in development as well as regulatory matters, Government of Andhra Pradesh introduced the single line administration system in the Integrated Tribal Development Agencies (ITDAs) established in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal and Adilabad so far as the tribal Sub-Plan areas are concerned. The Project Officers (POs) of the ITDAs who are in the senior time scale of IAS are designated as PO, ITDA and Ex-Officio Joint Collector (Tribal Welfare) and Additional District Magistrate. The POs of the ITDA holding a rank of Special Grade Deputy Collector of lower than senior time scale of IAS are designated as PO, ITDA and Ex-Officio Joint Collector (Tribal Welfare) and Additional District Magistrate.

They are invested with the following powers:

- (i) The powers, which are exercised by the Collectors, Jt. Collectors, District Revenue Officers shall be exercised by the POs of ITDAs.
- (ii) All Officers and staff in the sub-plan areas concerned with regulatory and developmental functions shall be under the administrative control of the PO, ITDA. The PO shall sanction the casual leave of all the Gazetted Officers working under his administrative control including the casual leave of Revenue Divisional Officers working in the sub-plan areas. PO shall also continue to be the approving authority of the tour programmes and countersigning authority for the TA bills of the officers concerned.
- (iii) The POs of ITDAs shall continue to be designated as Additional Agents so far as the agency areas are concerned.
- (iv) In respect of officers whose jurisdiction lies both inside and outside sub-Plan areas the officers will be responsible to POs, ITDAs as far as ITDA area is concerned.
- (v) The POs are authorized to call for any record, review and inspect the works being exercised by any department in sub-plan area.
- (vi) All postings and transfers of the highest Non-Gazetted and the Gazetted personnel in regard to and within ITDA areas should be made in consultation with the POs and such personnel will be screened as per Government Order dated 13.01.1977.
- (vii) In all the recruitments for sub-plan area, the POs, ITDA will be the Chairman or Member of the selection committee.
- (viii) (a) The PO, ITDA will initiate the Annual Confidential Rolls of the Development Officer, District Tribal Welfare Officer, District Educational Officer (Agency)/Dy. Educational Officer, Agency, Additional District Medical & Health Officer/Add. Dy. District Medical & Health Officer, Special Deputy Collector, Tribal Welfare, Divisional Manager, Girijan Cooperative Corporation, Executive Engineer, Tribal Welfare, Project Agriculture Officer and other Gazetted Officers working in the ITDAs under his control. The PO, ITDA shall also initiate the Annual Confidential Rolls of the Revenue Divisional Officers working in the sub-plan area.

- (b) The PO of ITDAs shall countersign the annual confidential rolls of Mandal Revenue Officers, Mandal Parishad Development Officers working in the sub-plan areas.
- (c) The POs of ITDAs will add remarks on the work of the other officers also working in the sub-plan areas wherever necessary.
- (ix) The powers exercised by District Educational Officer and District Medical & Health Officer in respect of administrative control, viz, sanction of leave, initiating the annual confidential rolls and countersigning the TA bills etc., over the staff working in sub-Plan area shall be delegated to the District Education Officer (Agency)/Dy. Educational Officer (Agency) and Additional District Medical & Health Officer/Dy. District Medical & Health Officer placed at ITDA.

**11.2 The Commission recommends that all the Scheduled Area States should follow the example of Andhra Pradesh by introducing single line administration and appointing IAS Officers as POs, ITDPs and give them regulatory and development powers to ensure that the benefits of protective safeguards and developmental measures reach the Scheduled Tribes in ample measures.**

**11.3 The Government of Andhra Pradesh have taken several steps to ensure that the appointments to non-gazetted posts in the Scheduled Areas are filled by local tribals by invoking the powers of the Governor under the V<sup>th</sup> schedule.**

**11.4 The Commission feels that a number of follow up actions are required to operationalize the personnel policy for the administration of tribal areas. In order to do so, the various Government Orders on the personal policy to the extent of Scheduled Areas administration have to be restated comprehensively in one order mentioning the policy of recruitment, transfers, promotions and special incentives to the staff working in the tribal areas and disciplinary procedures. A number of acts and service rules of different departments have to be suitably amended to enable the POs exercise the powers delegated to them under single line administration.**

**11.5 The Government of Andhra Pradesh have been sanctioning special compensatory allowance, additional house rent allowance and bad climate allowance to the staff working in the scheduled areas. The allowances are applicable to the staff uniformly across the scheduled areas. The Commission was informed that because of various departmental activities taken up in the last 25 years a number of scheduled villages have developed in terms of infrastructure and communications. Some of the scheduled villages are mandal head quarters and divisional head quarters, still some of the interior and remote scheduled area villages do not have proper facilities. This imbalance has resulted in an anomaly where the staff working in the developed villages are also drawing the same amount of incentives which the staff in the remote areas are drawing. It is generally experienced that the staff desire postings in a number of places in remote areas. The Commission, therefore, recommends that to rectify this artificial anomaly it is required to categorize the areas as Grade I (Divisional head quarters), Grade-II (Mandal head quarters) and places having bus facility and telephone connection, and Grade-III (inaccessible locations). Appropriate incentives have to be worked out to the staff working in three areas.**

## 12. Tribal Welfare (Engineering)

12.1 The Tribal Welfare Department has taken construction work of educational institutions, minor irrigation works, laying of roads, drinking-water supply and other infrastructural facilities in tribal areas. The State Govt. has therefore set-up a special engineering wing under a chief engineer (TW) assisted by deputy chief engineer and at field level by 2 superintending engineers and 8 executive engineers with supporting staff. The Commission is happy to note that the special engineering wing set up by the State Govt. has speeded up construction works in the tribal areas. The Commission has also noted that a quality control cell was created in 1991-92 to keep a check over the quality of construction works undertaken by the Welfare Department.

12.2 The Commission recommends that on the analogy of Andhra Govt., the Tribal Welfare Departments in various States should set up an engineering wing to construct buildings in the tribal areas financed by the Tribal Welfare Deptt. At the same time, it is necessary that the Tribal Welfare Deptt. should set up a quality control cell which should not only check the quality of the construction works taken up out of the funds of Tribal Welfare Deptt. but also of works executed by other deptts. and wherever it is necessary, bring the matter to the attention of the higher authorities in time. There is no doubt that there are mechanism within other institutions also to initiate corrective measures but the short point remains that it is the responsibility of Tribal Welfare Deptt. to ensure that construction works executed by various departments in the tribal areas are according to prescribed specifications and that the money spent by the Government is not infructuously utilized. For this purpose, the head of the quality control cell must be a senior officer who can take up the matters with his counterparts in other deptts. to ensure that the buildings constructed in the tribal areas by various deptts. are durable and can be used for a long period of time. At the same time, it is also necessary that all deptts. should earmark sufficient funds for the maintenance of the old and new buildings constructed in the tribal areas.

## 13. Economic Development Programmes

13.1 **Agriculture** - In Andhra Pradesh 75% tribal families are dependent on agriculture and horticulture, 15% on agriculture and agricultural labour, 5% on animal husbandry such as goat, sheep and pig rearing and remaining 5% are engaged in the collection and sale of herbal medicines and other miscellaneous occupations. Type of farm holding in tribal areas is as under:-

Type of farm holding	Size of holding in acres		No. of holdings
	Wet	Dry	
Marginal	Upto 1.25	Upto 2.5	32216
Small	1.25 to 2.5	2.5 to 5.0	40,293
Big	More than 2.5	More than 5.0	10,907

13.2 The tribals living in the Scheduled Areas by and large have ancestral wet and dry lands. The primitive groups do not possess Patta lands and they are largely dependent on shifting cultivation. The dispersed tribal groups generally live in plain areas and they are

engaged in animal husbandry and other cottage industries. Crops raised in tribal areas are cashew, mango, ragi, red gram, dry paddy, wet paddy, jowar, bajra, pulses, niger and rajma beans.

13.3 With the introduction of latest high yielding varieties on production, tolerance and resistance of drought and pest, traditional low yielding varieties have been replaced and the average crop production has been increased by 50%. In some slope areas, field crops like dry paddy, *Sama* have been replaced with wet paddy, improved dry paddy, jowar and the income of farmers has risen from Rs.9,000 to Rs.20,000.

13.4 Due to implementation of improved varieties and package of practices in arable crop development the following changes in the productivity are reported:

Crop	Yield Kg per acre	
	Before	Present
Wet paddy	440	920
Dry paddy	300	371
Red gram	100	149
Maize	200	287
Sesamum	40	86
Ground nut	240	350

13.5 Tribal youth have been given training under various methods of grafting and raising nurseries. On an average a tribal family owned 1 to 3 acres of horticultural crops earning Rs. 5000 per annum and those who have planted pineapple along with cashew received an average annual income of Rs. 10,000. For Chenchu (PTG), ITDA Srisailam provided agricultural land for cultivation, supplied inputs, provided agriculture implements; organized demonstration plots and distributed seeds. Plough bullocks were purchased and made available to tribals. At times, land was purchased and distributed among the landless tribals.

13.6 **Soil and water conservation** -The tribal areas are very prone to soil erosion causing loss of topsoil effecting the agricultural productivity. There is urgent need for taking up integrated water management, watersheds schemes and selected canals construction of field channels and reclamation of water-logged areas. It is reported that the ITDA Bhadrachalam selected those microsheds where soil erosion and land degradation was severe. Emphasis was laid on farm ponds to store run off and use it as percolation as well as life saving irrigation for crops. The programme met with good success at Farm Pond, Kannapuram.

13.7 **Minor Irrigation** -Towards assuring sustainable development, the State Government has informed that minor irrigation facilities have been made available in about 56,000 hectares of land benefiting approximately 44,092 tribal farmers. The Commission visited the site where a minor irrigation tank is being constructed at Errasanivagu Chandralagudem village in Paloncha Mandal of Khammam district (ITDA - Bhadrachalam) at a cost of Rs. 170 lakhs. On completion, the tank will benefit 100 per cent tribal families (Koya) who number



455. They will be able to irrigate 1500 to 1686 acres of land in Naxalite area. Out of two bore wells in the village, one was out of order. The villagers were excited to dream the day when they could harvest paddy and groundnut on their irrigated lands.

**13.8** In the absence of canals, tanks were of no use to tribals. In an evaluation study of minor irrigation schemes in Adilabad district conducted by the Tribal Research Institute in 2001, it was brought out that almost all the lift irrigation schemes have become defunct due to non-payment of electricity charges. Most of community irrigation wells were not provided with electric motors and they did not render any service. In an evaluation study of minor irrigation schemes in Adilabad and West-Godavari Districts, it was brought out that tribals were not consulted in the construction of check dams / minor irrigation tanks and also in the selection of motors for irrigation wells. Participatory management was found to be negligible. In many places, the contractors under the guise of village tribal development agencies (VTDA) are doing the work and some times outside labour is utilized to complete the works. Quality control as well as land development in the Aya Cuts (irrigable command area) have been ignored. **The Commission, therefore, recommends that in the water management plan and construction works participation of tribals should be augmented.**

**13.9 Horticulture-**There is great scope of advancement of horticulture in the tribal areas of the State. Horticulture crops grown in tribal regions are *chiranja*, hill mango, custard apple, wood apple and wild ber. After the introduction of integrated development programmes mango, banana, custard apple, guava, pomegranate and ber with improved varieties were introduced and developed. Recently *amla* with improved varieties was introduced for economic development. Coffee, pepper and *japhrana* were also introduced. Value added items introduced in the tribal areas were (a) pulp-processing unit at Utnoor. (b) cashew processing unit at Parvathipuram. (c) pineapple juice extractor at Seethampet. (d) sago manufacturing unit at R.C.Varam and (e) coffee pulp extractors at ITDA Paderu with the help of Coffee Board.

**13.10** ITDA Bhadrachalam trained 1,100 farmers during 2002-03 and established two Horticulture Nursery Training Centres, one at Garimellagpadu and the other at Pydigudem. The Commission was informed that it was targeted to produce 5 lakhs grafts of mango and 1.25 lakhs grafts of cashew during 2002-03 and earn a profit of about Rs. 27.50 lakhs. In ITDA Paderu, 2589 beneficiaries (ginger 589, turmeric 206, vegetables 1,794) were assisted in 2002-03.

**Progress made by ITDA Parvathipuram is presented in the table:**

	No. of ST Beneficiaries	Extent in acres	Expenditure Rs. In lakhs.
Cashew	45,953	50,372	900
Mango	1,622	230	0.5
Coffee	50	50	0.2
Turmeric	400	100	6.5
Total	48,025	50,752	907.2

**13.11** In ITDA – Seethampeta, the tribal farmers have been motivated and provided support services for growing cashew, mango, pineapple, turmeric and custard apple so as to wean them away from practicing shifting cultivation.

13.12 The Village Service Society, Goidi, (Seethampeta) with 144 members look after the development of 500 acres of land. It has planted saplings of cashew, tamarind, mango, myrobalan, jackfruit and aonla. In the absence of adequate sources of irrigation, the survival rate of plants is only 60%. With the acceptance of horticulture particularly cashew, coffee and pepper, reduction in shifting cultivation has been noticed. Thus, traditional crops have been replaced by remunerative cultivation.

13.13 **The Commission recommends that in order to promote agriculture and horticulture practices in tribal areas, soil conservation should be given priority so as to arrest soil loss and improve agricultural production. This will also improve ground water recharge and stream flows. All efforts are therefore necessary to increase the availability of water supply.**

13.14 **Livestock Development** - Banjaras, Lambadas and Gonds, in the past were mainly pastoral and largely subsisted by maintaining cattle, selling milk and milk products. They are now becoming settled cultivators. It is reported that the tribals of Srikakulam and Visakhapatnam districts are not in the habit of milching the cattle. However, they are not averse to milch cows provided they are properly motivated by imparting the skills of cattle management to augment their income by selling milk.

13.15 Improved variety of plough bullocks, milch animals, breeding bulls and Giriraja birds were distributed to the villagers in ITDA, Bhadrachalam. The ITDA organized pasture development, introduced sheep rearing techniques and held veterinary health camps in remote areas. In ITDA, Seethampeta- Twenty tribals were given training for 60 days in animal husbandry practices to work as Liaison Workers in villages. The villagers were given jersey buffaloes and Vanaraja and Giriraja poultry birds. The Savaras (PTG) were also provided sheep units, plough bullocks and dairy units for improving their livelihood and income generation. The Project Officer, ITDA, Utnoor distributed ten Vanaraja poultry birds to every tribal family of Kammugonda village and now each one of them has 30 birds. **The Commission recommends that livestock development should be encouraged by improving SGHs to enhance the income of the tribals.**

13.16 **Power-** In ITDA Bhadrachalam, as against carrying out electrification of 5 villages and 15 habitations in 2001-02, the work has been speeded up in 26 villages during 2002-03. Against a target of energizing 263 wells in 2001-02, only 110 wells were covered. In ITDA Paderu, only 1248 tribal habitations out of 3574 were electrified. **The Commission expressed their concern over poor connectivity of electric lines in the tribal hamlets.**

13.17 An experiment of generating electricity using Pongamia pinnata oil was conducted at village Chalbardi of Kerameri Mandal (ITDA Utnoor) with the assistance of SUTRA, Bangalore in 2001 at a cost of Rs. 2.50 lakhs illuminating houses of 15 tribals. It is envisaged to plant 53 lakhs Pongamia saplings in 21,000 hac at a total cost of Rs. 586 lakhs so as to benefit 20,000 tribal families. **The Commission observed the experiment of getting electricity out of Pongamia oil and were happy to see the participation of tribals. The Commission recommends that other variety of seeds may also be scientifically tested for extracting bio-oil. Power thus generated could be gainfully put to use in hilly and forest areas where laying down of electric lines will be costly. The Commission suggests that**

**training is a prerequisite for promoting industries in the tribal areas. Village industries should be promoted in tribal areas in such a way that tribal youth get employment.**

**13.18 Industry** - Major industries are not located in the TSP areas of the State, except for Heavy Water Plant, Manugar, A. P., Rayons, Kamalanagar and cement Industries in Adilabad. The State Government has informed that wherever industries are set up care is taken to adopt rehabilitation measures so that tribals are protected from facing any hardship. The State Govt. has opined that it would be better if tribals themselves are promoted as entrepreneurs for the State run industrial units with active participation of tribals. The tribals can be trained in setting up of small flour mills, rice mills with oil engine, carpentry, blacksmithy, bamboo basket making, bee keeping, leaf plate making, pottery, stone cutting etc. Handicrafts for self use and handicrafts for sale like sabra painting etc. could also be promoted.

**13.19** The Commission was also informed that private and public sector industries have been given lands in the Scheduled Areas in contravention of the LTR Act and the Fifth Schedule of the Constitution. Some such private industries are, the Badrachalam Paper Board Limited (BPL) located in Palavanha, Khammam district; AP Rayons, Kamalapur, Warangal Dt.; Orient Cements, Devapur, Adilabad Dt.; and Nav Bharat Ferroalloys, Palavanha, Khammam Dt. Some of the public sector industries are Singareni Collieries, in four districts of the Scheduled Area; Sponge Iron India Ltd, Palavanha, Khammam Dt.; Manuguru Heavy Water Plant, Manuguru, Khammam Dt. and Andhra Steels in Palavanha. Some of the critical problems in this context are:

1. Transferring lands in scheduled area to a private company is a transgression of the LTR Act.
2. Private industries in the scheduled areas have not brought desired economic development to the local tribal communities, either in the form of employment or other opportunities for livelihood.
3. In the case of BPL, Bhadrachalam, there are only 24 tribals employed in the company. All the tribals who lost their lands directly and indirectly (to the company, the non-tribal settlers and migrant workers) over the years, the loss to agricultural activities, the loss of forests due to heavy deforestation by the company and the settlers, has not been accounted for.
4. There is pressure from private industries to set up power projects, especially mini-hydel projects in the Scheduled Areas by harnessing the hill-streams. By sanctioning such projects the government is allowing for intrusion of private industries which can easily alienate tribal lands once provided an entry point. Such projects can be easily given to the local tribal communities themselves which can manage these projects with basic skills and training imparted to them.

**13.20. Displacement-** Government of Andhra Pradesh, Social Welfare (T) Department vide their G.O. MS No. 64 dated 18.04.1990 has issued orders for taking various safeguards and measures for rehabilitation of tribals who have been displaced and dispossessed due to projects, industries, mines, wild life sanctuaries etc. A few important measures are as under:

- a) clearance of tribal welfare department of the state shall be necessary before taking up any schemes in the tribal areas of the state.
- b) plan for the rehabilitation of affected families shall be prepared in association with the people adversely affected and it shall be approved by the ITDA.
- c) plan of rehabilitation shall form part of the project report.

- d) As far as possible rehabilitation shall be taken up on land to land basis and some land may be provided so that the family is not completely uprooted.
- e) If adequate land cannot be provided employment should be provided at least to one member of each family displaced.
- f) The rehabilitation plan shall be executed under the direct supervision of ITDA concerned.
- g) A training programme of entrepreneurial skills with proper follow up may be built up at the time of execution of the projects for the displaced families.

**13.21** State govt. has suggested that 'public purpose' under the Land Acquisition Act should be modified to the extent that it does not cause harm to tribals' interests. Under the PESA Act, rules are yet to be issued for making prior consultation with Gram Sabha mandatory for acquiring any land in the Scheduled Areas.

**13.22 The Commission recommends that prior to taking up any development related activity in Scheduled Areas, undermentioned formalities must be completed:**

- (a) survey parties should include representatives of tribal and revenue deptts. and also the gram sabha and the NGOs.
- (b) Provision of land should be made towards settling rehabilitation efforts and land compensation decided well in advance.
- (c) A provision of at least Rs. 50,000 may be made for construction of a house.
- (d) In case of submergence of forest lands, adequate compensation may be paid to tribals for loss of income out of Non-timber forest produce (NTFP).
- (e) Rehabilitation package should have approval of tribal welfare deptt.

**13.23 Public Distribution System (PDS)** -The PDS in the Scheduled Areas of the State is implemented through well-built network of domestic requirement sales depots of the Girijan Primary Co-operative Marketing Societies (GPCMS) affiliated to Girijan Cooperative Corporation (GCC). At present 839 DR depots are functioning in 10 districts. Essential commodities, such as, rice, sugar, edible oils, kerosene and other requirements such as dals, jaggery, iodized salt, coconut oil etc. are supplied. The tribal beneficiaries are issued ration cards by Revenue/Civil Supplies Deptt. GCC also supplies food provisions to all Tribal Welfare hostels. The functioning of DR depots is monitored and supervised by the officials of GPCMS, GCC, civil supplies, revenue authorities and advisory committees set up with the involvement of local tribals.

**13.24 Communication Strategies and Communications** - The State Government have developed communication strategy with regard to agriculture, horticulture, animal husbandry and fisheries sectors and are conducting training programmes of various protective laws like forest laws, land transfer regulations, atrocities Act, panchayat raj Act, money lending Act and the importance of health and education. Government have also provided roads for 7,792 tribal habitations out of 11,505 total tribal habitations. Post and Telegraph facilities have been made available to the most of the tribal habitations. Radios are available in all the tribal villages whereas the TV network is available in some of the road side tribal villages and all Mandal headquarters. Communication facilities like telephone and computers are available in all the roadside villages.

**13.25 The Commission recommends that Small Rural Automatic Exchanges (not requiring air-conditioning facilities) and Integrated Time Division Multiple Access (point to multi-point device to cover sparsely populated tribal areas) may be set up in tribal areas by the Govt. of India.**

**13.26 Tourism-** Some of the important tourism sites in tribal areas are Srisaïlam (Chenchu area), Bhadrachalam (Khammam district) and the more recent Borra Caves and Matsyagundam (Visakhapatnam district).

**13.27 A.P. Tourism Development Corporation and A.P. Forest Development Corporation** have initiated Eco-Tourism Projects in the tribal areas and Araku Valley in particular. Weekly markets are very popular places for tourists.

**13.28** The Commission was informed that in Borra, Araku and Matsyagundam, tourism spots have been further subcontracted by the tourism department to private contractors or companies where tribals, including the priests, who were owners of the lands and religious places, are now working as casual labour. The revenue and incomes from these commercial activities are not shared with the local communities or used for local development activities in the areas.

**13.29** The Commission visited Tourists Huts at Araku in ITDA Paderu, where State Govt. has constructed 26 huts based on the designs of dwellings of hill tribes and they are given on rent to the tourists @ Rs.100 per hut per day. The huts are made of waste material of coffee and other locally available wood logs at a cost of Rs.30,000 each. **The Commission appreciated this programme as 'Tribal Huts' have brought tourism closer to the promotion of tribal culture. The Commission recommends that tourism circuit in tribal areas should be carefully planned and managed by the Tribal Welfare Department and not the Tourism Department or the Endowment Board. Tourism Sector should not only be eco-friendly; it should also be tribal friendly.**

**13.30 Girijan Cooperative Corporation (GCC) And Tribals Participation Organisational set up -** The GCC is a Public Sector Undertaking of Govt. of A.P established in 1956 for the socio-economic upliftment of tribals. At present the Corporation is engaged in the service through a network of 1 Head Office, 1 Regional Office, 9 Divisional Offices, 43 Girijan Primary Coop. Marketing Societies (GPCMS) and 839 Daily Requirement (DR) Depots. Management of the Corporation vests in a Board of Directors consisting of not more than 18 of whom 5 are non-official Directors elected by the General Body, 11 Directors including the Chairman, Vice-Chairman and Managing Director nominated by the State Govt and 2 members nominated by the Ministry of Tribal Affairs, Govt. of India.

**13.31** The elections are required by law to be held every 3 years by the cooperative societies. It is understood State Government has exempted the election to the post of 5 non-official Directors of the Board of Directions. GCC under its charter has monopoly rights to purchase minor forest produce, which is an important source of sustenance for the tribals. GCC also provides daily requirements of the tribals in inaccessible areas through its network of DR Depots. **Unless, elections are held regularly to the GCC and GPCMS, the tribals will have no meaningful role to play in the process of fixation of purchase price and policy**

making in regard to sale of MFP to monopoly purchasers. In 1995, "Sakti" filed a writ in the High Court about not holding the elections and on High Court's orders, elections were held in that year. But no elections have been held since thereafter. It is observed from the latest information furnished by the State Govt. that 18 GPCMS out of 43 have nominated Board of Directors and not the elected ones. NGOs suggested that GCC should include some elected members among the office bearers, besides nominated persons. This will give a true democratic character to the institution. If the elections are periodically held, it will create enthusiasm among the tribals who would come to know the issues that are confronting the GCC and help in strengthening the GCC.

13.32 In this connection, it is worth-mentioning that elections to the Primary Agricultural Cooperative Societies (PACS) functioning all over the State including Scheduled Areas are held every 3 years. Attention of the Commission was also drawn to the fact that in the PACS in the State, there is provision of election of only one Scheduled Tribe Director. The Scheduled Tribes are dispersed all over the State and it is therefore necessary that the number of Directors in the PACS should be enhanced by taking into consideration the percentage of Scheduled Tribe population of the area in which PACS are functioning.

13.33 **Activities:** Performance of G. C. C. at a glance during 2001-02 and 2002-03 was as given below:

Item	(Rs. in lakhs)	
	2001-2002	2002-2003
1. Procurement -MFP/AP	1561	1293
2. Sales-MFP/AP	1924	1501
3. Supply of DRs	7129	5652
4. Supply of Agricultural inputs	110	120
5. Turnover (Commercial) (2+3+4)	9163	7273
6. Credit Disbursement	356	161
<b>Grand Total (5+6)</b>	<b>9519</b>	<b>7434</b>

13.34 New strategies adopted by the Corporation, by way of concentrating in MFP, scientific training of tribals, collection of medicinal herbs, value addition approach, advance sale tie-up and joint venture agreement, retail marketing, associating the self-help groups and improving sale of other domestic requirements have been appreciated by the tribals. In many MFP items, the new techniques for gum tapping has increased the quality of gum manifold, which resulted in higher returns to tribals. The honey produced by GCC is now of premium "Agmark Spl. Grade" quality and resulted in good retail market. NATFLOC prepared out of cleaning nut is a natural substitute for Alam and has gone through all tests and is being marketed by the GCC. The Bioflocculant extracted from cleaning nut has the property of binding heavy metals like Uranium, Thorium, Gold, Arsenic etc. The product was successfully tested at Hyderabad for Uranium absorption and a pilot plant project is likely to be set up in collaboration with National Metallurgical Laboratory. For ensuring better remunerative prices to tribals through value addition, GCC produces AG Mark "Spl" Grade Honey, Neem and Turmeric Soaps of ISI Grade A, Shikakai and Soapnut powders. The Commission visited the soap-making unit at Vizanangaram where 15,000 soaps are made by tribal women everyday. Cost of a soap being Rs.5.60 and sale price Rs.9.00, the net profit is Rs.3.40 per soap. GCC used to provide credit facilities for meeting the consumption needs. Quantum of assistance for one family was Rs. 750. The scheme has been discontinued since 1995-96 because of high percentage of overdues. During 1990-91 to 1995-96, an amount of

Rs. 138.08 lakhs was disbursed by GCC through its affiliated societies but only Rs. 72.22 lakhs (52%) could be recovered till 31.3.2003.

**13.35** SAKTI (an N.G. O.) made a survey of the indebtedness of tribals of Andhra Pradesh who were mortgaging the future produce of their tamarind trees to merchants due to their need for petty loans. This resulted in their being forced to sell the produce at a highly discounted rate. The Project Officer ITDA, at SAKTI's instance, successfully convinced nationalized banks in the area to advance loans ranging from Rs. 300 to 500 to tribals as and when they approached the bank. This loan was advanced after obtaining a surety from SAKTI. SAKTI ensured that the tribals repaid the money on harvesting the produce from their trees. This relieved the tribals from the burden of further indebtedness.

**13.36** The Commission recommends that a few NGOs may be identified and entrusted with the task of standing surety before the Banks so that tribals could obtain petty loans (upto Rs. 500) for meeting their day-to-day requirements. An amount of Rs. 50,000 may be given to an NGO towards the revolving fund for helping about 100 ST families. Administrative expenses could be met by the NGO out of the interest amount of the fixed deposits.

**13.37** NGOs suggested that GCC may be assisted to set up at least two cold storages to store tamarind to ensure fair price to the tribals. The Commission were happy to note that the GCC has made its presence felt in the tribal society in regard to marketing of minor forest produce and agricultural surplus products. They however observed that the tribals did not get competitive and remunerative rates for their produce. The Commission further recommends that whenever drought like situations are noticed in the Scheduled Areas, the State Government should assess loss of minor forest produce besides loss of agricultural crops. This will protect the interests of tribals who depend heavily on minor forest produce. The State Govt. should open up works to meet the scarcity situation with added vigor in these areas where there was loss in production of agricultural crops as well as procurement of M.F.P. This should be monitored by the State Govt. and the G.O.I. in the Revenue, Forest and Tribal Development Departments.

**13.38** **Minimum Support Price for MFP-** The GCC procures MFP from the tribals, markets the produce and offers highly remunerative prices to the tribals. But there have been instances where GCC is not able to offer remunerative price due to sluggish market conditions. For example, in the case of tamarind, TRIFED failed to purchase from GCC during 2001 crop season, but Corporation purchased 1,46,000 quintals of seeded tamarind at Rs.6/- per kg. in the interest of tribals. The Corporation could not sell this quantity of seeded tamarind due to continuous slump in the market, with the result that about 1/3<sup>rd</sup> of the purchased quantity of seeded tamarind remained unsold.

**13.39** The country has a system of minimum support price for agricultural produce which is announced before the sowing season to help farmers all over the country and thousands of crores of rupees are spent in purchasing the agricultural produce of the farmers through Government agencies. This scheme of the Government of India has ushered in food security in our country. Likewise, MFP is a major source of sustenance of the tribals and the Commission, therefore, recommends that the Government of India should appoint a

**body of experts to determine minimum support price to be announced before the collection season starts for MFP to protect the tribal gatherers from vagaries of market.**

**13.40 Value addition to MFP** - When there is abundant crop of minor forest produce due to favourable climate conditions the market price for certain MFP items goes down and if the Corporation decides not to purchase MFP from the tribals it creates unrest among them and it is a set back to their economy. Keeping these factors into account the Corporation has chalked out a programme of setting up processing units focused on giving value addition to MFP and marketing the product in blended form. The initiative taken by the Corporation has produced good results. **The Commission recommends that the Government of India should release funds to the Corporation for setting up new processing and value addition units for MFP items.**

**13.41 Credit Risk Fund** - GCC has been disbursing agricultural loans to the tribals through its affiliated societies since 1991. The tribal areas in the state have been reeling under drought conditions for the last several years and the recovery has been poor compelling the Corporation to divert their working capital towards issue of loans to the tribal members. **The Commission, therefore, recommends that all overdue loans pending for more than six years against the tribals (amounting to Rs.26.50 crores) should be reimbursed to the GCC and at the same time a Credit Risk Fund with Corporation for Rs.5 crores should be created to meet the future credit risk.** The GCC provides loans to the affiliated societies but there is a deficit in shareholding of the societies to the tune of Rs.26.02 crores, and the societies are therefore, handicapped in providing loans to the tribals. **The Commission, therefore, recommends that the Government of India should provide funds towards shareholding of the societies affiliated to the Corporation to meet their shareholding deficit with the Corporation.**

**13.42 Trading in Medicinal herbs** - The 10<sup>th</sup> Five Year Plan has suggested that "In situ conservation of medicinal plants is to be done in the protected areas such as sanctuary, national park, Biosphere reserve etc. Natural forest rich in medicinal plants should be identified and managed for supply of crude drugs". Due to deforestation and degeneration of MFP, the tribals are losing their income day by day. The Corporation has carried out a quantitative resource survey and identified 42 medicinal plants / herbs for commercialization which will serve an alternative source of livelihood for the tribals. The survey report envisages training of tribals in collection, preservation, processing and marketing of medicinal herbs and **the Commission, therefore, recommends that the Government of India should sanction additional grant to the Corporation for promoting use of medicinal herbs in the country.**

**13.43 Additional Support Sought:** GCC has suggested that the Government of India should declare minimum support price for the MFP procured from the tribals on par with the agricultural produce. This assistance would benefit tribal families. Government of India should also sanction grants to the Corporation for meeting the losses sustained by them in purchase and sale of MFP, creation of a price fluctuation fund, reserve fund to meet losses due to sudden slump of prices of MFP commodities already procured, to write-off all overdue loans pending for more than six years against the tribals, creation of a credit risk fund, augmentation of share capital for advancing loans to societies affiliated to Corporation, develop medicinal plants as an alternate source of livelihood to tribals, money for new



processing centres and value additions of MFP. The GCC has also requested that the State Government should reimburse the actual cost to the Corporation in transporting essential commodities to the tribals in most inaccessible and interior areas. The money asked for by the Corporation from the Government of India is summarized below:

Sl.No.	Particulars	Total (Rs. In crore)	
1(a)	Price Fluctuation Fund for meeting the possible future losses on MFP so as to provide Minimum Support Price		5.00
1(b)	Reimbursement of losses incurred on account of purchase and sale of MFP during the years 2001 and 2002:		
	(a) Tamarind	4.00	
	(b) Myrobalans	0.51	
	(c) Marketing nut	20	4.71
1(c)	Reserve Fund to meet consequential losses due to sudden slump in market for MFP commodities		6.00
2(a)	Creation of Credit Risk Fund to meet the future credit risk on loans disbursed to the tribals by societies affiliated to the Corporation.		5.00
2(b)	To write-off all the overdue loans pending for more than 6 years advanced to the tribals through societies affiliated to the Corporation.		26.50
3.	Share capital support for advancing loans to societies affiliated to the Corporation to meet their deficit share holding with GCC.		26.02
4.	Training in collection, preservation, processing and marketing of medicinal plants		0.53
5.	Working Capital Support for marketing development activity, establishment of new processing units & training programmes and value addition		1.20
	<b>Total</b>		<b>74.96</b>

**13.44** The Commission has noticed that TRIFED as well as state level institutions dealing with MFP are not in a healthy financial condition. We therefore, recommend that the Ministry of Tribal Affairs should engage a reputed management organization to undertake a study and suggest measures to revamp TRIFED as well as state level institutions in a co-coordinated manner so that exploitation of MFP can lead to improvement in the economic conditions of STs all over the country.

**13.45** Andhra Pradesh Scheduled Tribes Cooperative Finance Corporation Limited (TRICOR) - TRICOR was established in October 1976 to tap institutional finance for taking up income generating economic activities for the tribals. TRICOR selects the individual beneficiaries or members of cooperative societies whose income is below the poverty line. TRICOR has its branches all over the tribal areas. It is however, functioning as a nominated Govt. body and elections are not held to its Board of Directors. If elections are held regularly, it will create awareness among the tribals and elected members of the Board will be able to ventilate the grievances of the tribals.

**13.46** Institutional arrangements to strengthen the protective measures- Andhra Pradesh is having protective measures and corresponding institutions also to protect the interests of tribals. GCC is vested with monopoly rights to purchase MFP from the tribals collected from the reserved forests. Precious stones are another commodity in which many traders are

exploiting the tribals. The collection and marketing of precious stones has also been brought under a separate branch under TRICOR but this has not commenced its work. Tribal areas are rich in water resources, which can be tapped for generation of hydel energy. The Govt. has constituted the Tribal Micro Hydel Corporation, which has exclusive rights to tap the hydel sources in tribal areas.

### 13.47 Externally Aided Projects

**13.47.1 Andhra Pradesh Participatory Tribal Development Project**-Andhra Pradesh Participatory Tribal Development Project (APPTDP) with support from IFAD, Rome had been under implementation since 1994-95 with an outlay of Rs. 185.50 crores (including credit, peoples' contribution and contingencies) spread over seven years and ended on 31<sup>st</sup> March, 2003. The objective of the Project was improvement of food security, ecological security, economic development through natural resource development and human resource development with technological, social, political innovations in a compatible adaptive way of the existing systems. The target areas of the Project were 28 watersheds, 1016 villages and 76,810 families and the tribal groups benefited were Koyas, Konda Reddis, Chenchus, Kolams and Gonds. The expenditure incurred under the Project was Rs. 188.00 crores and irrigation was provided to 1.2 lakh acres, 32,190 acres of farm land and 42,845 acres of horticulture gardens were developed. Soil conservation measures were undertaken on 48,330 acres. 2,775 thrift cooperative societies were organized with 38,519 members and Rs. 4.93 crores of savings were generated. The Project financed by the IFAD was completed in March, 2003 and a new scheme called 'Velugu' funded by World Bank was launched.

**13.47.2 Velugu Project: ("Lamp" which shows path for the poor)** - This is a growth-oriented strategy to eradicate poverty. The key elements of the poverty eradication strategy are pursuing rapid economic growth, promoting human development, enhancing social capital of the poor by fostering organizations of the poor and their capacity building, promoting sustainable livelihoods of the poor, focusing on backward Mandals and poorest of the poor and redesigning of the administrative delivery machinery. For the effective implementation of Velugu Project under the caption Andhra Pradesh District Poverty Initiatives Project (APDPIP), an autonomous society called Society for Elimination of Rural Poverty (SERP) at the State level has been established. In order to give focus and achieve convergence between the Velugu Project and the ITDAs, Govt. has set up a separate Tribal Project Management Unit (TPMU) under the Project Officer, ITDA for social mobilization and empowerment of tribal communities in the TSP areas. The new strategy, the Govt. has adopted lays emphasis on capacity building of the tribals for poverty eradication. The Commission feels that this new set-up will help in bringing up economically BPL families in the tribal areas. As mentioned earlier, State Govt. must ensure that the norm of TSP must be applied to all externally aided projects.

**13.48 Giri Shakti Programme (Hill Top Villages Programme)** - State Government introduced a new approach of "Total development of remote inaccessible Hill Top Villages", which remained unserved so far. The programme as given below was set into motion in 26 Hill Top Villages of Pachipenta Mandal of ITDA Parvathipuram among 408 households covering a population of 2000 persons:

- |                             |                            |
|-----------------------------|----------------------------|
| 1. Drinking water           | 24 wells @ Rs. 30,000 each |
| 2. Economic support schemes | Rs. 48 lakhs               |
| 3. Horticulture             | 235 acres (235 families)   |
| 4. Approach road            | Rs. 10 lakhs               |

5. Checkdams	7
6. Revolving fund of Self Help Groups	Rs. 10,800
7. Tool kit for artisans	17 persons

Based on the success of holistic approach, the project is proposed to be extended to 251 villages during February 2003 to March 2004 at the cost of Rs. 28 crores.

**13.49 Visit to Kusumi Village (Seethampeta ITDP)** -Kusumi village with 21 households of Jathapu tribe is a centrally located village in the valley surrounded by 650 households of hill top villages. The tribals visit Kusumi village to collect ration and other daily requirements from the Fair Price Shop. The tribals sell their m.f.p. and agriculture produce at the shop. On 30.03.2003, tamarind was purchased @ Rs. 4 per Kg. and cashew @ Rs. 3.60 to Rs. 5 depending upon the quality. Annual turnover of the Shop was Rs. 2 lakhs.

**13.50** The ITDA Parvathipuram has been given Rs. 5 crores towards economic development, dairy development, vegetable cultivation and capacity building. The ITDA has carried out its activities in the Hill Top Villages for their development. The villagers have been motivated to adopt improved practices in animal husbandry, poultry and cultivation of cashew and arhar / tuar. The Village Project is monitored by a local tribal who has been designated as Community Co-ordinator.

**13.51 The Commission appreciated the approach of State Govt. for developing Hill Top Villages. It recommends that a special Plan of Action for development of tribals living on higher elevations may be prepared for being funded out of Central Assistance.**

**13.52 Self Help Groups of Women** - The women Self Help Groups (SHGs) are playing an important role in development of tribal area. 4,000 SHGs are working in the tribal areas. The SHGs not only undertake income generating activities but also act as community development co-ordinators and monitor the execution of programmes in the villages. By empowering the women, the tribal community has been empowered.

**13.53** The Commission discussed tribal issues with the SHGs of Marlawal and Powerguda villages and also the members of village service society of ITDA, Utnoor. Growing unemployment among the youth, availability of power for only nine hours, poor housing conditions, non-availability of safe drinking water and non-functioning of grain bank for the past 3 years were major problems. Execution of old age pension scheme, supply of rice at the rate of Rs. 3 per kg out of PDS, collection of MFP and training in vocational skills were reported to be satisfactory.

**13.54** Smt. Laxmi Bai of Kammugada village in ITDA, Utnoor inhabited by Kolam tribal community included in PTGs explained the soil conservation works taken up by SHG in the village. She had drawn a map of the village on the floor of a house and by different colours and symbols was able to explain how by contour bunding and plantation of trees etc., water table in the wells and percolation tank has increased. The SHG was given money for execution of works and was able to save money, which they are using for advancing loans and other schemes. The SHG has purchased a jeep, which is run as taxi on hire. Net profit that

they have earned amounts to Rs. 2 lakhs after paying salary of Rs. 1600/- p.m. to a driver and Rs. 600/- p.m. to a cleaner. The SHG has been able to convince the farmers to pay minimum wages to women at par with men i.e. Rs. 50/- per day.

**13.55** The tribal women of Powerguda village were proficient in explaining the development programmes by making a sketch map on the ground in different colours. With the increase in ground water level, the villagers have taken soyabean and gram crops and raised 7 to 12 qtls of foodgrains a year. In the execution of civil works of Rs. 30,000/-, the SHG has been able to save Rs. 10,000/-. Smt. Subhadra Bai, (Gond) spokeswoman of SHG was sent to Chitradurga in Karnataka for attending a training programme on building entrepreneurship among women SHGs. She also represented SHG on Independence Day, 2003 at Hyderabad. SHG Powerguda was successful in motivating their menfolk to give up liquor and no male member of the village has taken liquor for the last four years. The village has planted saplings of Pongamia Pineta for extracting oil out of its seed, which is used as substitute for diesel. The village also planted 5 lakh saplings of cashew during 2002 and has plan to go in for another 20 lakh saplings during 2003.

**13.56** The Commission appreciated the work being done by SHGs. Govt. should depose their full confidence to SHGs in years to come and entrust them with higher responsibilities.

**13.57 Arts and Crafts** - The subsidiary occupation of some of the STs is related to their traditional art and crafts, such as making of agricultural implements, musical instruments, bamboo baskets, grassmats, combs made of lightwood, foodgrain containers and storage drums. They also make fancy items, such as, flower vases, decorative pieces and wall hangings, wood carvings, toys etc. Preparation of idols of Gods and Goddesses are popular among the tribals of Adilabad district. Lambada women are good at embroidery work, dress making, mirror work on dress materials, sarees, handbags, purses etc.

**13.58** Outlets for these items being very limited, such as, industrial cooperative society for Yenadis, at Nellore, tribal museums and vocational training institute at Bhadrachalam and DRDA sales counter at Srisailem, art and crafts items have not been found to be economically viable and remunerative in the present day market economy.

**13.59** The Commission therefore, recommends that the tribal arts and crafts should be displayed, and popularised by one and all in the Scheduled Areas. Respect and love for preserving tribal heritage should be developed in all the educational institutions, hostels and government offices and among the public. A token budget of say Rs. One thousand per year may be approved for each Gram Sabha for distributing toys to children or for musical instruments to hostels. What is needed is a "message" that tribal heritage is our ancient culture and each family has to have at least one item as a symbol of our past glory. Marketing of "ideas" should precede the marketing of "product".

## **14. Social Development Programmes**

**14.1 Education** - Education occupies crucial place in human resource development. The Education Commission (1964-66) referred to education as an instrument of peaceful social change. The state government took major initiatives in tribal education after naxalite

movements. Exploitation and resultant deprivation and alienation of land in tribal areas is the outcome to widespread ignorance and illiteracy. Once the tribals are educated and equipped with new skills and knowledge, they will be able to safeguard their own interests. The tribal areas are endowed with rich resources such as lands, minerals, water, forest etc. and to harness these resources, they should be properly educated in order to derive maximum benefits.

**14.2 Literacy** - The literacy levels among the STs of the state are extremely low when compared to national and state levels. The details of literacy rates at national and state levels for both general and tribals from 1951 to 1991 are given below:

Sl. No.	Census Period	All India Literacy %		Andhra Pradesh literacy %	
		General	Sch.Tribe	General	Sch.Tribe
1.	1951	16.67	5.96	15.81	3.46
2.	1961	28.29	8.54	21.19	4.41
3.	1971	34.45	11.29	24.57	5.34
4.	1981	36.23	16.35	29.94	7.82
5.	1991	52.11	29.60	44.09	17.16

It will be seen from the above table that the literacy rate among the STs in Andhra Pradesh is not even half of the national literacy of scheduled tribes as per 1981 census. During 1951 to 1981 in Andhra Pradesh the general literacy growth rate in each decennial period was almost four times more than that of scheduled tribes. A study of literacy percentage of STs in Andhra Pradesh compared to ST literacy of other states of the country, in 1971, 1981 and 1991 censuses indicates the lowest level of percentage of literacy among STs in the state.

**14.3 Tribe-wise Literacy Levels-** Tribe-wise rate of literacy for 1991 has been furnished at Appendix XI. It is seen there from that state average for S.T. for the state is 17.15 (Male (25.25%) and Female (8.68%). The tribes showing less than 10% literacy rate are as under:

1. Kondh 5.19
2. Porja 8.66
3. Kolam 9.46
4. Mukhadora 9.86

**14.4 ST females returning less than 10% literacy rate belonging to 14 communities are as under:**

- |                       |      |                    |      |
|-----------------------|------|--------------------|------|
| 1. Gadoba             | 9.02 | 8. Mali            | 7.32 |
| 2. Gond Naikpod       | 5.64 | 9. Mukhadora       | 4.40 |
| 3. Goudu              | 9.91 | 10. Nayak          | 8.84 |
| 4. Jatapu             | 9.81 | 11. Porja          | 3.03 |
| 5. Kolam, Mannervariu | 4.01 | 12. Savara         | 7.0  |
| 6. Konda dora         | 7.61 | 13. Sugali/Lambada | 5.68 |
| 7. Kondh              | 2.18 | 14. Yenadi         | 9.91 |

**14.5** Data on incidence and causes of drop out, number of educational institutions, incentives provided to students, examination results and special measures taken by the State Government are furnished at Appendix XII.

**14.6 Commission's visit to Educational Institutions**

**14.6.1 Tribal Girls Residential School, Asifabad, Adilabad District.** The School admitted 544 boarders from class VI to XII. It has all the facilities of a good hostel with neat and clean kitchen and the school has good faculty to teach computers, maths and science and the Commission found that the general-knowledge of students was satisfying. The Commission, suggest that tribal students should be given wide exposure through tours and excursions, visit to various fairs and festivals in the State and outside.

**14.6.2 Residential School and Junior College for Girls, Sudimalla, ITDA, Bhadrachalam** - The institution was established during 1990 to provide better educational facilities for the tribal girls with 60 students enrolled in class III, in two sections. This institution has become full fledged higher secondary school having classes III to X in the year 1997-98. Now 90 ST girls are admitted in class VI (entry point) every year. The selection of students is made based on the performance (merit) in the entrance test conducted for admission exclusively for 100% ST girls under the jurisdiction of ITDA. All the students are boarders and provided free boarding and lodging facility.

**Results of SSC Exam for the last three years were as under:**

Year	No. of students appeared	Percentage of passes
1999-2000	76	76.3%
2000-2001	72	76.39%
2001-2002	72	87.5%

**Introduction of computer education-** During 2002-03, the Govt. of A. P. approved the computer education programme in this Institution to provide e-skills in Information Technology to all the Tribal Students. The Computer Lab is provided with 16 Personal Computers. Some of them had the ambition of becoming IAS/IPS Officers. Ku. Varlaxmi (Lambada) represented the State in Volleyball in 2003. Ku. Jyoti and Ku. Ramalaxmi of Kondareddy tribe (PTG) were other upcoming girls in Class X and XII respectively, who needed care and proper follow up. **The Commission suggest that the School may be equipped with musical instruments and teaching in Home Science.**

**14.6.3 Residential School for girls at Arakkuvalley, Paderu-** The School has enrolled 340 girls in classes I to X. The boarders wore very good uniform. The premises were neat and tidy and the faculty was responsive. **The Commission suggest that colour and design of uniform of tribal students in the residential schools should preferably be common throughout the State.**

**14.6.4 Visit to Residential School for S. T. Boys, Lal Tikidi, ITDA, Utnoor** -The Commission visited the school having 320 tribal boarders. During 2002, the result of SSC students of this school was 86%.

Tribal Research Institute conducted an evaluation study on the functioning of Residential Schools for Scheduled Tribes, in which it was recommended that parents belonging to PTGs sending their girls to schools should be supplied rice as an incentive. Special coaching was also recommended in subjects like english, maths and science. The talent of tribal children in arts, sports and games should also be harnessed.

**14.6.5 Vist to Chonpunguda Village in ITDA, Utnoor** - The SHG headed by Smt. Bheem Bai (Gond) has been doing good work. They have been able to admit all the school going age children to the school and sometimes the children and adults study upto 8 p.m. As on date the whole village is literate and it has achieved unique distinction.

**14.6.6 Visit to Addakullagunda Village (Seethampeta)**- The Commission visited a residential school at Addakullaguda village set up for the children who used to work as child labourers. After attending a bridge course, they were admitted to the regular residential school. During February 2003, 136 children were admitted into the school.

**14.7 Emphasis on Residential Schools-** The State Government informed the Commission that education was the first step to bring development among the tribals and that the State Government planned to expand existing ashram schools for tribals from 500 to 2,000 in next 5 to 10 years, so as to build adequate educated ST manpower. The Commission appreciated the gesture of the State Government.

**14.8** On the basis of initiatives taken by the State and impressions that the Commission had during their visit to the State; they make recommendations as under:

- (1) **Special Literacy Projects may be launched for tribal women whose rate of literacy has been less than 5% according to 1991 census. Placed at the bottom are Kondh (2.18%) and Porja women (3.03%) and they require an umbrella approach and not merely 3 R<sup>s</sup>.**
- (2) **Government of India should set up Navodaya schools at all ITDA headquarters.**
- (3) **The Commission observed with concern high dropout rate of ST students after passing out SSLC course, as their enrolment at Post-matric level was not encouraging. Special staff and facilities are necessary for teaching science and mathematics, so that tribal students were enabled to join professional and technical courses.**
- (4) **Special financial incentive over and above available under post-matric scholarships scheme should be provided by the State Govt. to STs to pursue professional courses.**
- (5) **Vocational educational institutions may be established in each of the ITDAs for ST students in the ratio of one such institution for every two higher secondary**

**schools. This will take care of those students who don't have desire to pursue higher studies.**

- (6) More funds for building up educational infrastructure in tribal areas may be released under Article 275 (1) of the Constitution of India.**
- (7) State Govt. may consider setting up a National College for Tribals wherein tribals from all over the country could pursue higher studies in legal, medical, managerial and technical courses.**

**14.9 Health** -Tribals lag behind compared to the rest of society on health indicators such as life expectancy, infant mortality, crude death rate, under five mortality, maternal mortality, population growth rate, ante-natal care for pregnant women, immunisation coverage and births attended by trained staff.

**14.10** Tribal areas are inaccessible, especially in the rainy season, which is also the time when the population is most susceptible for spread of epidemics such as gastro-enteritis and malaria.

**14.11** Yaws was identified among Koyas of West-Godavari and East-Godavari Distts. Sickle cell anemia and goitre are also reported among tribals. Efforts to eradicate leprosy are being taken with the assistance of the Leprosy Control Society. State Government gave priority to the tribal health delivery system for every 20,000 population in tribal areas through PHCs. ITDA wise medical institutions functioning in the State are as under:

Sl. No.	Name of the ITDA	Govt. Hospitals	PHCs	Mobile Units	Dispensaries	Other hospitals
1.	Sectampet	1	6	1	1	0
2.	Parvathipuram	0	9	3	1	2
3.	Paderu	4	15	6	7	0
4.	RC Varam	3	8	0	6	0
5.	KR Puram	1	4	3	0	0
6.	Bhadrachalam	13	31	5	3	0
7.	Eurnagaram	2	13	1	0	0
8.	Utnoor	1	19	4	2	0
9.	Srisailam	1	8	1	0	0
	<b>Total</b>	<b>26</b>	<b>113</b>	<b>24</b>	<b>20</b>	<b>2</b>

Apart from the hospitals and dispensaries and primary health centers maintained by the Medical and Health Department, the Tribal Welfare Department provides funds for running 16 hospitals, 16 dispensaries and 23 mobile units. Two Mobile Medical Units are under the control of Indian Systems of Medicine Department with the funds provided by Tribal Welfare Department. Three rural medical dispensaries and 6 maternity and child welfare centres are maintained by the Tribal Welfare Deptt. The State Government sanctioned 8500 Community Health Workers (CHW) for the tribal areas.

**14.12 Referral and Emergency services-** Whenever the tribal patients approach the Project Officers of ITDAs for their cardiac and other serious health problems, they are taken care of and are admitted in the hospitals as advised by the local doctors to the referred hospitals.



**14.13 Action Plan for 2003-04, included following schemes:**

- (a) refresher training programme to 8500 CHWs
- (b) To conduct *kalajathas* on the following subjects:
  - (i) Clean drinking water
  - (ii) Hygiene and sanitation
  - (iii) Fever and malaria
  - (iv) Institutional deliveries
  - (v) Immunisation
  - (vi) Need to access government health facilities
- (c) to take up maintenance of infrastructures, equipment for all the tribal PHCs i. e. @ Rs. 2.00 lakhs.
- (d) to supply required drugs in Tribal PHCs and other hospitals keeping in view the local demand.
- (e) to depute 850 CHWs to undergo clinical training in Academy of Nursing studies for two months.

**14.14 Medical & Health Services in tribal areas-** In Dec, 1993, the Government of Andhra Pradesh in the Health, Medical and Family Welfare Department created Andhra Pradesh Tribal Health Services comprising all posts in the category of Civil Assistant Surgeons, Deputy Civil Surgeons, Civil Surgeons attached to the institutions located within the tribal sub-Plan area/ITDAs. Further, the Government created the post of Additional District Medical and Health Officers and Deputy District Medical and Health Officers in the ITDA headquarters for better supervision of the medical and health institutions functioning in the tribal areas. Some of the Government hospitals, primary health centres and government dispensaries were transferred to tribal health services.

**14.15** In 2001, the state government constituted Hospital Advisory Committees (HAC) and included Project officers of ITDAs as Vice Chairman of the HAC in the Scheduled Areas, and thus the Project officers have been authorised to supervise the health related activities in the tribal areas. In order to facilitate the PHCs to prevent outbreaks of epidemics and to take timely action, jeep cum ambulances have been provided to all the PHCs. Wireless network has been installed connecting the PHCs, ambulances and ITDA offices. Specialist medical camps are also organised in the tribal areas.

**14.16 Upgradation** -The Commission was informed that proposal to upgrade 20 dispensaries in the tribal areas into PHCs and set up 17 new PHCs was under consideration of the government.

**14.17** During the field visits to some of the ITDAs, it was reported to the Commission that malnutrition, anaemia, stomach disorders and malaria were rampant. T.B. is also reported in some areas. For ITDP, Utnoor, State Government has sanctioned 1,000 posts of child health workers. For a total of number of 66 health institutions, in ITDA Bhadrachalam 667 posts of health staff were sanctioned of which 54 posts were vacant. In ITDA, Paderu 9 posts of

doctors out of 49 were vacant. Progress made in the upkeep of health in 2002-03 as compared with 1997-98 is shown below: -

Sl. No.	Health Indicators	1997-98	2002-03
1.	Infant Mortality Rate	80	68
2.	Maternal Mortality Rate	4	3
3.	Birth Rate	33	28
4.	Death Rate	12	9.3
5.	No. of Diarrhoea deaths	18	3
6.	No. of T.B. Deaths	8	19

**14.18** It may be seen that high incidence of T.B. in Paderu area is a matter of concern. At ITDA Parvathipuram, medical camps were organised at different places (108). After attending the patients with minor ailments, 340 cases were referred to the hospital at district headquarters and 230 cases of cataract were operated upon by the ITDA doctors. In ITDA Seethampeta, on every monday, a Girijan Darbar is held where tribal patients are screened and those requiring special attention are taken to Srikakulam or Visakhapatnam. Cost for transportation is borne by the ITDA. On all weekly market days, PHC level clinics are organised to help the sick. In ITDA, Srisailam for Chenchus, the Project has provided ambulances and posted trained community health workers.

**14.19 Absenteeism among Medical Personnel** -The Commission during its tour was informed that absenteeism among medical and health functionaries in the tribal areas is still high.

**14.20** The Commission therefore recommends that adequate incentives as under may be provided by the Government to the medical personnel:

1. Sanction of 50% of basic pay as special allowance for Medical Officers and at least 30% p. m. of basic pay to para medical staff working in the tribal areas.
2. Provision of rent free accommodation for medical personnel.
3. A separate quota in PG Courses may be provided for the Medical Officers after taking a bond for serving at least for five years in the tribal areas.
4. Reimbursement of expenditure on children's education of medical personnel in Best Available Schools in the district.

**14.21** The Commission further recommends that a full-fledged separate Directorate for Tribal Health under the State Health, Medical and Family Welfare Department should be created for maintenance of the medical and health institutions in the tribal areas and all State Plan/TSP and CSS funds should be released through the Director for Tribal Health. The Commission observes that in the event of the incumbent Medical Officers proceeding on study leave or other type of long leave, there are chances that the tribal health services may be adversely affected. The Commission, therefore, recommends that in order to overcome such eventualities, the cadre strength of medical officers should be increased by 10 percent so that through this inbuilt mechanism the vacant posts are filled up instantly without disrupting health services in the tribal areas. If necessary a college each for Medical education, Nursing and Health may be set up at any suitable location in the Scheduled Area. The Commission further recommends that an

**integrated disease surveillance programme may be introduced in tribal areas for each tribal group.**

**14.22 Expansion of Community Health Workers in the tribal areas—** Government of Andhra Pradesh have posted 8,500 Community Workers (CHWs) in the tribal areas to work as a link between community and primary health care system. The CHW is a local tribal woman of 18-35 age group, having passed at least VII standard. The CHWs were given an orientation training for 3 weeks in identification and treatment of minor ailments. Besides managing minor ailments locally, the CHWs also extend services in blood smear collection for identifying malaria positives and for referring patients to higher hospitals. Each CHW is selected and supervised by the community and technically attached to the PHCs for guidance. Each CHW is being paid an honorarium of Rs.400/- p.m. She is also provided with an allopathic and a homeopathic medical kit. An independent study conducted on the performance of CHWs revealed that their services helped the medical and health department in managing reproductive health and child-care effectively in tribal areas and also in preventing the incidence of epidemics like gastro-enteritis and malaria to a large extent. During its tour in the state, the Commission was informed that CHWs are playing an important role in rendering health care service in the villages and the Commission recommends that Government of India in the Ministry of Health should provide funds for strengthening of community health workers system in tribal areas throughout the country.

**14.23 Intellectual Property Rights (IPRs) for traditional know-how and herbal medicinal plants -**The tribal communities have a storehouse of knowledge about their flora and fauna and the methodology by which they can be used for treatment of various types of diseases. This age old knowledge has been used by the tribal medicine men in all tribal areas before the entry of modern allopathic method of treatment. Even today, one can come across tribal *vaidayas* who are giving efficacious treatment for many diseases for which allopathy has no treatment. The State Govt. has distributed 400 Unani home remedy kits in Adilabad district. The TRI and NISTADS have entered into an agreement to clinically identify the herbs and get rights over them under the provisions of IPRs.

**14.24 The process of globalization is threatening the appropriation of elements of the traditional knowledge of tribal societies into proprietary knowledge for the commercial profit of a few pharmaceutical companies. Urgent action is required to be taken by the State and Central Governments to protect these fragile knowledge by taking adequate steps to protect the interest of tribals. The tribal communities or individuals do not have knowledge to protect their know-how and it is an area where Govt. intervention with the involvement of the tribals is urgently called for. There is need to focus on community knowledge and community innovation and to encourage communities, it is necessary to establish linkage between innovation, enterprise and investment.**

**14.25 Housing-** Construction of houses for tribals has been given impetus from 1983-84 onwards by earmarking 6% of the budget allocations. Construction of houses for families living Below Poverty Line in rural areas was initiated by the Government of India in 1985-86. The scheme was further redesigned in the light of National Housing Habitat Policy of 1998. Although the scheme provided cent percent grant, it could not meet cent percent requirements of houses due to resource constraints. The Commission has observed that in the absence of

any clearcut policy to cover 100% Scheduled Tribes during a given time span, even the tribals in the bracket of double below the poverty line, such as, Primitive Tribal Groups living in the hill top villages have remained deprived of houses under the Indira Awas Yojana (IAY). A tribal requires a pucca structure, a raised platform on all the four sides with ownership on house site. The houses should have provision for rainwater harvesting, water supply and sanitation. In ITDAs, the POs are associated in selection of beneficiaries for effective implementation of tribal housing programmes. Houses are constructed according to the choice of the tribal beneficiaries in regard to material, technology and type design to suit the local conditions. The housing schemes implemented for them are as under: -

Scheme	Years of operation	Houses Completed	Expenditure incurred Rs. in crores
Semi Permanent Rural	1983 to till now	159633	76.90
Rural Permanent	1983 to till now	223761	252.60
Urban Permanent	1983 to till now	3755	3.76
Indira Awas Yojana	1985 to till now	167629	335.26

14.26 As the houses are constructed by the beneficiaries on self help basis no house is left unoccupied. Indira Awas Yojana (IAY) houses are also constructed since inception since 1985. As there is no loan burden, this scheme is preferred by tribals. In interior and inaccessible places, the beneficiaries wanted semi permanent houses.

14.27 The unit cost and pattern of funding for different schemes taken up for tribals is shown below: -

Scheme	(In Rs.)			
	Unit cost	Subsidy	Loan	Beneficiary contribution
Semi Permanent Rural	7500	7000	-	500
Rural Permanent	17500	7000	10000	500
Urban Permanent	25000	3000	20000	2000
Indira Awas Yojana	20000	20000	-	-

14.28 In an evaluation study of Weaker Sections Housing Programme in ITDA area of Visakhapatnam district undertaken in 2000 by the Tribal Research Institute it was pointed out that there was no systematic approach in selection of the area and beneficiaries. Beneficiaries are ignorant of the scheme contents. Timely supply of good quality housing material and uniform distribution of cement and tiles at the doorstep of the beneficiary was required. Technical guidance may also be given to the beneficiaries while constructing the houses.

14.29 The Commission recommends that A. P. State Housing Corporation should allot atleast 50% of the total houses constructed in areas of tribal concentration to the tribals as against reserving 10% at present for the State as a whole.

14.30 **Safe Drinking Water** -There are 72,960 rural habitations in the state out of these 33,795 have been fully covered by supply of drinking water. 31,995 are partially covered and 4,050 are no safe source habitations and 2,037 habitations (mainly in the tribal areas) have not been covered so far. The State Government has set the goal to achieve 100% coverage by 2007. Coverage of 38,082 habitations throughout the State would require an amount of Rs.5.170 crores. The drinking water supply programme is undertaken through various

schemes viz. accelerated rural water supply programme, minimum needs programme, mission projects, NABARD projects, PMGY projects, Neeru-Meera water harvesting structures and Swajaldhara etc. In the tribal areas there are 11,505 habitations out of which hygienic drinking water supply has been made available to 7993 habitations and the remaining are partially covered for which an amount of Rs.21 crores is required.

**14.31** During its tour, the Commission observed that supply of drinking water to the tribal hamlets is not satisfactory, specially in the hill top villages. **The Commission recommends that the State Government should ensure that under their Action Plan first priority must be given to cover all hill top villages and the remaining tribal habitations by the end of the 10<sup>th</sup> Five Year Plan. The Commission would also like to stress that sufficient funds should be sanctioned well in advance out of plan and non-plan budgets for maintenance of these drinking water sources in the tribal areas and adequate preparedness should be worked out to meet the drinking water needs of tribals during summer months.**

**14.32. Reservation in Public Services** -The Govt. of Andhra Pradesh has framed State and Subordinate services rules under which 6% of posts are reserved for Scheduled Tribes. A hundred-point roster is also prescribed to ensure enforcement of the rule of reservation. No appointing authority is competent to appoint a candidate other than a Scheduled Tribe against the post reserved for them. The rules provide for carry forward of reserved vacancies for three succeeding recruitment years and inter-changeability between Scheduled Tribes and Scheduled Castes, if in the third succeeding recruitment year, the vacancy cannot be filled by a Scheduled Tribe candidate. Any appointment made in violation of rule of reservation is illegal and such appointment is liable for termination and the appointing authority responsible for such irregularity is also liable for departmental action. At the State level, a Committee headed by the Chief Secretary has been constituted to review the implementation of reservation orders in govt. departments and public sector undertakings.

**14.33** As mentioned earlier in the report, the State Govt. has reserved 100 per cent posts in favour of STs in Scheduled Areas under the provisions of Vth Schedule to the Constitution. On 31.3.1999, 10,587 vacancies reserved for Scheduled Tribes treated as backlog vacancies were lying vacant. The State Govt. took special steps to fill these vacancies and was able to fill 9,590 posts by 30.9.2003. The Tribal Welfare Deptt. organised special training courses for qualified ST persons to fill the backlog vacancies. An exclusive course was proposed to be organised for STs (as well as SCs) for Bachelor of Veterinary Science in Andhra Pradesh Agriculture University. However, the High Court granted stay on the orders of the government. The Tribal Welfare Deptt. organised a training course for drivers in heavy motor vehicle licence and about 800 vacancies of drivers in Road Transport Corporation were filled up. The State Govt. has also started sub-Employment exchanges in 8 ITDAs and 7 pre-examination training centres in different parts of tribal areas.

**14.34** **The Commission appreciates the steps taken by the State Govt. in reserving 100 per cent posts in some categories of jobs for STs in Scheduled Areas under the Vth Schedule and recommends that other Scheduled Area States should follow the example of Andhra Pradesh. The Commission also welcomes the schemes initiated by the State Welfare Deptt. in giving suitable training to ST candidates so that vacancies reserved for STs lying vacant can be filled. . The Commission further recommends that vocational**

training centres should be established in the districts inhabited by the tribals and training in non-traditional trades, like welding, repairing of motors, TVs computer etc. should be imparted. The State Govt. should periodically carryout a survey of posts available in the Scheduled Areas and also whether required manpower among the STs is available, and if not, steps should be taken to build up a reservoir of ST manpower. Jobs available in private sector in the Scheduled Areas should likewise be also assessed.

**14.35 False ST certificates** -It was brought to the notice of the Commission during its tour that a large number of persons belonging to non-ST communities are obtaining false ST certificates to secure developmental benefits and enter into Government services. The State Government has created a special cell to screen the social status claims of candidates seeking admission into professional and other educational courses and appointments made in the State/Central Governments and other undertakings under ST quota. The Commissioner of Tribal Affairs has been authorized to enquire into the correctness of any community, nativity and date of birth certificate already issued in respect of any tribal either suo motu or on a written complaint by any person or on request made by any employer /educational institution appointing authority and if it is found that the said certificate is obtained false he shall refer the case to the Collector concerned or the Government for its cancellation. A systematic investigative work was started since 1980 and as a result of verification of social status claims, 2021 cases were found to be false claiming ST status, 188 cases related to admission to medical, 414 engineering, 600 polytechnic and 289 others and 530 cases were detected to be false in respect of Central and State services. After cancellation of ST certificates, action is taken against the person who obtained a false certificate under IPC.

**14.36** It was brought to the notice of the Commission that many non-tribals after having obtained false tribal certificates have acquired and continue to hold tribal lands. It is reported that during the period of 1987-1990, the District Collector of East Godavari discovered this fraud and cancelled a number of false ST certificates which were brought to his notice. However, the holders of these false certificates approached courts and got the action stayed. A voluntary organization, 'Sakti' filed a number of cases seeking judicial review involving 15,000 acres of land. The high court remanded the cases back to the District Collector for final disposal.

**14.37** The Commission therefore recommends that cases of fraudulent ST certificates should be examined and enquiries completed expeditiously. The State Government at the same time should monitor such cases pending in the courts of law. The Commission further recommends that action should be taken not only against persons who have obtained false certificates but also against such persons responsible for issuance of such certificates. The Commission further recommends that a person charged of obtaining S. T. certificate fraudulently may be suspended if in service, immediately after the charge sheet is filed in the Court of Law. His service benefits may be restored if not found guilty by the court. In case of those who have secured admissions in educational institution on the basis of fake/false certificates, their admissions may be cancelled under S.T. quota and considered out of general category or kept in abeyance. In case allegations of holding fake certificates are not found true, adequate relief may be given.

### **14.38 Research, Training and Monitoring**

**14.38.1. Research -** The Tribal Cultural Research and Training Institute has taken up a number of studies on subjects, such as, working of educational institutions, hostels and residential schools, impact of programmes implemented by various sectoral departments and the Girijan Cooperative Corporation, implementation of Protective Legislations in scheduled areas and also evaluation of programmes implemented in the ITDAs. **Perusal of research studies undertaken by the Tribal Research Institute has shown that studies on subjects like land alienation, indebtedness, health care and unrest in tribal areas have not received due focus. The Commission, therefore, recommends that Research Institute should draw a calendar of projects separately for concurrent, evaluation and survey studies. Subjects like land protection, tribal-forest interface, safe drinking-water and health care should be studied every year on rotation in different tribal areas.**

**14.38.2 Training -** Training programmes are organized through institutions such as Tribal Research and Training Institute, Vocational Training Institute (VTI) and Pre-examination Training Centre (PETC). Different training modules are prepared for several functionaries involved in tribal welfare. The training in PRA (Participatory Rural Appraisal) to field functionaries make them to use PRA methods to prepare village development plans in consultation with tribal communities. The orientation training to field functionaries provides better understanding of the way of life of tribals. The training to the functionaries of VTDA's make them to understand the constitutional safeguards and other subject matters relating to agriculture, horticulture, education, health, etc. The training to district tribal welfare officers (DTWOs), assistant tribal welfare officers (ATWOs), hostel welfare officers (HWOs) was meant to provide capacity building and motivation for implementing activities effectively. The training /coaching provided through PETCs and VTIs to ST educated unemployed youth helped them to secure placement or to take up self-employment pursuits. Besides training, these Institutions are also involved in organizing seminars, workshops etc. on tribal welfare. Training programmes are organised for teachers working in school complexes. Training programmes for the functionaries of VTDA's consist of a uniform course content with modules on civil works, health, education, capacity building of community based organizations, maintenance of accounts, protective regulations and other economic development schemes. 36,622 trainees were trained which include 15,004 vice-presidents and 11,543 secretaries of VTDA's, 6,386 community health workers, 1,520 village level workers and 2,169 vidya volunteers since inception.

**14.38.3 Monitoring-** Tribal welfare department has issued guidelines for preparing Action Plans to monitor and develop appraisal system in regard to a few sectors, such as education, health, poverty alleviation and strengthening the administration. Under education, apart from distribution of scholarships, monitoring also cover enrolment, examination result, inspection of educational institutions and filling up of teacher vacancies. The appraisal system of health care facilities covers health check-ups of students and action plan to control epidemic.

**The Commission recommends that similar monitoring mechanism for other line departments may also be commenced.**

### A short note on Tribal Unrest

The first recorded situation of tension dates back to 1803 when there was trouble in the Rampa country of East Godavari district, where certain new levies were imposed on Koyas and Kondareddis.

The Rampa rebellion of 1879, Konda Reddy and Koya revolts of Godavari district during 1922-24 and uprising of Gonds in 1940 in Adilabad district were some of the revolts against rulers before Independence. The main cause for Rampa rebellion was the introduction of Abkari Regulations preventing the tribals from drawing of toddy for domestic consumption and leasing the toddy revenue to renters. "From our point of view, the history of Rampa Rebellion is important in two respects: it shows firstly that aboriginals, even if inherently not of a warlike character are capable of considerable efforts when driven to extremities, and secondly that it is both inexpedient and dangerous to allow the control and exploitation of aboriginal populations to fall into the hands of unscrupulous and unsupervised outsiders, who, although not directly responsible to Government, are backed by the authority of the police and the law courts." (Prof. Haimendorf, Tribal Hyderabad, page 31).

In the erstwhile Madras Presidency "there have been troubles of outbreaks of the hill people (*fituris*, as they are locally called) in the Golconda hills in 1845-48, 1857-58, 1879-80, 1886 and 1891; in the Jeypore zamindari in 1849-50 and 1855-56 among the Savaras of Gunpur taluk in 1864 and 1865; and Koravanivalasa in Salur taluk in 1900." The cause of these revolts was exploitation of tribals by landlords, money-lenders and traders and unsympathetic administrators.

The Babjhari revolt in Adilabad district was due to non-issue of patta rights to the tribal cultivators while confirming patta rights to non-tribals. The other factor was exploitation of the tribals by the non-tribals and unsympathetic attitude of the officials. "In the aboriginals mind there is a deep sense of frustration and hopelessness: they feel that they are considered as people without rights, that they can never prevail against the wealthier outsiders who are gradually taking possession of their country, and that subordinate officials are not so much intent on enforcing laws and rules, but on gaining personal profits and that even in such matters as the demarcation of forest lines or police investigations money determines their actions. Whenever aboriginals want to approach an officer it costs money, and even if they penetrate through the barrier of peons, subordinates and clerks they seldom get a decision, but are told to submit an application to which they never get a reply either positive or negative." (Prof. Haimendorf 1945: Tribal Hyderabad, pages 135 & 136)

A refusal on the part of the tribals to pay money to the forest guards for the land they were cultivating, led to agitation and firing of police which resulted in the death of Kumaram Bhimu and 11 other Gonds. This incident led to the appointment of Prof. Haimendorf as an advisor of Tribal Affairs to Hyderabad Govt. who suggested comprehensive measures for protection of tribals to prevent land alienation and a Regulation called "The Tribal Areas Regulation 1359 Fasli No. III of 1359 Fasli" was enacted. Appendix III gives salient features of this Regulation which empowered the Social Welfare officers with judicial powers to settle the land issues of the tribals. This Regulation was, however, repealed by the Andhra Pradesh



**Scheduled Areas Land Transfer Regulation 1959:** The opening up of tribal areas by construction of roads and developmental activities resulted in the influx of non-tribals who occupied uncultivated land and grabbed the lands of tribals by various methods making the life of tribals desperate.

**Naxalite movement in Srikakulam, 1970-** The extremist movement, popularly known as 'Naxalite' movement gained ground among Jatapu and Savara tribals of Srikakulam district. Shri V. Raghavaiah has observed that the reasons of 'Naxalite' movement in Srikakulam was "loss of land voluntarily and involuntarily alienated to plains' money-lenders, landed proprietors and unscrupulous other middle men, the same sordid story of indebtedness, usurious rates of interest, rack-renting law's, delays in civil and criminal courts, attachments of debtors' properties and the labyrinthine process involved in securing reliefs; it is a well known fact that too many money-lenders have built up big fortunes in money-lending for over half a century in the tribal areas and have purchased thousands of acres of fertile land from the innocent, simple tribal people, even though such money lending and alienation of land of every sort has been unequivocally prohibited by the Governor's Regulations, applicable to tribal areas. These laws, good as they are, had been followed more in the breaches thereof than in compliance. " (Raghavaiah, V. 1971: Tribal Revolts, Meliore: A.P, page 54). Vempatapu Satyanarayana was one of the important leaders of the movement and created awareness among the tribals about the land alienation problems and payment of low wages to agriculture labourers. This ultimately led to confrontation with Govt. The arrest or killing of a number of ringleaders of Srikakulam, uprising only smothered the movement but could not fully eradicate it. This was however followed by a comprehensive programme of development and protection by the creation of Girijana Development Agency in Srikakulam.

**Indervelly Gond uprising-** Indervelly Gond uprising took place in 1981 in Adilabad district. Indravelli is a small town but due to improvement in communication facilities; it attracted large number of non-tribals, which resulted in land alienation and continuous struggle by the tribals. The main causes of Gond uprising were change in the demographic picture of the area, illegal grabbing of tribal lands and unsympathetic administrative machinery. A rally was called on a market day when tribals in large numbers attended the weekly market for purchase of their daily requirements. The police imposed Section 144 Cr. P.C. in Indravelli on that day and lathi charged the crowd and opened fire, which led to the death of 13 Gonds and 1 police constable. This tragedy again made Govt. to take steps for redressal of grievances of the tribals.

**Clashes in West Godavari district -** Direct clashes of tribals and non-tribals took place on 5.8.1996 at Busaraju-Pally in Buttayagudem Mandal of West Godavari district when non-tribals gathered in support of Scheduled Castes were not allowed to cultivate their lands. Further, incidents were reported on 4.12.96, 28.12.96 and on 30.12.96 in Buttayagudem and Gelugumilli Mandals. In West Godavari district, out of 136 villages situated in former Polavaram taluk, 102 villages were declared as Scheduled Areas by Presidential Order 1950. These villages consist of 73 Government villages and 29 estate villages in present Polavaram and Buttayagudem mandals. Large chunks of lands in these Agency areas were classified as Assessed Waste Dry (AWD) lands and these lands were freely assigned to non-tribals. Out of 7,961.57 acres of AWD lands, 5,523.16 acres in two mandals of Polavaram and Buttayagudem, under occupation of the non-tribals were regularized and pattas given to them. Koyas and Kondareddis are predominantly living in the

Scheduled Areas of West Godavari district. Clashes took place between the tribals and non-tribals in which 115 tribals were arrested and sent to jail. The tribals are continuing their struggle for getting Govt. land and AWD land in the mandals of Jeelugumilli, Buttayagudem and Polavaram.

It has been seen from the analysis of the past events that the main characteristic of tribal unrest is sudden outburst on account of persistent irritants mainly related to land and curtailment of traditional rights in forests besides exploitation by outsiders. The unrest is never sustained and subsides after attention is paid to it.

**Salient features of the Tribal Areas Regulation 1359  
Fasli No. 111 of 1359**

**(Extracts from Haimendorf's book 'The Struggle for Survival' Oxford University Press, about the difference between the notified areas regulation 1946 & 1949 of Hyderabad State and A.P Scheduled Areas land Transfer Regulation, 1959.)**

In recognition of the need for the creation of a special agency for the implementation of the new policy vis-a-vis the tribals of the state, the Nizam's government established a new department known as the Social Service Department attached to the Revenue Department and headed by the adviser for tribes and backward classes. This department consisted of a number of gazetted officers, as well as of social service inspectors and organizers all of whom were posted in tribal areas. Existing special tribes officers, who were in the rank of deputy collector and had been drawn from the Revenue Department, were incorporated in the cadre of the social Service Department, whereas the more junior posts of inspectors and organizers were filled by graduates with qualifications in social anthropology or sociology. After gaining experience in administration many of these directly recruited graduates were promoted to gazetted posts and ultimately replaced the special tribes officers drawn from the Revenue Department.

The culmination of the entire tribal policy of Hyderabad State was the promulgation of an act known as the Tribal Areas Regulation 1356 Fasli (1946 A.D.). This regulation empowered the government to "make such rules as appear to them to be necessary or expedient for the better administration of any notified tribal area in respect of tribals and of their relations with non-tribals." The substance of this regulation was incorporated in the Tribal Areas Regulation 1359 Fasli (1949 A.D) and the rules giving effect to its provisions were issued by the Revenue Department under the title Notified Tribal Areas Rules 1359 Fasli on 16 November 1949. A schedule annexed to the Tribal Areas Regulation notified as "tribal" 384 specified villages in Adilabad District plus all the 169 villages of Utnur Taluk, and 156 specified villages in Warangal District plus all the villages of Yellandu Taluk minus 3 named villages and all the villages of the Taluk and Samsthan of Paloncha minus 6 named villages. The schedule described the area to which the Notified Tribal Areas Rules were to apply.

These rules vested the administration of the Notified tribal Areas in the first talukdar (collector) as agent, in the special social service officer as assistant agent. And in a panchayat to be established by the agent.

From among the fifty-five rules applicable to the notified tribal area the following may be quoted as the most important.

**RULE 4** The agent shall be competent to appoint such person or persons as he considers desirable to be members of a panchayat for such village or villages as he may specify and to entrust such panchayat any or all of the duties specified in these Rules.

- RULE 5 No court of law or revenue authority shall have any jurisdiction in any Notified Tribal Area in any dispute relating to land, house or house-site occupied, claimed, rented or possessed by any tribal or from which any tribal or from which any tribal may have been evicted whether by process of law or otherwise during a period of one year preceding the notification of such an area as a Notified Tribal area.
- RULE 6 All suits of proceedings relating to matters covered by rule 5 pending before any court of law or revenue authority on the date of the notification of such area as tribal area shall be transferred to the Agent concerned.
- RULE 8 The Panchayat shall decide all cases in open Durbar in the presence of both the parties and at least three independent witnesses.
- RULE 10 No legal practitioner shall be allowed to appear in any case before the panchayat.
- RULE 11 No legal practitioner shall appear in the court of the Agent or Assistant Agent except with the Agent's permission.
- RULE 13 This rule provides that criminal justice in respect of certain offences in which a tribal is involved shall be administered by the Agent and the Assistant Agent. A number of offences and the relevant sections of the Hyderabad penal code are listed. (The list includes such offences as affray, Assault, theft, house trespass, adultery, criminal intimidation, etc.)
- RULE 16 The Agent may authorize a Panchayat constituted under rule 4 to try the following offences in which a tribal is involved as a party. And the Panchayat shall be competent to impose fines not exceeding Rs. 50. May also award payment in restitution or compensation to the extent of the injury sustained and enforce it by distraint of the property of the offender. (The appended list of offences contains most of the offences listed also under rule 13).
- RULE 26 Civil justice in cases involving the rights of any tribal shall be administered by the Agent, the Assistant Agent and the Panchayat, if any authorized under these Rules, subject to the condition that the agent shall be competent to exercise the powers of any court subordinate to the High Court.
- RULE 27 The panchayat constituted under rule 4 shall be competent to try all cases without limit as to amount in which both the parties are tribals and live within their jurisdiction.
- RULE 29 All the proceedings shall be viva voce and the Panchyat shall not be called upon to make either record or registry of their decision. After hearing both parties, and their witnesses, if any they shall pronounce a decision forthwith.
- RULE 32 Agent and assistant Agent shall not ordinarily hear suits tried by the Panchayat but they shall have discretion to do so when they think right.

**RULE 53** No land at present cultivated by a tribal or in respect of which he claims that he has a right to hold it, shall sold in execution of any decree or order of any civil or revenue court whether made before or after the coming into force of the said Regulation.

**RULE 55** The Agent shall be competent to recommend to Government the abolition of Patel and Patwari Watans in any notified tribal area and the appointment of tribal village officers in such area.

Anyone familiar with conditions in tribal areas will realize the great benefits conferred upon the tribes of Hyderabad State by these rule. Instead of having to deal with a multitude of officials and depending on the judgments of distant courts whose proceedings were utterly unfamiliar and incomprehensible to them, the tribals were now in the care of officers of the Social Service Department who were sympathetic to their cause and vested with sufficient powers to prevent the alienation of tribal land as well as the exploitation of tribal by unscrupulous moneylenders and others.

The Establishment of tribal panchayat backed by the authority of government gave the tribesmen confidence that they could run their own affairs without outside interference. Some of these Panchayat, whose proceedings I was able to observe when revisiting Adilabad District in the early 1950s, worked extraordinarily well, and though the rule did not prescribe the keeping of records, cases and decisions were carefully recorded. In one village of Utnur Taluk, Mankapur, which had a powerful and greatly respected headman, such a panchayat, attended by members from several villages, was still functioning in 1980, even though the Tribal Areas Regulation which had invested it with authority had long been repealed.

The Gonds of Adilabad District still speak with nostalgia of the time when the Tribal Areas Regulation was in force and officers of the Social Service Department worked among them, for at that time they were secure in the possession of their land and exploitation by outsiders had been greatly reduced. The presence of officers of the Social Service Department acted as a check even on the high-handedness of forest guards and patwari, who knew that corrupt practice and the extortion illegal fees would be reported to their superiors.

Even after the partition of Hyderabad State in 1956 and the merging of the Telengana districts with the Andhra districts in the new State of Andhra Pradesh, the Hyderabad Tribal Areas Regulation of 1949 remained in force for seven more years. Unfortunately for the aboriginals of the Telengana districts, this regulation was repealed in 1963 and replaced by the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959. While the latter regulation also protected the land of tribals prohibiting any transfer to non-tribals, it (did not contain any provision for the maintenance of tribal panchayat, and more importantly stripped the social service officers of the authority and judicial powers with which the Hyderabad regulation and rules had invested them).

The enforcement of the laws prohibiting the transfer of tribal land to non-tribal was now left to the ordinary revenue officials, who had neither the inclination nor the time to concern themselves with the welfare of the tribals. They were also much more exposed to the pressure of vested interest than the officers of the Social Service Department had been. Moreover, the authority of the civil courts, which the Hydrabad Tribal Areas Regulation had set aside in all

cases involving tribal land was now fully restored, and any non-tribal whose occupation of tribal land was challenged by a revenue official could, and still can, lodge and appeal in a civil court. The immediate consequence of all these changes was the alienation of large areas of tribal land in several of the taluks of Adilabad District.

Some relief to the tribals threatened by non-tribal land grabbers was subsequently provided by amendments of the Land Transfer Regulation, 1959, enacted in 1970 and 1971, which prohibit all transfer of land in scheduled areas, not only from tribal to non-tribal but even from non-tribal to non-tribal, by providing for conducting suo moto enquiries into non-tribal occupations of lands in tribals areas and for the restoration of such land to the tribal owner if the non-tribal is an illegal occupant, and by prohibiting attachment of tribal land in execution of money decrees. However, we shall see in chapter 2 that despite the absolute ban on transfer of immovable property in scheduled areas to non-tribals from a tribal or non-tribal except in the case of partition or devolution by succession (large areas of tribal land were in fact illegally occupied by non-tribals in the year, 1970 to 1979).

Protection of the tribesmen against the alienation of their land, which in Hyderabad State was the corner stone of tribal policy, seems to have taken second place in the thinking of planners as soon as tribal development was merged with the multisided activities of programmes known as Community Development and extending throughout India as part of the first Five Year Plan, which commenced in 1952. Community projects were not particularly geared to tribal needs, and in Andhra Pradesh only one out of four pilot projects covered tribal areas. In the second Five Year Plan there was a greater concentration on specific tribal areas, and the projects were now renamed Multipurpose Projects. In Andhra Pradesh four such projects covered predominantly tribal areas: one in Utnur Taluk of Adilabad District, one in Narsampet Taluk of Warangal District and two in Vishakhapatnam District.

**Protective laws against land alienation**

LTR Regulation, 1959 provides that:

- (A) In the Scheduled Areas transfer of immovable property by a member of Scheduled Tribe to any body other than a member of scheduled Tribe without permission in writing from the competent authority shall be null and void.
- (B) Where a transfer of immovable property is effected in favour of any member other than that of a Scheduled Tribe the Agent, Agency Division Officer or any other prescribed officer on application by any interested person or suo motu may restore to the property to the transferor or his heir.
- (C) Rules were framed under Section 8 of Regulation I of 1959.
- (D) This Regulation provided protection to the land of tribals in the Scheduled Areas of Srikakulam, Vizianagaram, Vishakhapatam, East Godavari and West Godavari district.

**Regulation II of 1963:** This Regulation brought uniformity of the law throughout the Scheduled Areas of the State by extending Regulation I of 1959 to the Scheduled Areas of Adilabad, Warangal, Khakkam and Mahabum Nagar districts and also repealed the Andhra Pradesh Talangana Tribal Areas Regulation, 1959 (F).

**Regulation I of 1969:** This Regulation provides for the abolition of Mahals in the Scheduled areas of Nugur, Alabaka and Cherla in Khammam district and for conversion of them into ryotwari system. The Regulation provides for appointment of settlement officers to conduct settlement operation in the erstwhile Mahals. It also provides that every tribal ryot in lawful possession of the land continuously for a period of not less than 1 year immediately before the notified date shall be entitled for ryotwari patta only if he is in occupation of land for a continuous period of not less than eight years immediately before the notified date and such occupation is not violative of provisions of Land Transfer Regulation, 1959.

**Regulation II of 1969:** The Regulation II of 1969 provides for abolition of Muttas in certain Scheduled Areas of the State and conversion thereof into Ryotwari system. The settlement officer appointed under this Regulation has to carry out survey and settlement operations to facilitate introduction of ryotwari settlement. Under this Regulation, the tribal ryots in occupation of lands for a continuous period of not less than one year before the notified date shall be entitled to ryotwari patta. Non-tribal ryot is entitled to ryotwari patta in respect of agricultural land unless he is in lawful possession of the said land for a continuous period of 8 years before the notified date and such possession was not hit by the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1969.

**Regulation II of 1970:** The Regulation provides for ryotwari settlement of certain lands in the Scheduled Areas in respect of which no ryotwari settlement was effected. The Regulation applies to the land other than those comprised within Muttas and Mahals governed by the Regulations providing for the abolition thereof. After the survey, every ryot is entitled to ryotwari patta in respect of all cultivable lands, which were properly included in his holding.

If the land is situated in an estate taken over by the Government under Estates abolition Act, a person who would be entitled to a ryotwari patta under that act shall be granted a patta if he is in continuous occupation of that land from the notified date. For the lands not falling under the said category, a non-tribal ryot is not entitled to ryotwari patta unless he is in occupation of the said land for a continuous period of 8 years from the commencement of the said Regulation and the same is not void or illegal under A.P. Scheduled Areas Land transfer Regulation, 1959.

**Regulation I of 1971:** The Regulation provides for mortgaging without possession any immovable property situated in the Scheduled Areas to any Cooperative Society including Land Mortgage Bank or any Commercial Bank approved by the State Govt. with express condition that in the event of default, the property should be sold only to the tribals or cooperative societies composed solely of members of Scheduled Tribes.

**Regulation I of 1978:** The Regulation prohibits registration of documents relating to sale transactions in favour of non-tribals and all offences under this Regulation are made cognizable. Non-tribals in occupation of land even after decree of ejectment are punishable with rigorous imprisonment for a period extending upto one year or with fine extending upto Rs.2,000/- or with both.

**Money Lending Act, 1960:** In spite of the regulation, non-tribals who were settled in the Scheduled Area Villages advanced petty loans to the tribals and grabbed their lands. The tribals are unable to pay the interest and in lieu of that, the non-tribals cultivate the land and the poor tribals are threatened if they reveal that the lands are not in their possession and that they are not cultivating them. This method is widely prevalent in the tribal areas of Srikakulam, Visakhapatnam and East and West Godavari District.



**Guidelines for verification of title and possession of land in West Godavari Agency areas**

Part of West Godavari District is an agency area notified under the Constitution. Administration in that area is regulated inter alia by the provisions of the Agency Rules as also APSALT regulation 1959. In recent times a large number of disputes have arisen between tribals and non-tribals leading to a very disturbing law and order situation. The matter engaged the attention of the High Court in W. P. NO. 7916/97 in which harassment of tribals was alleged. A learned single Judge of the High Court initially granted some interim orders. During the tendency of the writ petition the problem was examined. Government felt that the problem, which has several facets, requires a multi-pronged approach. The following objectives were sought to be achieved through issuance of appropriate instructions to the concerned authorities:

- A) Enlisting the cooperation of political parties and others in setting the problems amicably;
- B) By educating through appropriate information the agitating tribals about the scope of their legal rights.
- C) By a comprehensive analysis of the existing judicial adjudications; and
- D) The ascertainment through inquiry and study of title deeds and documents of the respective rights of tribals and non-tribals.

Since the ordinary machinery of judicial adjudication was also not able to cope with the problem, Government after consideration of various matters as mentioned above, issued certain guidelines to the Collector to facilitate the amicable resolution of these disputes with the assistance and aid of local lenders etc. The Writ Petition was finally disposed of by the Learned single Judge with certain elaborate directions. A writ was filed by interested parties in W. A. No. 244/2000 against the order. The single judge's judgment was initially stayed. The work in accordance with the guidelines proceeded for some months. Later the survey and title verification work was stopped due to withdrawal of clarification issued by the Government in this case in response of contempt notice to the Secretary (TW) to Government and Collector West Godavari. The writ appeal was finally allowed on 27.04.01. The judgment of the single judge was completely set aside.

After examination of the entire judicial proceedings Government has been advised that by reason of the appellate judgment the directions of the single Judge ceased to exist and there is no impediment to the State Government proceeding to amicably resolve the disputes between the tribals and non-tribals in accordance with the guidelines formulated by it. Accordingly these orders are being issued for the aforesaid purpose. The proceedings undertaken pursuant to the guidelines earlier formulated will continue and be completed. Where legal procedures have to be initiated under the relevant laws on the basis of the enquiries made and information gathered already those proceedings may be instituted.

The Collector shall conduct a district level meeting with all the parties and organizations and explain to them the modalities of the verification work and take their

written consent for total cooperation and willingness to abide by the outcome of the verification work.

Following are the guidelines to be followed by the officials, non-officials and non-government organizations working in the agency area for the conduct of the verification of titles and possession of lands in the agency area:

1. The organization concerned shall hold intensive discussions with the tribals and explain to them the kind of verification work that shall be carried out and its strategy and the possibility of the lands coming into their possession and the time frame within which these lands can come into their possession. They shall take specific care to ensure that the tribals are mentally prepared to accept the fact that no or very little lands might actually come from non-tribals into their possession in certain villages.
2. Meanwhile, representatives of the organization, representatives of the tribals, 2 or 3 Deputy Tahsildars from among the Survey Staff, sufficient number of Surveyors and, if required, Sub Collector himself shall either in the MOR's Office or in the Project Officers's Office shall obtain all possible information and prepare the following lists relating to verification work.
  - i) They shall obtain a map of the village and shade in different colours the lands belonging to tribals and non-tribals as per 1933 RSR and keep blank the lands which are adangal or poramboke.
  - ii) The Project Office, ITDA has already computerized the list of all the beneficiaries who have been assigned Government lands since 1933. This can also be shaded in a third colour.
  - iii) The list of all judgements pronounced till today by the Special Deputy Collector (Tribal Welfare) in favour of Government or tribals is already computerized. In some cases, field verification has been completed by the Mandal Revenue Officers. The NGOs concerned also have specific information relating to the present stage of cases. All these information can be compiled and a list of the stage of the cases based on office record should be prepared.
  - iv) Information relating to land ceiling cases should be obtained from Mandal Revenue Officer's Office and in some cases from the ARDO (LR), Eluru.
  - v) The list of post 1970 registrations is already obtained from the Sub Registrar's Office.
  - vi) The list of occupants of poramboke land should be prepared as per the possession recorded in adangal.
3. After informing both the tribals and non-tribals by a best of tom-tom in the village, the survey team along with representatives of NGOs or the political party concerned shall go to the village along with these lists and the 1933 RSR and the latest adangal.

They shall handover the copies of adangal and 1933 RSR and other lists to the villagers. They shall also question each non-tribal who has come into possession of the lands after 1933 as to his claim over land. The tribals shall be asked if they have any objections regarding the claim of the non-tribals. Some of the non-tribals may require some time to furnish the documents. Similarly, the tribals may also require time to study the records and to list out their objections. Thus, after the first meeting, a week's time may be given for both the parties and a second meeting can be held. Similarly, the information as to the latest stage of the LTR cases can be obtained from the non-tribals by asking them to produce proof of any stay order or other judgements that they have in their possession. The list of all tribals who have been assigned Government lands can be read out to ascertain whether they are in possession of the lands or not. The Sub Collector, the Mandal Revenue Officer, the Survey DTs, the Special Deputy Collector (Tribal Welfare) and the representatives of the concerned organizations should participate in this meeting.

4. In the second meeting, all the objections raised by the tribals should be taken into consideration as also the proof of titles produced by the non-tribals and the following lists can be prepared:
  - i) The list of irregular assignments, which should be cancelled and fresh assignments made by the Sub Collector within 3 weeks.
  - ii) The list of Government lands, which are either in possession of non-tribals or unassigned, to be assigned to the tribals within one week.
  - iii) The list of LTR cases to be filed before the Special Deputy Collector to be disposed off by him preferably within 3 months.
  - iv) The list of cases where appeals need to be filed before the Agent to government which should preferably be disposed of within a period of 4 months.
  - v) The list of cases which are pending before the Government or High Court which shall be pursued by the Project Officer, ITDA by appointed advocates at Hyderabad.
  - vi) The list of land ceiling and benami cases regarding which the tribals shall furnish specific information and which shall be filed before the concerned authorities within a period of 2 weeks.
  - (vii) The list of clear patta lands of both tribals and non-tribals which shall be respected by everybody.
5. Wherever it is found that sufficient land does not exist to satisfy the tribals, the organization concerned and the Project Officer, ITDA shall identify suitable schemes like formation of Vana Samrakshana Samithis and Economic Support Schemes to provide relief to the landless.

6. The District Collector shall provide sufficient number of competent Deputy Tahsildars and Surveyors and other staff as required to facilitate smooth conduct of the verification and survey work.
7. In villages where the tribals have occupied lands belonging to Scheduled Castes which are without pattas, the Collector shall make arrangements to rehabilitate them by providing lands under S.C. Land Purchase Scheme and houses under IAY, outside the agency area.
8. To create confidence amongst the tribals and a cordial atmosphere for survey and as already discussed in the Cabinet Sub Committee meeting, petty cases against the tribals shall be listed and action taken to withdraw those cases.
9. After completion of a village, a joint press statement shall be issued by the Sub Collector and the concerned organization as to the outcome of the survey. A copy of the final lists prepared shall be furnished to the Project Officer for computerization and reporting to the Commissioner of Tribal Welfare.
10. In order to avoid any complications, the villages shall be selected alphabetically in the mandal or as suggested by the NGO / Political parties.
11. A copy of the adangal and 1933 RSR / fair adangal shall be furnished to all villages sufficiently in advance.

**Tribal Welfare Department – Updating of land records in the Scheduled Areas of Andhra Pradesh on the model of Utnoor experiment –**

As you are aware, the state of land records in the scheduled areas of the State is very unsatisfactory, The ground position does not tally with the records and there are several pattadars without land while several persons have been cultivating lands without proper title. This situation led to several unabated land disputes in the tribal villages among the tribals and also between tribals and non-tribals. The present state of land records has also enabled the illegal occupation of ineligible encroachers on a large scale. This situation caused dissensions in the tribal villages where the small farmers often feel helpless. In the state of helplessness, the tribals came under the influence of left wing extremists who profess to take up the local issues and exploit the situation against the Government. It is, therefore, necessary to update land records in the scheduled areas to protect the large extent of Government lands from illegal and ineligible land grabbers as also to wean away the tribals from the influence of extremists and to ensure effective implementation of land reforms, land assignment programme and such other progressive measures of the Government.

In this connection, a comprehensive scheme for updating land records has been undertaken at Utnoor Revenue Division in Adilabad district during 1988-90. The Utnoor experiment yielded good results and as a result, most of the land problems were sorted out and also confusion over the land records could be dispelled in these villages. I would, therefore, request you to take up similar time-bound programme of updating land records in the scheduled areas of your district on the model of Utnoor experiment. I enclose a copy of the guidelines for the purpose of updating land records in scheduled areas.

**GUIDELINES FOR UPDATING OF LAND RECORDS**

The updating of land records requires comprehensive approach in Scheduled areas. The Programme may consist of the following stages.

1. Building up of fundamental data base on land in Scheduled areas which may consist of
  - i) Procurement of village maps.
  - ii) Building up of the following basis records for each village.
    - a) Khasra pahani / Adangal
    - b) Tenancy register
    - c) Wasool Baqi (Correlation statement)

- d) Sethwar
  - e) Register of Government lands
  - f) Register of declarations filed under Andhra Pradesh land reforms Act, 1973.
  - g) Data relating to forest lands etc.
2. Enjoyment survey of all village lands including Government lands by deputing a team of two surveyors for every village may be conducted. The surveyor team will also demarcate forest and village boundaries.
  3. Preparation of Master Register with the details about original pattadar and present pattadar, actual enjoyer of the land, nature of the same and title if any over the land.
  4. Field / local verification of the entries in the Master Register by Mandal Revenue Officer in the office of Sub-Collector / Revenue District officer by a team of Revenue staff, Verification entails obtaining and putting up of connected records and documents and indication of action taken on each survey number.
  5. Issue of notices to the parties under relevant laws applicable which may include the following in respect of Telangana region.
    - a) Record of Rights Act, 1971
    - b) Andhra Pradesh Scheduled Areas land Transfer Regulation, 1959.
    - c) Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act, 1950
    - d) Andhra Pradesh Assigned Land (Prohibition on Transfer) Act, 1977 and rules issued there under.
    - e) Andhra Pradesh Land Encroachment Act 1905.
    - f) Andhra Pradesh Agency Rules.
    - g) Andhra Pradesh (Telangana Area) Land Revenue Act, 1317F.
    - h) Inama Abolition Act.
    - i) Indian Stamp Act.
    - j) Andhra Pradesh Mahals (Abolition and conversation into Ryotwari) Regulation, 1969.

## **IN RESPECT OF ANDHRA REGION**

- a) Andhra Pradesh Land Revenue Act.
- b) Andhra Pradesh Revenue Rules.
- c) Record of Rights Act, 1971
- d) Andhra Pradesh Assigned Land (Prohibition of Transfer) Act, 1977 and Rules issued there under.
- e) Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959.
- f) Andhra Pradesh Land Encroachment Act, 1905
- g) Andhra Pradesh Agency Rules
- h) Andhra Pradesh Muttas (Abolition and conversion into Ryotwari) Regulation, 1969.
- i) Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulation, 1970.

Conduct of village courts in tribal villages to sort out land problems in accordance with the relevant laws in the presence of villagers by the Sub-Divisional Magistrate. The cases of land disputes in Scheduled areas will be summarily disposed in the village courts.

After sorting out the land disputes in the village courts the declarations taken in the village courts are to be implemented in Revenue Records. As a result,

- a) Record of rights will be implemented and an updated record of right will be created especially in respect of land held by the tribals.
- b) All eligible tenants will be conferred ownership rights under Tenancy Act and their names will be recorded in the Pahani / Adangal.
- c) All surplus ceiling lands will be assigned to landless poor with delivery of physical possession and name of assignees will be recorded in revenue records.
- d) All lands that were restored to tribals under Land Transfer Regulation will be recorded in the pahani and the names of the tribals to whom the lands were restored under L.T.R. will be recorded in the pahani.
- e) Illegal encroachers of Government land will be evicted.
- f) The forest boundaries and the village boundaries will be clearly demarcated. All the village lands will be surveyed and sub divided. All Revenue Records will be made upto date so that the ground position will be reflected in the village maps and other village lands records.
- g) Eligible occupants possession over Government lands will be regularized.

## Appendix VI

List of villages of Warangal district proposed for inclusion in the Scheduled Areas

1. Mangapet
2. Kamalapur
3. Tondayala Laxmipur
4. Kamatpalli
5. Boremarsapur
6. Chekupelly
7. Timanpet
8. Narstmhasagar
9. Mallor
10. Chunchupalli
11. Wategudem
12. Ramanakkapet
13. Lollagudem
14. Rajupet
15. Barlagudem
16. Kanchandrunipet
17. Poredepalli
18. Dandeda
19. Deakugudem
20. Kahigudem
21. Bandarigudem
22. Brahmanapalli
23. Akinepalli



**Collection and sale of Cashew usufruct from cashew plantations**

In the circumstance reported by the Vice Chairman and Managing Director, A.P. Forest Development Corporation Limited, Hyderabad in his letter read above, the matter pertaining to handing over of the Cashew Plantations of the A.P. Forest Development Corporation Limited at Naramvarigudem village of Ashwaraopeta Mandal, Khammam District to the Vana Samarkshana Samithis on grounds similar to that of handing over usufructuary rights of Beedi leaf units to Vana Samarkshana Samithis as per the orders issued in G.O. Ms. No.66 Environment Forests, Science and Technology (For.III) Department dated : 4.5.99, was discussed in a meeting held on 28-6-99 at 3.00 P.M. in the Chambers of the Chief Secretary. Since these plantations are raised and maintained by A.P. Forest Development Corporation Limited at heavy investments, it was decided to form a Tribal Co-operative of the Tribals in neighbourhood villages of the Plantations and to sanction them the license for collection of Cashew fruit (usufruct) from the plantations on payment of an amount as remuneration to the A.P. Forest Development Corporation Limited to continue to earn returns on the investments made by them and maintain plantations at good health.

Accordingly Government hereby request the Vice-Chairman and Managing Director, A.P. Forest Development Corporation Limited, Hyderabad to take action for sanctioning license to collect the cashew usufruct to co-operatives of Tribals from the neighbourhood villages of Naramvarigudem Cashew Plantations being maintained by the Corporation at Naramvarigudem village of Ashwaraopeta Mandal, Khammam District on the following terms and conditions:

1. The tribal Co-operative should pay the Forest Development Corporation an amount which will not be less than the average price obtained by A.P. Forest Development Corporation Limited on the preceding 3 years for sanctioning license for collection rights of Cashew usufruct.
2. The benefit of general/inflation is to be shared both by the Forest Development Corporation and the Tribal Co-operative, by enhancing the rates from year to year basis, so that the income of Forest Development Corporation Limited is not static.
3. The Forest Development Corporation Limited will continue to maintain the plantations as per the existing maintenance schedule.

The Collector, Khammam District is requested to workout the modalities for formation of Co-operative of Tribals' in consultation with the Social Welfare Department and task action to implement the scheme within 30 days and report compliance to Government.

## Appendix-VIII

### Integrated Tribal Development Agencies (ITDAs)

Sl. No.	District	ITDA Headquarters	Extent of Scheduled Area in Sq. Kms.	No. of Scheduled Villages	Pre-dominant Tribal Groups
1.	Srikakulam	Seethampelta	1318.31	108	Jatapus, Savaras, Gadabas, Konda Dhoras
2.	Vizianagaram	Parvathipuram		298	Jatapus, Savaras, Mukha Dhoras, Konda Dhoras
4.	East Godavari	R.C. Varam	6715.48	559	Koyas, Kondareddis, Valmiki Kammara
5.	West Godavari	K.R. Puram	1510.05	102	Koya, Kondareddis, Valmiki, Kammara
6.	Khammam	Bhadrachalam	6725.43	889	Koyas, Kondareddis
7.	Warangal	Eturunagaram	992.25	177	Koyas, Lambadis
8.	Adilabad	Uttoor	4587.49	412	Gond, Lambadis, Kolam, Pardhan, Naikpad, Andh, Thoti
9.	Kurnool	Srisailam*			Chenchu
10.	Nellore	Nellore			Yenadis

\* This ITDA caters to the development of Chenchus, a PTG living in the districts of Kurnool, Guntur, Mahaboobnagar, Ranga Reddy and Nalgonda.

\*\* This ITDA looks after the development of Yenadis living in the districts of Nellore, Chittoor and Prakasam.

**Appendix-IX**

**Flow of funds State Plan to Tribal Sub Plan**

**(Rs. in lakhs)**

S.No	Plan	State Plan		Flow to TSP		Percentage of	
		Outlay	Expendi- ture	Outlay	Expendi- ture	Col.6 to 4	Col.6 to 5
1	2	3	4	5	6	7	8
1	V	135376.40	144471.33	4535.38	4879.85	3.38	107.60
2	VI	352515.27	323707.00	16541.56	9839.33	3.04	59.48
3	VII	644699.50	597888.31	26611.77	25192.10	4.21	94.67
4	VIII	199580.40	236403.87	35872.42	27588.97	11.67	76.91
5	IX	380960.00	360419.97	66307.46	41854.23	11.61	63.12
6	2001-02	899101.86	796894.80	15641.76	12009.33	1.51	76.78
7	2002-03	1008274.75	855319.15	21216.32	26578.58	3.11	125.27

It will be seen from the above table that 6% of the funds were not spent in the tribal areas since 5<sup>th</sup> Year Plan period except during 8<sup>th</sup> and 9<sup>th</sup> Plan periods.

**A brief note on Chenchus, Kondasavara and Kondareddi included in PTGs**

**1. Chenchu**

Chenchu is the most backward tribal community in Andhra Pradesh. They live in the heart of Andhra Pradesh, about 9,000 out of 18,000 Chenchus live on either side of the perennial river Krishna with the Nallamalai forests on the southern side and the dense forests on the northern side. The remaining Chenchus live in villages on the outskirts of plain villages with a distinct socio-economic entity and practise settled agriculture but are backward in comparison to the plains people. The Chenchus in the Nallamalai hills live in small conical thatched huts in isolated groups and their economic system is essentially that of hunters and food gatherers. The Chenchus shift their settlement in search of a livelihood either as bomboo cutters between December and May or in search of game and roots, tubers throughout the year. They collect honey and some of them live under leaves and cliffs with a number of honeycombs hanging from the cliffs. During the rainy season, they hunt birds and small animals. Their diet is nutritionally very inadequate, deficient in vitamin A and calcium while protein and calories are deficient in the rainy season. Due to depletion of forests, increase in population, competition from non-tribals, they are unable to obtain their food completely from the forests as in the past.

The development functionaries with all good intentions have taken up certain schemes for Chenchus but they have not cared to study their socio-cultural background and therefore some of the schemes proved failure. The housing schemes in Kurnool district failed because settlement of different persons at one place was taken up without consideration of local housing patterns and kinship relationship. A Chenchu is highly suspicious of his brothers because of levirate custom. A Chenchu who collects honey from the top of the cliffs has more reliance on his brothers-in-law rather than his own brothers. Similarly, the community irrigation wells, well engines, electric motors schemes etc. sanctioned for Chenchus are not properly utilised again for the same reason. The Chenchu farmers utilise to the maximum extent possible the irrigation wells and grow commercial crops wherever housing colonies or cooperative societies are sanctioned to Chenchus of this affinal kins rather than his consanguineous kins soon after marriage. Under APPTDP project implemented with the assistance of IFAD, iron ploughs were distributed to the Chenchus, whereas the Chenchus preferred to use their wooden plough and their demand is for giving them plough bullocks. The project authorities hired tractors for tilling the lands of the Chenchus and asked authorities them to take up the rest of the operations. In the absence of the plough bullocks, the Chenchus are not able to attend to agricultural operations like sowing of seeds and weeding. Aluminum bins were distributed to women thrift societies and grain-banks were started under the project. Chenchus subsist on roots and tubers, which they like to keep in the bamboo baskets. The aluminum bins are used by children for playing and not for the purpose for which these were supplied.

**ITDA for Chenchus at Srisailam** – Keeping in view the multifarious problems of Chenchus, a separate ITDA for this group was established during 1975-76 for their arround development. The Director of Tribal Welfare is the Ex-officio Chairman of the Project. The ITDA for PTGs (Chenchu) started functioning with its headquarters at Sundipenta, Srisailam,

Kurnool district from August 1, 1988 exclusively for the socio-economic development of Chenchus predominantly inhabiting Nallamalai hills. Srisailam is centrally located for the entire contiguous Chenchu region of Nallamalai hills extending over nearly 6500 sq. kms. The jurisdiction of ITDA extends over six districts namely Mahboobnagar, Prakasa, Kurnool, Guntur, Nalgonda and Ranga Reddy. The Chenchu population in the Project area is 29,600 as per 1991 census.

The activities during the year 2002-03 taken up under education and agriculture were as follows:

**Education:** 34 ashram schools functioning with 5010 boarders, out of sanctioned 122 Girijan Vidya Vikas Kendras (GVVKs), 77 were functioning with 1586 students, 113 Mabadi schools with 2111 students, 5 residential schools with 1576 students, 7 mini gurukulams were functioning with a strength of 74 students, 1 residential Jr. College with 227 students, 74 students in best available schools, 10 school complexes and 1 PMRC functioning for monitoring & guidance, 10 SCRPs positioned for academic guidance and the average pass percentage in SCC in 5 residential schools is 82%.

**Agriculture:** Total land in possession of Chenchus – 15,000 acres, no. of land holding families – 4062 and total land under cultivation- 10,584 acres. District Collector, Kurnool apprised the Commission of development projects executed for Chenchus, numbering 11,577 families of 323 habitations. He wanted that the landless might be provided soft loan for acquiring land. Hostels should be allowed to be run during the summer vacations and remedial coaching provided. Forest Department should consider employing tribals on their works as their first charge. High incidence of T.B. and malaria required to be handled on priority.

The Commission was informed by a representative of Chenchus, that although each hamlet has a school, most of the non-tribal teachers did not stay in the villages and were irregular in holding classes. The parents were also not sincere in reporting against the insincere teachers. The salary given to non-performing teachers in the name of tribal development amounted to a fraud.

In Nalgonda district, Chenchus numbering 787 live in 8 remote villages along the banks of the river Krishna. A brief account of activities undertaken for them is depicted below:

Activity	Total families (230)
1. Ration cards issued	230 families
2. Drinking water facilities (in two villages fluoride content is present in the water source)	5 villages (out of 8)
3. Electrification	5 villages
4. Land Allotted	96 persons (206.43 acres)
5. Anganbadi (None of the 146 Chenchu children below the age of 5 years attended the Anganbadi)	1
6. Schools	5
7. Houses	156 (22 in progress)
8. Old age / widow / landless labourer / pension	70

## **2. Kondasavara**

Savara tribe people needed vocational training in animal husbandry and forest related activities. Owing to persistent drought for the past four years in ITDA Paravathipuram drinking water was an acute problem. The people preferred ponds and tanks than check dams. They urged that loans outstanding against them should be waived. The Commission also visited a few other Savara Villages, namely, Needagalluguda in ITDA Parvathipuram and Goidi and Mutayalu in ITDA Seetampeta. The Savaras also urged the Commission for assistance to develop their agricultural lands, drinking water supply, proper health care and primary education to the Savara children in Savara dialect.

## **3. Kondareddi**

For the development of Kondareddi (PTG) living in 66 villages, the ITDA Bhadrachalam utilized Rs. 42 lakhs during 2002-03 on programmes such as housing, agriculture, horticulture – cashew, animal husbandry, Bamboo handicraft, education health and electricity. Giri Raja chicks unit at Yetapaka set up by the tribal women Self Help groups has found acceptance among 900 beneficiaries and the programme has received acceptance by the Kondareddis.

NGOs brought before the Commission the plight of most backward tribes who remained deprived of the development process. They desired that the strategy of tribal development should now be tuned to the requirements of PTGs and the most backward tribes among the STs.

The Commission observed that the state government is not giving grant-in-aid to any voluntary organisation for working among the PTGs. The Ministry of Tribal Affairs has given grants to three NGOs for running a mobile dispensary among Chenchus covering 30 villages in Kurnool district, a residential school for 100 Kondareddy students at Bhadrachalam and solar electrification for 34 Chenchu families in Appapur village in Srisailem.

## Tribe-wise Literacy Rate –1991

Sl.No.	Tribe	Total	Male	Female
1.	Andh	26.63	37.20	15.12
2.	Bagata	22.18	34.23	10.23
3.	Bhil	29.88	42.53	15.38
4.	Chenchu	17.68	24.90	10.11
5.	Gadaba	16.06	22.92	9.02
6.	Gond. Naikpod	14.15	22.52	5.64
7.	Goudu	17.78	25.53	9.91
8.	Hill Reddi	26.62	34.42	18.23
9.	Jatapu	17.51	26.01	9.81
10.	Kammara	18.08	24.92	11.14
11.	Kattunayakan	19.57	29.23	12.12
12.	Kolam Mannervartu	9.46	14.57	4.01
13.	Konda Dora	14.96	22.13	7.61
14.	Konda Kapu	27.64	35.67	19.25
15.	Konda Reddi	17.92	23.49	12.33
16.	Kondh	5.19	8.06	2.18
17.	Koya	17.83	25.10	10.45
18.	Kotia	21.71	33.65	10.36
19.	Kulia	29.16	40.72	15.50
20.	Mali	17.47	27.56	7.32
21.	Mannedora	19.02	26.80	10.93
22.	Mukhadora	9.86	15.30	4.40
23.	Nayak	15.28	21.51	8.84
24.	Pardhan	33.63	47.93	19.31
25.	Porja	8.66	14.43	3.03
26.	Reddy Dora	22.59	30.22	14.57
27.	Rona, Rena	40.72	51.47	27.06
28.	Savara	13.68	20.28	7.00
29.	Sugali, Lambada	15.22	24.07	5.68
30.	Thoti	29.48	43.10	15.82
31.	Valmiki	39.87	52.94	26.53
32.	Yanadi	14.78	19.34	9.91
33.	Yerukula	25.74	36.07	15.08
34.	Un-classified	24.92	34.10	15.04
	<b>State</b>	<b>17.15</b>	<b>25.25</b>	<b>8.58</b>

### Statistical data on educational set up in State for ST students

**Enrolment** - Enrolment of general and STs students in Andhra Pradesh in various stages of education for the year 1993-94 is given below:

Sl. No.	Stage	All enrolment			ST enrolment		
		Boys	Girls	Total	Boys	Girls	Total
1.	Pre-Primary	33167	24716	57883	762	479	1241
2.	I - V	3887158	3254304	7141462	320466	205245	525711
3.	VI - VII	904397	617684	1522081	43243	16147	59390
4.	VII - X	928492	560832	1489324	35930	10566	46496
5.	XI - XII	5022	3172	8194	116	49	165
	<b>Total</b>	<b>5758236</b>	<b>4460708</b>	<b>10218944</b>	<b>400517</b>	<b>232486</b>	<b>633003</b>

It will be seen from that the total enrolment of education from pre-primary to V class for the year 1993-94 was 5,26,952 (Boys - 3,21,228 + Girls 2,05,724) constituting 7.3% of the total general enrolment. Similarly total enrolment of ST students from pre-primary to Class XII was 6,33,003 constituting 6.17% to the total enrolment of general population. If we compare these figures with the data available for the year 1989-90, we find that there was only increase of 2,699 students (0.52%) over a period of 4 years from 1989-90 to 1993-94 indicating slow progress in enrolment of ST students. If we look at the ST girl students, out of the total ST students from pre-primary to Class XII the enrolment of girl students is 2,32,486 (36.71%), which is extremely low. The enrolment figures also indicate that the percentage of enrolment from pre-primary to Class V is 83% of the total enrolment.

The steps taken by the State Government in opening of schools has resulted in increased attendance of ST students at the primary stages of their education but still a sizeable percentage of ST boys and girls are not attending the schools. The main reasons for the students not attending the schools are subsistence level of economy, inaccessibility of good educational institutions, unsuitable school curriculum, communication barriers between the teachers and students, teachers and parents and stereo-typed school calendar, which are responsible not only for poor enrolment but also for heavy drop out rates.

**2. Incidence of Dropout-** Dropout rate of S.T. students in classes I to VII in 1993-94 was 84.72 as against 67.81 for the state as a whole (i.e. higher by 16.91). Despite improved educational infrastructure between 1993-94 and 1998-99, gap in dropout rate among STs instead of coming down has gone up by 18.45. This is a matter of anxiety and deep concern. Details are furnished in the table below:

Year	Dropout Rate		
	General	S.T.	Gap.
1993-94	67.81	84.72	16.91
1998-99	61.71	80.16	18.45

**The causes of drop out-** The Anganwadi centres are not covering all the tribal villages/ hamlets where a child can get mid-day meal. The Anganwadi should function as



mini-primary school in addition to their other duties so that the tribals when they go to forest can leave their children in the Anganwadi. The dropouts from schools in tribal areas become misfit in their own community and other parents are reluctant to send their children to schools. One reason for the drop out of the students is that the present content, syllabi and school curriculum in primary stage of education are not relevant to their society. It is encouraging to note that the State Government is taking steps to prepare text books in nine tribal languages in consultation with Educationist and Linguist of Osmania University for Classes I to III to curtail the drop out rates. At the same time the State Project Director, DPEP has started schools under shiksha abhiyan to increase literacy in tribal areas and all the Project Officers have been authorized to change holidays and working hours in tribal welfare institutions keeping in view, the festivals of the tribals that they celebrate and working hours suited to their requirements.

In a study on the problems of tribal children in schools by Tribal Research Institute in the year 1999, it was mentioned that around 6,000 habitations were not covered by schools. Children's absenteeism was high during agricultural operations, NTFP collection and festive occasions. Teacher's absenteeism also hampered sustained interest in education both among parents and children. Dropout after class II is very high. Lack of proper teaching equipments to schools like table, chair, blackboard, teaching aids etc. was also an important handicap.

In Janmabhoomi programme dropout children are identified and admitted in the schools under back to school programme. School education committees VTDA's and Self-help groups are motivated to identify dropout children, child labour and unenroll children to join the schools. Teachers working in ashram schools are given special training in tribal dialects to communicate with the tribal children in a better way to reduce the dropout rate. **It is necessary that systematic studies are carried out in Mehboobnagar where dropout rate is as high as 90.27 and also in the districts of Srikakulam, Nizamabad and Medak where dropout rate among ST girls is very high i.e. 94.84, 94.76 and 94.07 respectively in 1993-94. State Government should take effective steps to contain wastage and stagnation by monitoring progress of vulnerable ST students.**

**3. Initiatives taken by the State Government-** In order to promote universal primary education and improved post matric levels of education, State Govt. has designed a wide network of institutions, which include Girijan Vidya Vikas kendras, ashram schools, hostels, residential schools and educational complexes. Initiatives in the form of a variety of scholarships, supply of notebooks, uniform, mid-day meals are made available to tribal students. State Govt. laid emphasis on (a) construction of buildings for schools, hostels and complexes and (b) appointment of quality teachers. The State Govt. facilitates admission of bright ST children to best available schools and it has also accorded approval for opening 4 english medium Schools where 295 ST students have been admitted. A brief of educational network of institutions run by Tribal Welfare Deptt. in the State is given below:

	<u>Institutions</u>	<u>Number</u>	<u>Students</u>
1.	Hostels (2003-04)	505	79,520
2.	Ashram Schools(2003-04)	501	1,30,257
3.	Residential Schools	65	29,271
4.	Girijan Vidya Vikas Kendras	4317	97,689 (Class I to III)

5.	Best Available Schools(2003-04) (upto Class X)	117	5,562
6.	Post Matric Scholars (2002-03)		60,652
7.	Incentives to Boarders for continuing education		
8.	School Complexes (271) for Monitoring and guidance		
9.	Resource Persons positioned for academic guidance		
10.	Joyful learning methodology		
11.	Teaching though tribal dialects		
12.	In-service training to teachers		

**4. Residential schools for Scheduled Tribes-** The Andhra Pradesh Tribal Welfare Residential Educational Institutions Society named as "GURUKULAM" was established in the year 1998 as a registered society. There were 65 residential schools in the year 2002-03, having enrolled 29,271 ST students. In case of girls and PTGs, 100% seats are reserved for STs students of that category, while in ST (General) residential schools and residential junior colleges, 70% seats are reserved for STs and 30% are filled up from the non STs.

**Classes** - The structure of the institutions is as follows:

1. Mini Gurukulams - 41 – 5200 ST students : Class I-V  
(for ST girls only in low female literacy pockets)
2. Residential Schools
  - (a) STs : Class VI-X
  - (b) PTG : Class III-X
3. Residential Junior Colleges
  - (a) Upgraded Residential Junior College : Class VI-XII
  - (b) Independent Residential Junior College : Intermediate

**Incentives-** The students are provided two pairs of dresses, PT dress, towels, shoes, text-books, note books, work books, cosmetics, bedding material including woolen blankets, trunk boxes besides food and the entire cost is borne by the Government. The approved rates for providing food and cosmetics are as follows:

i)	Class III to VII	Rs. 270/- p. m.
ii)	Class VIII to X	Rs. 330/- p. m.
iii)	Cosmetics-Boys	Rs. 20/- p. m.
	-Girls	Rs. 25/- p. m.

The Post-Matric students in Intermediate classes are provided scholarship of Rs. 400/- per month out of which Rs. 350/- is spent on boarding and Rs. 50/- towards cosmetic charges. Girijan Cooperative Corporation supplies most of the food provisions to the institutions in the ITDA areas while vegetables, milk etc. are purchased on tender basis.

**Initiatives in Low Literacy Mandals-** Government of India sanctioned 41 primary residential schools exclusively for girls in low literacy areas. From 2002-03, mini gurukulams are functioning under the control of the principals of nearby A. P. Tribal Welfare residential schools to which they are attached.

**5. School complexes for monitoring and guidance** - School complexes identified in tribal areas monitor the improvement of quality in education institutions. Besides District Education Officer, Dy. Education Officer and Head Masters of Tribal Complexes, School Complexes, Resource Pervious (SC RP) have also been identified for this purpose. A plan for each complex is prepared for monitoring enrolment and retention of the children in the schools, and teacher performance. They visits to the schools by SCRPs, and holding training programmes for Subject Teachers/Specialists. Once in every month a review meeting is conducted by the Project Officer, ITDA, and filling up of teacher vacancies is invariably discussed.

**6. Highlights of performance 2002-03**

The enrolment in Class III to X increased from 11,709 in 1998-99 to 20,636 in 2002-03 and the enrolment in Intermediate substantially increased from 1951 in 1998-99 to 5378 in 2002-03.

Resident teachers are appointed on contract basis against vacancies of regular teachers with a remuneration of Rs. 8,000/- per month for PG teachers and for TG teachers with a remuneration of Rs. 6,500/- in agency areas. In non-agency areas the remuneration is Rs. 6,500/- for PG teachers and Rs. 5,000/- for TG teachers. The Project Officers/Principals are also permitted to take full time tutors from among qualified unemployed or retired persons with an honorarium of Rs. 5,000/- per month. For part-time teachers, a maximum of Rs. 1,500/- per month @Rs. 30 per class is permitted. The teachers availability has greatly improved the instruction in class and supervisory studies.

The teachers in maths, english, physical sciences are trained by reputed Institutions.

Special coaching for slow learners is arranged from January by analysing their weaknesses in unit tests, quarterly and half-yearly examinations.

In the 10<sup>th</sup> Class examination in March 2002, 85.97% students passed as compared to 67.89% of State average. The result has improved over the years, as shown below: -

**7. Results in X Class**

Year	Pass%			
	Boys	Girls	PTG	Total
2000	70.50	71.90	73.90	71.50
2001	86.04	70.67	85.89	82.23
2002	89.28	85.97	84.94	85.97

An analysis of examination results of Class X and Class XII of ST students admitted in hostels and those studying in Ashram Schools has shown that performance has been ranging from 70 to 76%, which is satisfactory.

**8. Post Matric Scholarship to ST students-** Post-matric scholarships are being awarded to ST students. Their number in 2002-03 was 60,652.

Govt. of India release 100% central assistance over and above the committed liability of the State government for sanctioning postmatric scholarships to the ST students in the State. Post-Matric Scholarships are being awarded to ST students according to Government

of India regulations towards payment of fees collected by colleges and the maintenance charges (including mess charges) of the students in hostels.

In Andhra Pradesh mess charges are sanctioned to the ST students at a rate much higher than the Government of India scholarships rate. A comparative statement of mess charges rates is as follows:

Category	GOI rates	GOAP rates*
<b>Group A courses:</b>		
Hostellers	425	525
Day Scholars	190	240
<b>Group B &amp; C Courses:</b>		
Hostellers	290	525 / 400
Day Scholars	190	240
<b>Group D courses:</b>		
Hostellers	230	400
Day Scholars	120	150
<b>Group E Courses</b>		
Hostellers	150	400
Day Scholars	90	115

**Post-Intermediate merit Scholarships to Students:** Post Intermediate merit Scholarships are sanctioned to ST students to one boy and a girl in each district who secures the highest marks in intermediate public examinations to pursue higher studies. The rate of grant is Rs. 1,800/- per annum per student for the first year and Rs. 1,000/- per annum for the subsequent years of the higher course of study. The merit scholarships are awarded irrespective of parents/guardians annual income and it is in addition to normal scholarship.

**Revised procedure for sanction and disbursement of Scholarship-** Instances have come to the notice of the Government regarding misappropriation, embezzlement, and fictitious claims, irregular and irrational draws of scholarship amounts by certain unscrupulous elements resulting in depriving of scholarships to genuine ST students. Therefore, the procedure for sanction and disbursement of scholarships was revised by the Government in 2002 and now scholarship is paid to the awardee by way of account payee cheque only.

**9. Admission of ST students in Best Available Schools -** Bright children among STs are selected by district selection committee under the chairmanship of collector in each district and the selected ST children are admitted in the best schools recognized by education department.

The amount of scholarship payable for a student is as follows:

Up to Class –VII : Up to Rs. 8,000/- per annum  
 For VIII, IX and X Classes : Upto Rs.12,000/- per annum

\* For Student Managed Hostels Rs.250/- for all courses given by GOAP.

**10. Bright Boys Scheme:** Bright Boys Scheme is being implemented since 1973, under which the Hyderabad Public School was selected to impart quality education to ST children. As there is downfall in quality education provided by Hyderabad Public School as per the evaluation study conducted by the TCR & TI, the Scheme has been discontinued and in that place, four English Medium Schools have been sanctioned by Government for imparting quality education to the ST students at Hyderabad, Tirupati, Warangal & Visakhapatnam. Accordingly, entrance test was conducted at the entry class V and 295 students were admitted in the academic year 2003-04.

**11. Special coaching to 10<sup>th</sup> class failed students:** Tribal Welfare Department is taking special steps for giving coaching to 10<sup>th</sup> class failed students in school complexes located in ITDA areas to appear for SSC examination.

**12. Conducting of cultural and sports meet:** Every year one ITDA is identified as nodal agency to conduct cultural and sports meet called as "Chaitanya Sravanthi". The students selected at ITDAs are sent to Nodal agency ITDA to participate in the State level sports meet.

**13. Incorporation of Tribal Education Action Plans into "Sarva Siksha Abhiyan" Plans-** State Project Director, DPEP is willing to provide funds under "Sarva Siksha Abhiyan" for development of education in tribal areas. Accordingly, all POs of ITDAs were requested to prepare Tribal Education Action Plan and incorporate this into district "Sarva Siksha Abhiyan" Plan through District Collectors.

**14. B.Ed. College-** In respect of Tribal Welfare College of Education at Bhadrachalam, State Government has notified by an order dated 24.6.2000 that all the seats in the college shall be reserved for the ST candidates of all scheduled areas in the state.

**15. Appointment of Teachers -** State Government has issued revised orders on 10.04.2000 for appointment of teachers in Girijan Vidya Vikas Kendra Schools and all other Schools in Scheduled Areas. It has been provided that the teacher posts shall be filled up by local S.T. candidates and 33<sup>1</sup>/<sub>3</sub> percent of the total posts would be invariably reserved and filled up for female candidates. The S.T. applicants who have passed 10<sup>th</sup> Class Examination are eligible for such posts.

**16. Girls Education-** The State Government has taken various initiatives and programmes to increase female literacy in the State. Some of them are listed below: -

- 1. Special facilities to girls**
  - a) Prematric & Post matric Scholarships
  - b) Free boarding and lodging
  - c) Free Dresses, trunk boxes etc. at primary and secondary level
  - d) Separate schools/hostels for girls
  - e) Seats reservation in residential schools/English medium for quality education
  - f) 41 mini-Gurukulam in tribal areas

2. **Monetary Incentives to parents**
  - a) Bank linked economic support schemes
  - b) Additional Rice given to parents
  - c) Allotment of houses under housing programme
  - d) Sanction of pensions
3. **Other encouragements**
  - a) Mid-day meals
  - b) Organising street plays to spread awareness
  - c) Enrolment drives
  - d) Bridge course and Back to school programme
  - e) Creche centers by women self-help groups

**17. Adult Education-**People in the age group of 15 and above are covered under adult education programme. Schemes like Akshara Sankranti, Akshara Jyoti, Akshara Godavari, etc. are implemented to promote adult education among tribals. Vidya volunteers are appointed to take up the programmes for which they were paid honorarium. The impact of adult education programmes/ schemes has been that literacy among tribals has increased, sanitary conditions in the houses and awareness about health and immunization have improved.

## THE ANDAMAN AND NICOBAR UNION TERRITORY

The Commission visited the Andaman & Nicobar Islands from 12 to 16 March 2004. During our tour, we visited the following islands: Car Nicobar, the Great Nicobar, Little Andaman, South Andaman, Middle Andaman and Strait Island. We were also fortunate in being able to make a trip to the North Sentinel Island.

2. The Andaman and Nicobar archipelago consists of 572 small and big islands and rocks, aligned north-south in the form of a broken chain of approximately 700 kms. between Cape Negrais and Myanmar in the north and Achin Head in Sumatra of Indonesia in the south. The total geographical area of the islands is 8,249 sq. kms. The geographical area of the Andaman Islands is 6408 sq. kms and that of Nicobar Islands 1,841 sq. kms. Administratively, it has two districts – Andaman & Nicobar. The maximum width of Andaman Islands is 52 kms, the average being 24 kms; the maximum width of Islands in the Nicobar district is 58 kms.

3. The Andaman & Nicobar Islands were originally the home of aboriginal tribes. Early stray accounts indicate non-existence of others. During the eighteenth and nineteenth centuries, however, the British authorities deported convicts from the Indian mainland, for which purpose a penal settlement was started in 1858. It was closed down in the 1930s. After Independence, the islands changed their character, from having been “Kala Pani” to becoming a haven for people who were displaced following the partition of the country.

4. According to the 2001 Census, the Union Territory of Andaman and Nicobar Island had a population of 3.56 lakhs persons of whom 29,469 persons reportedly belonged to scheduled tribe communities. The non-tribal community component is made up of a variety of persons, comprised of the deportees and convicts and their progeny, the displaced people from the erstwhile East Pakistan and others who have migrated to the islands on various accounts. The Union Territory is presently the abode of six aboriginal

tribes i.e. the Great Andamanese, Onge, Jarawa, Shompen, Sentinelese and Nicobarese, all of whom have been notified as scheduled tribes. Except the Nicobarese and the Shompen, who are said to belong to the Mongoloid race, the other four tribes have been classified to belong to the Negrito stock. A detailed study by the Cellular and Molecular Biology Laboratory, Hyderabad, arguably the first of its kind, indicated the descent of the four from early human beings who migrated eastward out of Africa. Further, except the Nicobarese, all the other five have been declared primitive tribal groups. The Nicobarese are, comparatively speaking, an advanced tribe. Tribewise population has been furnished by Andaman & Nicobar Administration as follows:

Andmanese	...	47
Onge	...	95
Jarawa	...	251 (estimated)
Sentinelese	...	100 (estimated)
Shompen	...	382 (estimated)
Nicobarese	...	26,000

5. There are few scenarios in the world rivaling the anthropological opulence of human-kind of the Andaman & Nicobar Islands. The instances cited of some Amazonian tribes in South America and some tribes of the Phillipines appear to be pale compared to the ancient indigenous fare here. What follows is the sum of our own observations added to the discussions we have had and the considerable literature now available.

### **The Nicobarese**

6. The Nicobarese constitute the largest group, inhabiting 12 of the 22 Islands in the Nicobars district. Their major concentration is in the Car Nicobar Island. They are an advanced Mongoloid community, having coconut plantations and vegetable and pandanus gardens. Coconut and its product i.e. copra, are the mainstay of their economy. The 1991 ST literacy percentage was reported to be 56.62. Since literacy among the other five tribes can be taken to be near zero, it may be assumed that it relates mainly to the Nicobarese. But few members of the tribe have continued education beyond the high school. It is noteworthy that a college was earlier established in the Car Nicobar Island but had to be shifted as they refused to have it for want of employment of the educated.



7. The Nicobarese have a well-structured social system. At the village level, there is a captain who is the headman. The second and third captains of the village assist the first captain. The captains are chosen by the people themselves democratically i.e. by secret ballot. At the apex level, there is a traditional Tribal Council consisting of 15 first captains, who elect the chief captain and the vice-chief captain. Joint family system prevails among them and Tuhet (subscription) is offered by individual households for common activities.

8. At a meeting with the Captains on 12 March 2004, the following issues cropped up:

- (i) The Captains were exercised that non-tribals enter their Islands in contravention of the Andaman & Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956. Another cause of the existence of non-tribal non grata population in the Nicobar Islands was that government servants serving long in these islands have a tendency to settle down in these islands; in their case, the deterrence of pension curtailment should be applied.
- (ii) For larger trade, commerce and social inter-course, there should be more frequent passenger and cargo shipping services.
- (iii) The north and east coasts were being eroded fast, particularly because of sand extraction for construction purposes from the beach. Use of alternative material would discourage sand extraction and prevent erosion. The Administration may have to look into it.
- (iv) It was remarkable that while the enrolment of children was 100 per cent, drop-outs were said to be 10 to 15 per cent. There were more than 500 students in the 5<sup>th</sup> class and more than 100 in the 10<sup>th</sup> class. As mentioned earlier, very few Nicobarese youth proceed beyond the school stage. For enabling young Nicobarese to continue their education beyond the high school stage, the Commission's Team urged in the meeting on 15 March with Chief Secretary and other UT officers at Port Blair that suitable incentives, including free to and fro annual sea passage from Port Blair, be provided. Incidentally, the building of a Navodaya school was still incomplete, while the school was running. Its second phase comprised of hostel dormitories and other school buildings should be expedited.
- (v) The medi-care scenario was more or less satisfactory as there were five sub-centres and there were ten doctors in the Bishop Richardson Hospital. However, five specialist posts i.e. that of

gynaecologist, surgeon, anaesthetist, pediatrician and physiotherapist were vacant. The common diseases were said to be malaria, filaria, TB. The Shompen were said to be mostly suffering from dermatitis. In the Car Nicobar Island, 75 per cent of the deliveries took place in the hospitals and there was no dearth of medicines.

- (vi) It was demanded that interviews for class IV posts be held in island.
- (vii) The electric transmission lines have been subject to snap owing to fall of coconuts from the trees. Underground cable network was suggested.

9. Presently, the chief problem in the Car Nicobar and surrounding Nicobarean Islands was that the price of coconut had been falling, making things difficult for the Nicobarese. Though NAFED had offered minimum price support, their payments were often delayed. Payments should be made promptly. Secondly, the fluctuating coconut price regime does not permit a stable economic situation. The possibilities of value-addition to the coconut economy, such as practised in Kerala, should be explored. Other avocations like animal husbandry, poultry also may be tried.

10. As indicated above, the Nicobarese have a well-set traditional social organization of first, second and third captains at the village level with super-structure of traditional Tribal Council consisting of the chief captain, the vice-chief captain and 13 captains. These bodies take all important social decisions concerning the community. The Administration, represented by the Nicobar District Magistrate, involves the captains in several ways in matters concerning development and welfare. But, no separate and specific official organisational structure has come about which would help participation of the traditional representatives, though the Tribal sub-Plan pattern has been operated. Two alternatives are open. One, introduction of a Sixth Schedule pattern with the formation of an Autonomous District Council wielding the same functions and powers as listed in the Sixth Schedule of the Constitution. Second, to convert the Nicobar district into a Scheduled Area under the Fifth Schedule of the Constitution, enabling application of the provisions of Articles 243, 243A-243ZG in Part IX of the Constitution. The Scheduled Area, if and when formed, would also attract The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.

The latter course seems to be more appropriate in the sense that the PESA Act would allow the A&N Administration the flexibility to frame a law which is relevant to the Nicobarese situation, in consonance with the guidelines contained in the Act.

### **The Great Andamanese**

11. A majority of the members of the Great Andamanese group, belonging to the negrito race, said to total 48, reside in the Strait Island of the Andaman district. Social scientists aver that once they were the largest tribal group running into thousands roaming the Islands. But contact with "civilization" has gradually reduced them to a condition where they were near-extinct. At their numerically lowest in the late 1960s, just 19, they have been nurtured since by the Andaman & Nicobar Administration. It is surmised that had some cross-breeding with the non-tribal population not taken place, the prospect of its continued existence might have been dim. Even with medicare provided by the Administration, two members of this small group staying at the Strait Island were reportedly affected by tuberculosis. The physical condition of the other members also was not good.

12. The Commission's team visited 25 members of the group in the Strait Island. Some members were reportedly engaged in coconut plantation-cum-orchard on daily wage basis (Rs. 100 a day). In addition, the Administration has been providing them free rations, clothes, potable water, free medi-care, schooling, free houses etc. Besides, their settlement has been electrified and developed and has been connected through wireless. The Administration's parental care lavished on the Great Andamanese has enabled them to survive. But, it is hardly possible to miss the observation that it has also been responsible for sapping their vitality. This has not happened during the course of these four five decades; it has been the result of many decades. The British people first subdued and then made attempts to tame the wild forest people that they were at that time. It has also been alleged to that they were inducted into addictive habits like opium-eating and tobacco-chewing. Even now, many of them are addicted to alcohol and other intoxicants and have been wasting away. We shall discuss this point further after an account of the Onge tribe which follows.

## **The Onge**

13. According to the Andaman & Nicobar Administration, the Onge, another negrito race, have been in contact with the so-called civilized society for over 100 years and, as already mentioned, their present population is 95. Originally, they were scattered in different bands over the Little Andaman Island. One band has been settled partly in Dugong Creek and partly in South Bay in the Little Andaman Island. Like the Great Andamanese, the Onge have been the recipient of overwhelming welfare attention. While they are employed in coconut plantations, they are provided free rations, houses, clothes, potable water, free medi-care, schooling as well as facilities for ensuring a relatively comfortable life like TV set, community hall, wireless communication etc. Though occasionally they still hunt boars and collect honey, this means that they do not have to earn their living themselves, resulting in the type of anomie in which the Great Andamanese are steeped in. They live in two worlds, one which is dead and the other powerless to be born. Inter-face with the "civilized society" has drawn them out of their natural habitat, fragmented their socio-cultural organization and replaced their hoary occupations and life-style with inappropriate paradigms. They were used to hunt and gather and their present life is more or less sedentary. They were used not to wear clothes and now successive generations of the civilized society bear upon them to wear clothes. They used to live in huts harmonizing with the eco-systems and they have been lodged in incongruous structures. Exposure to intense external interventions impacting on their individual and social psyche has driven them to seek refuge in alcoholism and other intoxicants. Psychologically, they seem to be oppressed under the crushing weight of a strange, bizarre patronage. They have been displaced, sedentarised and marginalized. Instead of proud territory-and-identity defenders, they seem to have turned disoriented and supine, begging for this that and the other during the visit of the Commission's Team. Dependence and charity seem to have knocked the spirit out of them. Like the Great Andamanese, they have almost lost the *élan vital*.

14. The experience with the Great Andamanese and the Onge should be regarded as a curtain-raiser for a policy for the Jarawa whom we deal with here.

## **The Shompen**

15. It is surmised that the Mongoloid Shompen now numbering estimated 382 were the first aborigines to occupy the Great Nicobar Island followed by immigration of the Nicobarese. The British power established their presence there nominally since the mid-nineteenth century. Till 1969, Great Nicobar seemed to have been the home of only the Shompen and the Nicobarese. Since 1969, the Government of India initiated a scheme of settlement of about 2000 families of ex-servicemen on the south-eastern and western coastal belts of the Island. A headquarters was set up at Campbell Bay. Land was reclaimed by felling trees, laying down 51 kilometers of north-south road and 43 kilometres east-west road across the Island connecting Campbell Bay in the east to the Nicobarese village of Kopenheat in the west cutting across the Shompen area. As the Island was a total tribal reserve under the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956, the settlement area covering the six villages and Campbell Bay was dereserved.

16. The Shompen are hunters, gatherers, fishing-folk, arbori-culturalists, apiculturalists. They raise pandanus, colocasia, lemon, banana, chilli, tobacco, betel, arecanut, cocunut, tapioca on suitable land. Pandanus is the single most important plantation crop as it is a major source of food for them. They move across their territory round the area gathering fruits and roots. They hunt pig, monkey, monitor lizard, crocodile, megapod and other birds besides varieties of fish, molluscs. They keep on shifting their camps not far from each other to avoid the hazards of ill-kept sanitation and ill-health.

17. The Shompen appear to have come under pressure on account of location of the ex-servicemen settlements as well as plans to rehabilitate Sri Lankan repatriates, establish rubber plantations and create a free-port zone. Of the four projects, the first has been enough to drive the Shompen bands into the interior. It is also reported that contact of the Shompen with outsiders has left them weak and disease-prone; those in the interior and, hence, relatively unexposed have been found to be healthier and strong. The activities of outsiders like advancing encroachment on their land and utilization of forest

and other natural resources has not only tended to denude their subsistence economy, but even threatened their survival. It is reported that the Shompen bands which had frequent contact with outsiders through coastal Nicobarese have either been annihilated or the population of the band has dwindled. It has happened all over the world, and particularly in South America; the sections of the communities and even whole communities were decimated due to epidemic diseases brought in by outsiders. The Shompen are, therefore, extremely wary of such contacts. Some of the bands have retreated into the interior, barricaded by dense forest. The only exception are the Nicobarese with whom, after interminable conflicts culminating in the early twentieth century in neighbourly peace, they have symbiotic relationship. The fact is that even in the beginning of the twenty-first century, we have had no contact with most of the bands and we do not know enough about them. The meagre and tenuous contact is just as well for them for the reason cited above. In fact, we should not press on unduly in the matter, on purely humanistic grounds. Let them be given time to equip themselves the way they want to, for coming to terms with the outside world.

18. During our visit, our only contact was with 7 individuals including a couple among them and all related to each other, in the village Chingen in the southern part of the north-south road. The couple were staying with one Nicobarese, Paul Jaura. So far as we could gauge, the Shompen boy was ready to undertake some work among his people and he wanted a bicycle for the purpose. Perhaps, there would be little difficulty in providing him with a bicycle. But the basic issue would be the kind of work that he should undertake. On the face of it, it looks a rather minor matter. But it needs to be borne in mind that we are dealing with the future of not only about 400 people, but also with a profound philosophical question, particularly in the realms of humanism and anthropology. In fact, the question relates not only to the Shompen but also to the two other tribes, the Jarawa and Sentinelese. We have confronted the question in more detail under the Jarawa.

### **The Sentinelese**

19. The Sentinelese live in North Sentinel Island in the Andamans district. They belong to the Negrito race. Very little is known about them, even less that what we

know about the Jarawa and the Shompen. One reason is that they have consistently demonstrated their hostility towards outsiders. Any individual or party approaching their coast has generally been greeted with a show of bows and arrows. Therein lies the secret of their survival. Had they submitted to the superior physical might of the outsiders or responded in friendly terms to their overtures, they might have, in all probability, gone the way of the Great Andamanese and the Onge. The Sentinel Island has been a quarantine-haven which insulated them and enabled them to continue to pursue their way of life. Their estimated population is said to be 100, but it appears to be more of a guesstimate. According to the A and N administration, the expeditions of 1991 were able to make the first friendly contact with them when they accepted gifts of coconut. The Commission's Team sought a view of the North Sentinel Island and placed some gifts on the shore, without making any contact with them. We were glad to note, however, that the "Administration is not in favour of continuing the regular contact expeditions as the contact of the Sentinelese with outsiders may lead to spread of foreign diseases among the Sentinelese. Their hostility towards others is an effective safeguard for their well-being". We support this decision of the Administration. As we observe in respect of the Jarawa and Shompen, the Sentinelese also should be allowed to equip themselves the way they can, to come to terms with the outside world. Democracy should not only offer a group of people with the liberty of choice, but should also enable members of that group to capacitate themselves in the manner they wish to, to enable the choice to be made freely and genuinely.

#### **The Jarawa**

20. The Negrito race, Jarawa, inhabits the western parts of South and Middle Andaman Islands. They are a foraging tribe, hunting, gathering and fishing. Along with the Sentinelese, they are the other tribe who have been able to keep external hostile forces at bay for these centuries. Their present number is estimated to be 266.

21. Since 1974, parties of A&N Administration have been attempting, from time to time, contact with the Jarawas gifting them coconut, banana, iron implements etc. The turning-point in the relations occurred in 1997 following treatment of a fractured leg of a Jarawa boy in Port Blair hospital. It is still not known how many and which bands of the Jarawa frequent which territory. However, it appears that one section among them

started frequenting after 1997 the Andaman Trunk Road as also neighbouring non-tribal villages. The inter-action had phenomenal repercussions. On the one hand, the Jarawa fell for non-tribal material objects like food, clothes even to the extent of begging. On the other hand, they became objects of curiosity, pity and lust of the non-tribals, tourist and non-tourists alike. They are becoming addicted to tobacco and other intoxicants. On the Calcutta High Court's intervention, the authorities have been asked to evolve a well-considered policy for the Jarawa, instead of ad hoc steps for meeting sundry situations.

22. We believe that the process of hammering out a policy through discussions and seminars at various levels has been taking place and the matter is likely to be placed before the Calcutta High Court before long. We find that, in the meantime, the Supreme Court in its order of 7 May 2002 accepted the report of Shekhar Singh Commission on sustainable development in the Islands and called for action on its recommendations. One of the recommendations of the Commission was to close within three months the Andaman Trunk Road to all vehicular traffic from Miletalak in South Andaman to the northern boundary of South Andaman Island, from Kadamtala in Middle Andaman up to Kaushalya Nagar. Further, no person except for the Jarawas living in the Jarawa Reserve should be allowed to enter the Reserve by any means unless he/she is permitted by the Principal Chief Conservator of Forest and the Secretary, Tribal Welfare, A&N Administration. The Commission was also categorical that no such permission should be granted unless the person is proceeding on bonafide work related to the welfare of the tribals or the protection of the area. The A & N Administration have, on their anvil, a draft regulation regulating entry into the Jarawa reserve. Should the Andaman Trunk Road be closed and very limited ingress allowed, it will be a major help by way of clean-slate start for implementation of an intensely debated and deliberated policy. We are of the view that the Jarawa reserve should be restored to its original amplitude and all encroachments and habitations in it be removed. The Jarawas should have free run of the reserve as of old.

23. Today, standing at the cross-roads, we have been called to witness at the bar of history. The "civilized" man possesses enormous might compared to what each or all of the five Bay Islander communities together, can muster. In fact, in the past, the notion of show of force has not been taboo for the Administration: It is so easy to fall a prey to the



idea of subjugating and civilizing them. But the question is: should the tribes' capitulation be our objective? Let us hark back to the words of the savants who said that the measure of a civilization lies in the manner a nation treats its minorities. The five tribes are not only miniscule minorities, but also represent priceless specimens of a hoary time-warp.

24. We seem to have already rendered two of the five i.e. the Great Andamanese and the Onge, third-rate copies of ourselves. Apparently, members of these two tribes tend to be moronic, as a result of intervention of the administration. It should give us pause to introspect.

25. The experience of the two tribes leads us to emphasise that, however lofty the ideals of a policy, it is almost always implemented at the grass root level by run-of-the mill workers who may not have been sensitized and who may not be innately sensitive. They are, generally, not mentally equipped for the delicate nature of such tasks. Further, having to rough it out in remote inhospitable surroundings begets inurement and indifference. Hence, in the result, inevitably we have a human apparatus which, in its mind, routinises and even trivializes the mission. It is pointless to criticize them, but it is essential to understand the situation. The prime fault lies in expecting so much as is well-nigh impossible for them to conceive, much less to achieve. The need is for qualified, knowledgeable, committed personnel, a breed becoming increasingly rare.

26. In any event, the first step is to evolve the right policy for discharging the onerous responsibility cast on our generation for the three tribal heritage groups, the Shompen, Sentinelese and Jarawa. We are glad that the policy plant is not being grown in the hot-houses of either the A & N Administration's or the Central Government's secretariats. Since the issue has entered the public domain, it is hoped it will be smelted in the crucible of vigorous, diverse thoughts and opinions which are likely to ensure the relevance, genuineness and suitability of its essence. The next step should be concerted and resolute quest for the right type of personnel either in government or outside.

27. We would like to make a few general observations impinging on the policy to be evolved. **In the first instance**, now that the Supreme Court has approved the Shekhar Singh Commission's report for doing away the Andaman Trunk Road, it should as well be closed and alternative communication means located. **Secondly**, the provision in the

proviso to section 4 of the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956 to the effect that the Chief Commissioner (now Lt. Governor) may allot land in the tribal reserve exceptionally to persons other than a member of an aboriginal tribe in certain circumstances, should be abrogated. **Thirdly**, all non-tribal habitations, encroachments etc. in the tribal reserves, as demarcated in the A&N Administration's notification dated 2 April 1957, should be removed and the reserves be restored to the position indicated in the said notification, if truncated subsequently. **Fourthly**, the Jarawa and the other two tribes should be allowed the full right to unhindered movement in the respective reserves as defined in Andaman & Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956. **Fifthly**, and importantly, the Shompen, the Sentinelese and the Jarawa should work out, without undue intervention, things for themselves in their own time. For the purpose, they have to equip themselves in the way that they wish to, to come to terms with the external world. **Sixthly**, it should be clearly understood that there is no room for patronising or misplaced sympathy or an attitude of superciliousness to 'civilise' the three groups. They are our precious heirloom, a national heritage and should be looked after as such. **Seventhly**, there should be minimum interface between them and external welfare agencies. A bare minimal number of non-tribal personnel should be permitted to visit them, primarily on medicare mission. And **lastly**, we should agree on a policy, which is right rather than that which is good and we should learn to proceed deliberately, cautiously, gradually and slowly. The policy should calibrate the progression movements, as the composer does in a symphony. The three groups should be enabled to move forward on their own terms and in their own pace.

# Arunachal Pradesh

The State of Arunachal Pradesh is situated in the North-Eastern tip of India and area-wise it is the largest State in the North-Eastern region of the country. The State has International land border with Bhutan in the West, China in the North and North-East and Myanmar in the East. It has Inter-State borders with Nagaland in the South-East and Assam in the South.

Arunachal Pradesh forms a part of the Eastern Himalayan ranges and is characterized by rugged and undulating terrain with many rivers and streams originating in the higher hills flowing down to form tributaries of the river Brahmaputra.

Arunachal Pradesh, the erstwhile North-East Frontier Agency (NEFA) administered by the Ministry of External Affairs, became Union Territory in 1972 and attained the Statehood in 1987. The State has 60 Legislative Assembly seats. There are 2 Parliamentary Constituencies and has only one Rajya Sabha seat. There are 16 Districts, 3649 villages and 83 Development Blocks in the State with Itanagar as the State capital.

## 2. Demographic Profile (2001 Census)

Total Geographical Area	83,743 Sq.Km.		
Population	10.91 Lakh		
Sex Ratio	901 Females per 1000 Males		
Density of population	13 per Sq. Km.		
Decadal growth rate	26.21%		
Literacy rate	State Total 54.74%		
	Male	Female	
	64.07%	44.24%	

Arunachal Pradesh is predominantly a tribal State. About 2/3<sup>rd</sup> of its population belongs to Scheduled Tribes i.e. 64.63% from all tribes including 16 major tribes notified as Scheduled Tribes under Constitution (Scheduled Tribes) Order from time to

time. Among the non-tribal population of the State – are traders, businessmen, employees, workers etc. The Chakmas had migrated long-time ago from present day Bangladesh, now estimated to be over 60,000 and that about 1400 of them have been enrolled as voters as was stated by the State officers in the meeting the Commission had with them.

### **3. The Scheduled Tribes (STs)**

3.1 Arunachal Pradesh is predominantly a tribal State. As per original 'Constitution (Scheduled Tribes) Order 1950', amended in 2002, all tribes in the State including the following have been notified as the Scheduled Tribes:-

1.	Abor	11.	Sherdukpen
2.	Aka	12.	Singpho
3.	Apatani	13.	Hrusso
4.	Dafla	14.	Tagin
5.	Galong	15.	Khamba
6.	Khampti	16.	Adi
7.	Khowa		
8.	Mishmi, Idu, Taroan		
9.	Momba		
10.	Any Naga tribes		

Idu and Taroan at Sl. No. 8 and tribes at Sl. No. 13 to 16 have been inserted under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002.

3.2 Apart from these tribes notified, there are over 100 sub-tribes in the State as per the State document given to the Commission. The State Government had sent a proposal to the Government of India to change the name of the Dafla tribe at Sl. No. 4 to 'Nyishi'. The State proposal also included change of name of the tribe Galong at Sl. No. 5 to Galo. But these proposals were not accepted by the Government of India. The Galo Welfare Society submitted a memorandum to the Commission during its visit to the State which says that the Galo tribe has been wrongly notified as Galong and that it should be named as Galo instead of Galong which is the original name of the tribe, it being one of the major tribes of the Arunachal Pradesh.

**The Commission recommends that the proposal of the State Government in respect of Dafla and Galong may be reconsidered and change the name of Dafla tribe to Nyishi and that of Galong to Galo on the plea of the concerned tribes that the names of the tribes – Dafla and Galong connote something derogatory.**

**The Commission further recommends that the nomenclature “all tribes” under the Constitution (Scheduled Tribes) Order, 1950 should specify the individual tribes and so also in respect of over 100 sub-tribes in the State as reported by the State each of whom should be listed separately if they have been notified as Scheduled Tribes under the order. The Commission further recommends that the nomenclature “Any Naga Tribes” at Sl. No. 10 should specify the individual Naga Tribes.**

3.3 The broken Hindi and Assamese serve as lingua-franca for the tribes of Arunachal Pradesh. English is being used as official language of the State.

## **4. Economy**

4.1 Economy of the State is basically agrarian. Strategically very important, but it is one of the economically backward States in the country due to long isolation and separation from the main stream of the Nation. Other impediments to the faster economic development are the inhospitable topography, challenging climatic conditions, inadequate infrastructural facilities – roads and transport system and communication network.

4.2 Net State Domestic Product (NSDP) at current prices (2001-02) is Rs. 1,739 crore. Per capita NSDP at current prices (2001-02) is Rs. 15,785 against Rs. 17,962/- at the National level. National Human Development Report 2001 brought out by the Planning Commission estimated the value of Human Development Index (HDI) for Arunachal Pradesh at 0.242 and 0.328 for 1981 and 1991 respectively. The State ranked 28 and 27 respectively during these periods. In the North-Eastern States, Arunachal has the lowest HDI and Mizoram has the highest HDI.

4.3 The State of Arunachal Pradesh is one of the special category States heavily dependent on Central Assistance for plan investment because of the revenue deficit

on account of poor tax-base despite having rich natural resources. At the end of Ninth Five Year Plan i.e. in the year 2001-02 approved plan outlay was Rs. 661 crore and revised outlay was Rs. 660.91 crore and the expenditure actually incurred was to the tune of Rs. 554.91 crore. The shortfall in expenditure has not been explained by the State Government in its plan documents. Tenth Five Year Plan has the approved outlay of Rs. 3888 crore. In the year 2002-03, revised outlay approved was Rs. 676 crore whereas expenditure made was Rs. 528.36 crore. For the year 2003-04 revised plan outlay was pegged at Rs. 723 crore. The State has not yet firmed up the expenditure figures for the year. The plan document indicates that the State could not avail of the approved plan outlays and there was shortfall of 23% at the end of the Ninth Plan. This trend of shortfall in the realization of the approved outlay continues during the Tenth Plan period also. In order to avert the shortfall of plan resources, there has been substantial augmentation in the plan outlay of 2004-05 taking it to Rs. 896.33 crore. The reasons for these shortfalls have not been explained by the State. Perhaps, the State has never been implementing plan projects and programmes efficiently on time. There is perhaps a need to review the plan execution and remove the impediments to the timely implementation of the annual plan to ensure faster growth of the economy of the State. The short working session particularly in the higher hills, inadequate infrastructural facilities, problem of staffing etc. might have been the major reasons for the shortfall in expenditure.

It appears that the State Government some how missed approaching the successive Finance Commissions as a result of which they have not tackled the problem of revenue deficit on account of poor tax base despite having rich natural resources of the State. The State may now present their case before the 12<sup>th</sup> Finance Commission for building resource base and funds flow to meet the Non-Plan expenditure so that the State does not have to divert Plan funds to meet Non-Plan expenditure beyond the limit fixed by the Planning Commission i.e. at present 20% of the Plan funds.

**4.4 The Commission recommends that to avert the shortfall of plan resources utilization, Planning Commission in consultation with the State Government may consider creating a Non-Lapsable Pool of Plan Resource for the State of Arunachal Pradesh. In the plan allocation, priority should be given to the infrastructural development for the**

**construction of all weather roads and building efficient transport system and communication network which could facilitate faster execution of development plans and programmes.**

## **5. Agriculture/Horticulture**

5.1 Over 80% of the population is dependent on agriculture. As per 2001 census, out of the total working population of 4,82,206, the number of cultivators is 2,81,822 and that number of agricultural labourer is 18,569. The agriculture is, therefore, the main-stay of the economy of the State. The State has realized that the proper planning and incentive mechanism are required for the change over from subsistence farming to commercial production by cultivating cash crops through intensified and mechanized agricultural operations. The green revolution has not touched the State of Arunachal Pradesh. The agricultural backwardness is attributed to:-

- (a) Physical features of the State having difficult terrain and lack of adequate capital investment for land development improvement necessitating terrace cultivation,
- (b) Low cropping intensity due to mono cropping and prevalence of traditional shifting cultivation,
- (c) Lack of adequate infrastructural support, assured irrigation facilities,
- (d) Lack of extension services.

5.2 In fact the Development Block Staff has not been providing any technical assistance or extension services for crop cultivation fruit tree plantation, use of modern technology etc. The Commission during its visit to a village Hija near Ziro, the District Hqrs. of Lower Subansari District, had interaction with the tribal people/cultivators in the presence of Deputy Commissioner, other officers and the development staff. When asked about the availability of technical assistance and extension services from the Block staff, the cultivators retortingly said that they knew better than the Development Block staff. The cultivators reported that they themselves produced paddy seeds and seeds of other crops. They are following the traditional farming methods. They do not use chemical fertilizers and use only organic manure. Insecticides, pesticides are rarely used. The Commission's team witnessed the transplantation taking place in the paddy fields which have assured irrigation facilities in this

village and they are also rearing fish in the paddy fields. They reported that the yield of their indigenous seeds are quite high but cannot say with certainty about the productivity of the yield actually realised. The fact remains that they have been repeatedly using seeds traditionally multiplied which can in no way help produce high yielding varieties of seeds without technical assistance. They do not get any technical backup and research and development support. The high yielding varieties of paddy seeds used in the plains of Assam, cannot perhaps be replicated in the high altitude valleys of Arunachal Pradesh. The seeds of high yielding varieties suiting the requirements of high altitude farming need be developed on the pattern adopted in the States of Himachal Pradesh and Uttaranchal with similar climatic conditions.

5.3(a) Gross cropped area in the State is estimated at 2,43,000 hec. Percentage of net area sown to gross cropped area is 81.48. Percentage of net area irrigated to net area sown is 19.70. Percentage of area under food-grain is 75. The total area under food crops is 1,88,627 hec. The food-grain production in the State is 2.18 lakh MT. Target is to reach the level of 2.87 lakh MT by the end of Tenth Plan. The agricultural policy announced by the Government in the year 2002-03 envisaged the plan of action for increasing the net crop area from 2 lakh hec. to 2.1 hec.; and by raising the percentage of seed replacement rate from the present 6% to 12% by the year 2007 by propagating the use of improved high yielding varieties. The State has now thought of the balanced use of fertilizers with a thrust on organic manure though some of the crops may need use of chemical fertilizer where irrigation is assured. However, the thrust is on the use of bio-fertilizers, green manure, compost etc.

5.3(b) Rice, wheat, coarse-grains, pulses are the major food-grains produced. The commercial crops propagated are oil-seeds, potato, sugar-cane, ginger, chilli, and vegetables.

The total area under fruit production is 45,935 hec. and the total fruit production is estimated at 92,136 MT. The total production of spices is 33,145 MT. Other commercial crops like potato, ginger, oilseeds, sugar-cane, vegetables etc. the production of which is estimated to be 1,51,000 MT in the State.



5.4 There is an emphasis given on horticultural plantation that can be taken up on the hill slopes also. Agro-climatic conditions are suitable for the production of tropical and sub-tropical horticultural crops and temperate fruits in the higher hills. The target for Tenth Plan towards the end of the plan annually is 1,28,876 MT. The major fruit crops are citrus, pineapple, plum, apple and banana, stone fruits, walnut etc. Most areas in Arunachal Pradesh are suitable for banana cultivation. The banana cultivation can in fact turn profitable which requires not much of care and control in the climatic conditions prevailing in the State. The emphasis is now on spices particularly the large cardamom and under the technology mission for horticulture, the large cardamom, ginger and black pepper are being propagated. The State has admitted that there are constraints faced in the propagation of horticultural crops in the State. The State does not have progeny orchards for the development of plant material and improved cultivars etc.

5.5 The soil on the hill slopes has the requisite depth for the horticultural tree plantation. There are gentle slopes where agricultural crops can be grown as settled agricultural production on a sustainable basis. The slopes can be terraced both for agricultural and horticultural crop production. Shifting cultivation can be allowed to continue on the steep slopes.

5.6 For soil and water conservation Tenth Plan provides for reclamation of land by constructing terraces. The State Government reported that the problem of soil erosion on the hill slopes have been increasing year after year mainly on account of deforestation and shifting cultivation. Tenth Plan has made a substantial provision for land development and land protection works and for the control of shifting cultivation etc.

5.7 A question invariably asked is about the absence of marketing infrastructure before taking up the cash crop production on commercial lines. The State has set-up an Agricultural Marketing Board. A number of Agricultural Produce Market Committees have been set-up in different commercially important places to provide adequate marketing facilities to the farmers. Agricultural/horticultural policy of the State has given emphasis on developing rural markets, transportation facilities, packaging

facilities, establishment of cold storages and cold chain for storage of perishable cash crops, use of refrigerated vans for transportation of vegetables. Feasibility of all these will depend upon the basic infrastructural development – roads and transport system the need for which is discussed under the head 'Infrastructural facilities' in this report. Agri/horticultural development policy of the State makes specific mention for promoting agro based industries, food processing industries, establishment of grading packing houses etc. which is intended to promote value added products through processing primarily to solve the marketing problems.

**5.8(a) The Commission observed that these tribal cultivators should not be deprived of the benefits of frontier technology now available for increasing productivity and maximizing the production to meet not only their consumption requirement but also to help them augment their income by producing cash crops on commercial scale.**

**5.8(b) In these hills and valleys of Arunachal Pradesh, there are no alternative resource base for employment and income generation. The Commission, therefore, recommends that the Central Government and Indian Council of Agricultural Research (ICAR) should take appropriate measures to improve the agricultural/horticultural operations by providing modern extension services and technology support to the cultivators. The object of launching technology missions for horticultural development in the North-Eastern region was in fact to introduce improved method of cultivation and plantation etc. bringing in modern extension services and technical supports for the cultivators. What is needed is to introduce methods used for bringing green revolution elsewhere in the country. The cultivators of the State in most places are over 35 years away from the green revolution, the Commission observed.**

**5.8(c) The Commission recommends that the development of nurseries and progeny orchards should be given priority in the State for the production of horticultural plant material of improved varieties for all fruits as the climatic conditions are suitable for propagation of horticultural cash crops on commercial lines. The cultivators should be**

**encouraged to take-up fruit tree plantations in the jhumlands and spices can also be grown.**

## **5.9 Jhum/Shifting Cultivation**

5.9.1 The State reported that over 4.0 lakh hec. of land have been under the coverage of jhum/shifting cultivation which has now come down to 1.10 lakh hec. as a result of sustained efforts made to encourage settled cultivation. During the interaction with the State level officers, Commission was told that the land under jhum/shifting cultivation over which indigenous people had traditional rights for jhuming have been shown as forest land under the control of the Department of Forest. However, the cultivators have been making use of the jhumland for raising agricultural crops. Traditionally, there is a jhuming cycle maintained. Shifting cultivation is done now only in the hill slopes whereas in the valley areas with table land they now have the settled cultivation on sustainable basis. The traditional jhumland on the gentle/less steep hill slopes have been terraced for the settled cultivation. Jhuming is now done on steep slopes of the hills which can also be terraced for settled cultivation but that would require huge investment which a poor shifting cultivator cannot afford in the absence of soft finances.

5.9.2 In the first season of jhuming cultivation, maize is produced which is invariably sown with the on-set of the Monsoon. After the harvesting in Oct./Nov., buckwheat, other cereals and vegetables are grown on the jhumland, and in the next season with the on-set of Monsoon, paddy is grown which is harvested in Sept./Oct. This way, there are 3 crops taken and thereafter, the land is kept fallow for 5 to 7 years. The State Government is propagating social forestry through fruit tree plantation and other horticultural crops on the jhumland in order to conserve the depleting forest resources and to maintain eco-system of these fragile hills. But, the Forest Department does not consider fruit tree plantation as an agricultural activity. In fact, it was reported that the Forest Department has raised objections to the initiative taken by the cultivators for raising fruit trees as the climatic conditions are well-suited for raising horticultural crops. There exists at present a situation of impasse. The jhum/shifting cultivation itself is opposed by the Forest Department. In their opinion, jhumland is a forest land and, therefore, it is not an agricultural land whereas

jhuming/shifting cultivation is traditionally well recognized agricultural activity. As per the Balipara/Tirap/Sadiya Frontier Tract Jhumland Regulation, 1947, "Jhumland" means and includes all lands over which any member or members of a village or community have customary rights to cultivate by means of shifting cultivation or for grazing livestock, but does not include any land which has been or is under process of being terraced for the purpose of permanent cultivation with or without irrigation etc. A customary right to jhumland shall be deemed to be established in favour of an individual cultivator if he inherits the land in accordance with local custom, if he purchases the land in accordance with local custom etc. The only restriction is that jhumland to which a community has the customary right may not be transferred to any community or to any individual except with the permission of the land conservator i.e. Deputy Commissioner or any officer exercising the powers of the District Magistrate.

The operationalisation of the Forest (Conservation) Act, 1980 and the National Forest Policy made thereunder and further intervention by the Supreme Court of India after 1996 and due to many restrictions imposed on harvesting of the minor forest produce, the economy of the tribal people of Arunachal Pradesh has adversely been affected which has resulted in dwindling of employment opportunities and income generation. The Arunachal Pradesh (Land Settlement and Records) Act, 2000 has not yet been operationalised and land surveys have not yet started in the rural areas. The tribal people/tribal communities in the State who physically occupied land for centuries and are in possession with customary rights to cultivate should be given possessory rights. The forest-tribal interface is likely to take a serious turn if the land management system intended under the Act of 2000 is not put in place quickly which basically is to build a permanent land tenure system.

**5.9.3(a) The Commission recommends that the present interface between the forest and the jhum/shifting cultivators should be resolved recognizing the age-old traditional agricultural practice of jhuming/shifting cultivation for raising food-grains which even today continues to be the means of food security in the interiors of the tribal habitats. It appears unfair to the shifting cultivators for the Forest Department to assume or treat jhumland to be a forest land and not an agricultural land in the**

face of the evidence that for centuries these jhumlands were used for raising agricultural crop through a cycle of jhuming time and again on the same land. The Commission further recommends that on the jhumlands having steep hill slopes where terracing is not feasible horticultural fruit tree plantations should be encouraged. The Centrally funded projects such as Watershed Development Projects, Wasteland Development Projects, Integrated Jhumland Development Projects etc. should be launched for helping the shifting cultivators to have settled agriculture/horticulture as an evocation on a sustainable basis on the pattern these projects are being executed in other States of the North-Eastern region.

- (b) It was also reported that these shifting cultivators have to move to far flung areas outside their villages in accordance with tradition and customary rights for shifting cultivation. The permanent cultivation on a sustainable basis with the support of animal husbandry will help increase productivity and maximize production which will have multiplier effect on the overall economy of the tribal habitat resulting in employment and income generation.
- (c) While implementing the provisions of the Forest (Conservation) Act, the administration as it appears has not taken care to recognize the traditional customary and possessory rights of the tribal people over the land particularly the jhumland. Traditionally the jhumland has always been agricultural land because it is used for growing food-grains and fruits under a periodic cycle system which is why it is called shifting cultivation, the Commission observed.
- (d) The Technology Mission for horticulture in the State has started Mini Mission programmes for expanding the area under fruit tree plantation and vegetables, flowers, post-harvest technology and marketing of horticulture produce and processing etc. The Commission recommends that the Central Government under its Centrally Sponsored Schemes may maintain adequate funds flow for the Mission to help develop horticulture in the State at a faster rate. The horticulture development on commercial

lines, apart from generating employment and income, will help maintain fragile eco-system of the hills of Arunachal Pradesh. The horticultural development under the various Centrally Sponsored Schemes designed to wean away the jhumia families/shifting cultivators should receive impetus.

## **6. Land**

6.1 In the State of Arunachal Pradesh, the ownership of land is vested in the community or the individual as per the tradition and usage of the tribal communities. It appears that except for the land used for common purposes of the community all land under cultivation and jhumland as well are in the possession of the individual cultivator which is inherited as per the tradition. The traditional rights of the people on the land are protected by Section 7 of the Bengal Eastern Frontier Regulation, 1873 amended in 1950 and in 1974 which prohibits alienation of land of the indigenous people to the people who are not the natives of the State. Under the said regulation it shall not be lawful for any person, not being a native of Arunachal Pradesh to acquire any interest in land or the product of land without the sanction of the State Government or such officers as the State Government shall appoint in this behalf. There are no cases of land alienation reported in the State.

6.2 The Balipara/Tirap/Sadiya Frontier Tract Jhumland Regulation, 1947 also provides safeguards to the rights of the tribal people over jhumland. The State has enacted the Arunachal Pradesh (Land Settlement and Records) Act, 2000 which provides for revenue administration, preparation of record of rights over land, assignment of land for special purposes, assessment of land revenue with respect to the use of land for agriculture, industrial or commercial purposes, for dwelling purposes and any other purposes. It also regulates the land use and land surveys and settlement operations to be carried out etc. The Department of Land Management has started organizing cadastral survey of land in phased manner beginning with the State capital Itanagar, other towns and the urban areas. At the end of the Ninth Plan period, 33,487 hec. of land was surveyed against the target of 80,000 hec. as per the estimates. During the Tenth Plan period, target for the land survey is pegged at 60,000 hec.

6.3 As per the report of the State Government till now there has been no resistance from the tribal people for the land surveys and settlement operations. The tribal people may be having certain apprehensions about these surveys and settlement operations. The Commission was told that the settlement operations in the rural areas have not been started as yet. The fact remains that the provisions of the Act of 2000 have not been operationalised and that State has not prepared any Revenue Manual.

6.4 The State has operationalised a system of issuing Land Possession Certificate (LPC) for individual land owners. State has made some allotment of land to the individual or institutions in urban centers as per certain guidelines of the State Government within the notified Government guidelines. The allottees are not allowed to sell or transfer land by way of gift etc. These allotments are made for different use either for residence or business or for institutional purposes on payment of lease rent or land revenue assessed. The power to grant LPC is vested with the Deputy Commissioner/Additional Deputy Commissioner after obtaining the State Government approval. The State has evolved an elaborate procedure for the issue of LPC which requires certification by Forest Department, Village Councils, village headmen, Anchal Samities etc. and a due notice is given to all concerned for no objection from public in general and other land owners in the village in particular. The State Government reported that the financial institutions are hesitant about accepting such land under LPC as security in the absence of the documentation of record of rights on the land in the State.

6.5 The State has, so far, not recorded any case of land alienation. The presumption is that there are no cases of land alienation. However, whispers are there about there being cases of land grab by outsiders in the distant past. There may be dark figures which remained undetected, the Commission observed. The cases may spring-up when the land survey and settlement operations are conducted under the Land Act of 2000.

**6.6(a) The Commission is of the view that there is a need to assign priority to the survey of lands expeditiously for the orderly management of the land,**

land settlement and for preparation of record of rights over the land held by the communities and the individual cultivators. At present, there are no land records except about the land donated by the communities/individuals to the State or acquired for public purpose. The record of rights is kept orally by the community and the people. There is a need to have revenue manual prepared after surveys have been completed which would help solve the disputes arising out of the process of grant of possession certificates already initiated for managerial and legal purposes. A formal documentation of the records of rights is necessary for the orderly management of land, and to avert certain major disputes that persists today between the Forest Department and the communities/individual land holders. It is now 4 years since the land Act of 2000 was passed but has not been operationalised.

- (b) There is also a need to make tribal people aware of the objects of the Act of 2000. The Commission observed that the tribal people in the areas Commission had visited were not aware of the provisions of the said Act. The State may need a brief prepared on the objects of the Act methods used for the operationalisation of the provisions of the Act, the purpose of land surveys and work initiated for preparing the record of rights over the land and their documentation etc. for information of the land owners and the cultivators.
- (c) The Commission recommends that in order to pre-empt forest-tribal interface and social unrest that is brewing up as a result of this kind of intervention, there should be a comprehensive review done of the subject of land management traditionally held by the communities/individual cultivators over all types of land including forested land.

## **7. Forest**

7.1 As per the Forest Survey of India Report of 1999, 82% of the land area of the State is under the forest cover. Out of the total geographical area of 83,743 Sq. Km., the State has 68,847 Sq. Km. of forest coverage and the dense forest coverage is



57,756 Sq. Km. The State Government has notified 19,713 Sq. Km. area as reserved forest, sanctuaries, and National Parks etc.

Their distribution is as under:-

Reserved Forest	9552.32 Sq. Km.
Anchal/Village Reserved Forest	625.37 Sq. Km.
National Park	2290.82 Sq. Km.
Wild life & Orchid Sanctuary	7237.17 Sq. Km.
Protected area	7.80 Sq. Km.
<b>Total</b>	<b>19713.48 Sq. Km.</b>

7.2 It is pertinent to mention here that the State of Arunachal Pradesh is considered as one of the 12 Mega Diversity Hot Spots in the world. The State reported that there are 20 species of fauna, 4,500 species of flowering plants, 400 species of Pteridoehytes, 23 species of conifer, 35 species of bamboos, 20 species of canes, 52 rhododendron species and more than 500 species of orchids.

7.3 Assam Forest Regulation 1891 has been extended to the whole of Arunachal Pradesh. The State Government has been given the powers under the regulation to constitute reserved forest comprised of any land at the disposal of the Government by following the procedure prescribed. The land at the disposal of the Government under this regulation means the land in respect of which no person has acquired a permanent heritable and transferable right of use and the occupancy under law for the time being in force; or any right created by grant or lease made or continued etc. There is a procedure laid-down for the treatment in settlement of claims in respect of any land made part of the reserved forest. In respect of the claims relating to the practice of jhum cultivation, the forest settlement officer is required to record a statement about the claims and submit the same to the State Government with his own opinion, on receipt of which the State Government makes an order permitting or prohibiting the practice wholly or in part. The practice of jhum cultivation is deemed to be a privilege subject to control, restriction and abolition by the State Government and not to be a right. Under the regulation the claims to a right of way, water course, of pasture or to forest produce etc. are to be considered by the forest settlement officer and pass necessary orders with regard to the exercise of such rights by the claimants.

Under the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 amended in 1981 and 1984 the State has constituted Anchal forest reserves and village forest reserves covering 625.37 Sq. km. After meeting of expenditure on the management of Anchal Forest Reserve, the State Government shall transfer to the concerned Samities and Zila Parishad every year equal share 50% of the net revenue of the year less the amount the State Government is entitled to recover on account of the capital expenditure made by the State Government. Similarly, the State Government shall transfer to the Village Panchayat every year 50% of the net revenue of the year less the amount the State Government is entitled to recover on account of the capital expenditure made for the development and maintenance of village forest reserve.

7.4 The State Forest Policy is to maintain the ecological balance and conserve biodiversity. Before 1996, forest had been the largest source of revenue for the State. There is now a substantial revenue losses after the imposition of restriction of timber operations. Losses suffered during the period 1996-97 to 2000-01 are to the tune of Rs. 300 crore.

Timber operations are carried out in a limited way conforming to the directives of the Supreme Court on regeneration of forest. The Department thinks that there is a need to readdress urgently the problems arising out of implementation of the Forest Act, the provisions of which prevent the local people from providing tree cover through horticultural and plantation crop which in fact can become a big source of employment. Traditionally the forest are the main-stay of the people of the Arunachal Pradesh.

It appears that the tribal communities who are the natives traditionally had the command over all the natural resources i.e. land, water, forest in the State of Arunachal Pradesh. The land under settled cultivation and under the jhuming/shifting cultivation are with the individual cultivators who have the possessory rights governed by the customary laws. The rest of the land which includes forested land as well have traditionally been under the command of the community and that community as a whole has been exploiting the resources by exercising the traditional grazing rights and right to collect minor forest produce, medicinal herbs etc. The question of Department of Forest having ownership on forested land, the Revenue Department

over waste land etc. can be established only on determination of the possessory rights of the individual cultivators and the communities etc. through land surveys and the revenue settlement operations. The land which is not claimed by the individual cultivators and the communities can be declared as the land under Forest Department or the Revenue Department only when the land surveys and the revenue settlement operations are completed followed by the forest settlement. As of now, the communities and the individual cultivators having possessory rights have the command over the entire land and natural resources and these rights are governed by the customary laws. This is borne by the fact that the land area of the State Capital – Itanagar was donated by the individual cultivators and the communities.

**7.5(a) The Commission recommends that the forest policy should be so designed to allow fruit tree plantation and cultivation of other commercial crops particularly on the traditional jhumlands over which the tribal people have the command and have exercised customary rights for ages, it being the main source of livelihood for the poor cultivators. Land survey and enumeration of the forests are a priori for the scientific management of the forestry sector, the Commission observed.**

**(b) It is important to note that the net revenue earned from the village forest reserve is to be shared by the State Government and the Village Panchayat. The amount received by the Panchayat as the share of the net revenue is to be utilized for the development activities of the village concerned. The individual families in the village do not get their share from this revenue. Traditionally, the villagers have the right to non-timber forest produce and timber rights and grazing rights as well. In the areas now forming part of the village forest reserve under the regulation the villagers may or may not be able to exercise their traditional rights in the forest, the Commission observed.**

## **8. Education**

8.1 In Arunachal Pradesh, there were only 3 primary schools at the time of Independence. Today, there are 1,325 primary schools and quite a good number of middle, secondary and higher secondary schools with 7 colleges, one university and one professional institute.

8.2 The enrolment of boys and girls at primary level had increased during the 10 year period 1991-2001. The enrolment of girls during 10 year period showed 57% increase. The residential schools run by NGOs – R.K. Mission, VKV & DP Mission have shown better results as per the Government documents. 110 hostel buildings under NLCPR funds are under construction.

8.3(a) **The State has a Horticulture-cum-Forestry college at Pasighat. This can be upgraded as a deemed University by providing post-graduate faculty on the campus itself, the Commission observed.**

(b) **The State Government admits that the State is lagging behind in the field of higher education in comparison to the situation obtaining in other North-Eastern States. The lone University is facing shortage of funds and inadequate faculties which will be a major impediment to achieving the excellence in higher education. In the Human Resource Development sector, approved outlay in the Annual Plan 2002-03 for this sector was Rs. 106 crore. In the Annual Plan 2003-04, the projected outlay was Rs. 128.82 crore which is 16% of the total plan outlay for all sectors put together at 802.41 crore. The Commission recommends that the plan funds for the HRD needs augmentation. The Vice-Chancellor of Arunachal University in a brief meeting with the Commission raised few problems which the University has been facing in all these years. The University has a poor financial resource base and is currently facing funds constraints. It has the faculties with inadequate infrastructural facilities. The Vice-Chancellor was of the view that all these difficulties can be addressed by according Central University status to Arunachal University. The annual cost of such a decision in**

his assessment will not be more than Rs. 15 crore. The Commission agrees with the views of the Vice-Chancellor in this regard.

## **9. Health**

9.1 In the State, there are 3 general hospitals, 12 District Hospitals, 31 Community Health Centres, 78 Primary Health Centres, 378 Sub-Centres, 37 Homeopathy Dispensaries, 2 Ayurvedic dispensaries, 39 Dental Units and 4 Hansen Disease Sanatorium. There is no referral hospital in the State, though there is proposal to have one in Itanagar. Usual National Programmes to combat major health problems are being implemented. The Infant Mortality Rate (IMR) and Maternal Mortality Rate (MMR) are comparatively high in Arunachal Pradesh. The State Government admitted that though there has been some improvement in health-care infrastructural development, yet most of the health-care facilities are not well-equipped with basic infrastructure. The Commission was told by the indigenous people of village Hija near Ziro in Lower Subansiri District for long long time now the health units in the area did not provide any medicine. The medicines are not being distributed and the reasons for the same are not known to the people. This may be the situation in many tribal habitats in the interior areas. Inadequate staffing in the health-centres and non-deployment of Doctors and para-medical staff were also reported by the people.

9.2 Considering the low density of population widely scattered in small habitations or altitudinal and climatic variations found within the short distance and difficult slopes in many areas of the State, the health infrastructural development norms have to be relaxed in favour of the State. The following Sample Registration System (SRS) data for the State is as under:-

### **Birth Rate**

<b><u>Year</u></b>	<b><u>India</u></b>	<b><u>Arunachal Pradesh</u></b>
1992	29.2	26.6
1999	26.1	22.3

### **Death Rate**

<b><u>Year</u></b>	<b><u>India</u></b>	<b><u>Arunachal Pradesh</u></b>
1992	10	9.4
1999	8.7	6.0

### **Infant Mortality Rate**

<b><u>Year</u></b>	<b><u>India</u></b>	<b><u>Arunachal Pradesh</u></b>
1994	74	61
1999	70	43

- 9.3(a) The health units/centres should be adequately staffed with the Doctors and para-medical staff. There should be at least one medical specialist and a Surgeon with basic equipments like test-labs, X-Ray, machine, ultra-sound unit in the PHCs and the District Hospitals, the people demanded. The Commission recommends that traditional herbal healers and bone setters should be enlisted for their services to revive the traditional health-care practices.
- (b) The Commission is of the view that there is a need to investigate why the medicines have not reached the area for distribution among the tribals in all these years. There are no chemists shops in the areas. The villages around Ziro in Lower Subansiri District are accessible through a State Highway maintained by the Border Roads Organisation and, therefore, the transportation could not have been a problem. The situation in the far flung interior inaccessible areas may be still worse which is astonishing in the face of a large number of institutions/centres/units spread over the State's territory.

## **10. Industry**

10.1 The State is industrially backward with only about 1221 registered SSI units, 18 medium scale industries which are mostly forest based and have gone out of the production with the restriction imposed on commercial felling of the trees in the forest. There is no major industry in the State. The private entrepreneurs as reported are reluctant to invest owing to the constrains like communication bottlenecks, inadequate power supply and lack of entrepreneurship etc. However, hydel power projects have

the great potential and many large projects have come up in the State which is discussed in the paragraph – 'Infrastructure' in this report.

**10.2 As per the industrial policy** declared in recent years, the State has decided to encourage investors from outside the State to invest in the State and an important condition is that 100% equity ownership of individual units set-up by entrepreneurs from outside will be allowed for a maximum period of 30 years whereafter such equity holdings should be reduced to 49% to enable the State Government/Undertakings or the local Arunachal tribal entrepreneurs to hold 51% of the equity share. And, the entrepreneurs from outside will be allowed to hold land on lease for a period of 30 years which can be renewed for further period of 30 years. The lease may be used as security for the loan from the financial institutions. This unique pattern of investment is intended primarily to protect the interest of the indigenous people of the Arunachal Pradesh. It appears that not many entrepreneurs from outside would be encouraged with these conditions.

**10.3 The priority industries** are those based on the agricultural/horticultural and plantation produce, textile and handicrafts, infrastructure such as power and communications, electronics and knowledge based industry etc. There are certain subsidy schemes for capital investment, transportation and interest subsidies schemes announced for the development of industry in the State. There are 13 Districts Industries Centres setup in the State to provide services and support facilities to the industrial units. With the enforcement of the Forest (Conservation) Act of 1980 and the Forest Policy of the State, there is not much scope for forest based industries. With the development of agriculture and horticulture on commercial lines there will be enough scope for setting-up agro-based industries, food and fruit processing units in the State. Fruit processing is economically viable only if it is a medium size unit with the 'state-of-the-art technology' to ensure quality production with higher percentage of juice recovery. The small units with low tech plant and machinery will have low juice recovery percentages rendering the units economically and commercially unviable. The medicinal herbs processing is another eco-friendly industrial venture. The State has a long list of medicinal herbs which can be extracted, processed in the State itself.

Some of the rare high altitude alpine medicinal herbs need be propagated and extracted for manufacturing life saving medicines.

10.4 Some incentives, concessions and facilities apart from the existing State subsidies can be made available to attract the native entrepreneurs and that the industrial areas can be declared tax free zone to attract investment. The package of incentives for eco-friendly industrial development in the State which has the tribal preponderance.

10.5 Next in the line of priority industries are traditional handloom and handicraft sectors. Arunachal Pradesh has rich heritage of art and crafts, weaving, cane and bamboo works. Efforts are needed to preserve this heritage. There are a number of craft centres set-up by the State for imparting training in different trades and arrangements made for marketing of handloom and handicrafts products. The Commission had an opportunity to visit one such craft centre near Ziro in Lower Subansiri District, where local youths are trained in traditional weaving and allied activities in handloom and handicraft sectors.

10.6 (a) **We recommend that medicinal herbs naturally grown in the forest can be propagated on the jhumland and in all types of forest areas in the State. Herbal gardens can be developed by taking technical assistance from the Ministries of Health, Forest and Environment which have the programmes to promote medicinal herbs production. The Commission also recommends that small industrial areas/estates can be developed with infrastructural facilities for setting-up agro-based industries, fruit processing units, medicinal herbs processing units. For the reasons discussed in para 11.3 above, only the medium size units with high-tech plant and machinery need be set-up in the State at 2 or 3 central location to cover the requirement of the entire State.**

(b) **The Industrial Policy on the equity share as discussed in para 10.2 may need a review. The tribal interest will be well served even by**



making the land lease for the unit as an equity share of the native partner or the State Government Undertakings as the case may be.

- (c) Eco-friendly local produce/material based industrial development in the State will have a multiplier effect on the economy resulting in employment and income generation for the indigenous people of the State, the Commission observed.
- (d) The Commission is of the view that the traditional handloom and handicraft should be revived and some of the handicrafts which are on the verge of extinction need be preserved. There should be programmes for design development and skill generation in this sector. There is a need to upgrade the knowledge of the traditional weavers about the basic production inputs and about marketing management and marketing technology. The Tenth Plan has an approved outlay of Rs. 76.35 crore and for the Annual Plan 2003-04 projected outlay is Rs. 13.29 crore for this sector.
- (e) The State has its proven mineral resources, the scientific exploration and efficiently guided exploitation can generate employment opportunities and revenues for the State. Considering the fragile ecosystem of the State with rich forest and vegetative growth, the extraction of the lime-stone will be devastating, the Commission observed. The State has done some geological surveys and it has yet to carry out geological surveys and large scale mapping in about 55% of the States' geographical area. The draft Arunachal Pradesh Minor Mineral Concessions Rules, 2001 have been prepared which has not yet been given final shape. At present in the Petroleum Sector certain areas have been leased such as Ningru Petroleum Mining lease area and Kharsang Oil Fields to Oil India Limited and also to Consortium of Oil Companies for the exploration of the oil resources.

Crude Oil and Natural Gas have been located in Kumchai, Diyum and Kharsang, but there are no estimates made about the potentiality. The Limestone and coal deposits have also been located with some

estimates. Commission recommends that these natural resources may be harnessed by taking care of the fragile eco-system of the State.

## **11. Infrastructural facilities**

### **Roads Connectivity and Transportation**

11.1 For roads and bridges, inland water transport, road transport, civil aviation etc. the Tenth Plan has an approved outlay of Rs. 824 crore and for the Annual Plan 2003-04 the projected outlay is Rs. 133.4 crore, out of which for the roads and bridges the provision in the Annual Plan 2003-04 is Rs. 120.7 crore. At the time of Independence there as less than 100 Km. length of roads and today, it stands at 15,263 Km. which is a substantial progress. This length of roads includes National Highways and other roads constructed by the Border Roads Organisation. There are not many State High-ways as such except those leading to the borders. As per the figures given by the State Government, out of 3,857 villages only 1,743 villages are connected by road. In order to give boost to the rural connectivity, the PMGSY was announced by the Government of India during the year 2000-01 with an object of connecting habitations with the population of 250 person and above in the rural areas by means of all weather roads. The Commission had an opportunity to interact with the village elders, panchayat members and traditional village council members in village Hija in lower Subansiri District. They reported that the main village path was renovated under the PMGSY during the last two years. The villagers said that this road was not constructed/renovated properly and that the soling work done was poor.

11.2 The State Transport Service has 232 buses plied on 152 routes connecting the administrative centres of the State with high operational costs and with low margin of profit. It is good that the State document does not talk about the losses in this sector.

11.3 **Under the Non-Lapsable Central Pool of Resources**, there are 45 projects sanctioned with an estimated costs of Rs. 327 crore and the funds so far released under NLCPR is to the tune of Rs. 184.8 crore. The expenditure incurred is Rs.158 crore. The trend analysis shows that the pace of the utilization of the funds released under NLCPR has been slow which affects the funds flow itself. This may be largely

because the funds for these 45 projects come from the non-lapsable pool which has now become almost never-lapsable pool.

11.4 The Shukla Commission Report – "Transforming North-East" – had recommended Rs. 1,048 crore to clear the backlog in minimum services and infrastructural needs of Arunachal Pradesh. The impression is that Arunachal Pradesh did not get a fair deal from the Commission, as the conditions prevailing in the State was not given due weightage. Considering the peculiarities of the terrain, climatic conditions there should have been separate norms adopted for establishing the infrastructure indices in respect of this hilly and forested State of Arunachal Pradesh. The State documents say that whatever recommendations the Shukla Commission made have not been fully implemented. There is a need to abridge the gaps in infrastructural sectors. Some funding has been done under NLCPR to tackle the backlog of basic minimum services. The status of the project funded under NLCPR has been given under different sectors in this report.

## **Power**

11.5 The State reported that the untapped hydel power potential of the State is estimated to be 49000 MW. There are a number of mini/micro hydel projects under execution. The exploitation of hydel power resources, laying transmission and distribution lines for connecting major power generating stations and central sector power inlets points require heavy investment which is beyond the means of the State Government. The present power scenario in the State is as under:-

Peak power demand	= 105 MW
Firm power generation both hydel and DG Sets	= 42 MW
Total shortfall	= 63 MW
Total installed capacity both hydel and DG Sets	= 59.72 MW

11.6 (a) According to the Government statistics 2,455 villages have been electrified out of the 3,859 villages in the State. The transmission losses continue to maintain the rising trend.

11.6 (b) There are 11 projects funded in the power sector with an estimated cost of Rs. 118 crore. Funds so far released are to the tune of Rs. 49 crore and that 3 power projects have been completed. The investment under the Pool for power sectors are on transmission lines and rural electrification etc.

11.7 The State reported that the power sale agreement has been signed with the Power Trading Corporation to sell 50 MW of surplus power out of the allocation from central sector power of North-Eastern region allocated to Arunachal Pradesh. The sale of 48 MW free power from Ranganadi Hydel Project will yield Rs. 65 crore annually.

11.8 The Commission visited North-Eastern Electric Power Corporation (NEEPCO) Project during its visit to the State. This project has the installed capacity of 405 MW which has already been commissioned. The supply of power from this and other projects are made to the North-Eastern States and outside the region also, as stated by the Engineer-in-charge of the project. The State of Arunachal Pradesh gets free power supply at the rate of 12% of the production. The catchment areas of this power project has poor power supply due to inadequate transmission and distribution lines.

**11.9 (a) The catchment area of the Ranganadi Project of NEEPCO which the Commission visited has inadequate electric power supply. The villages in the catchment area are not getting regular power supply. This may be the case in other villages as well primarily due to the gap in the demand and supply position. 12% free power supply from this NEEPCO Project can meet the total shortfall in the State, which can be feasible only when transmission and distribution lines and other necessary infrastructural facilities are laid. A part of their proceeds from the sale of 12% free power supply under the allotted quota from the Central Sector Power Projects should be used for laying of the transmission and distribution lines and that priority be given to the catchment areas, the Commission observed.**

**The Commission recommends that the tribal habitats/villages falling in the catchment areas of all the hydro-power projects including the Ranganadi Power Project may be provided free supply of power for domestic use and some concession may be allowed for power use in**

commercial activities out of the 12% free power. In all the villages/habitats in the project catchment areas up stream as well as down stream areas entire electric power requirement for street-lighting may be provided free of charges out of the 12% free power.

- (b) According to the Power Engineers, jhum/shifting cultivation is causing silting problem in the Dam under the project. The Commission recommends that part of the income from the sale of free power supply can be invested in the terracing of the jhumlands which could help the cultivators increase the productivity and maximize the production. The terracing as a measure of soil conservation will help ease the problem of silting of the Dam. The Commission further recommends that the NEEPCO may consider terracing the jhumlands as a control measure taken for preventing the silting of the Dam.
- (c) Further, a part of the 12% free supply of power from the project can be earmarked for the streetlighting in the catchment areas.
- (d) The Commission recommends that the NEEPCO may consider adopting villages in the catchment area for the land development and soil conservation works which would help prevent silting apart from generating employment and income for the inhabitants of the catchment area.
- (e) The Engineers were not aware of the status of the eco-development programmes of the project where 10% of the project cost is earmarked for eco-development in the catchment areas. The State Government and the Central Government may like to take stock of the eco-development works done under this NEEPCO Project and also assess the benefits derived by the people of the catchment area from the eco-development project. The District Officials and the people of the area are not aware of such an eco-development project which is built-in the project cost itself, the Commission observed.

## **Border Area Development Programme**

11.10 The Government of India had extended the Border Area Development Programme (BADP) in the year 1997-98 for the Indo-Myanmar Border of the State with a provision of Rs. 4 crore. In the later years, the programme has been extended to Indo-China and Indo-Bhutan Borders. This programme is being executed in 23 border Blocks along the International land border. The outlay proposed for the Tenth Plan under the programme is to the tune of Rs. 65 crore. For the Annual Plan 2002-03, allocation was to the tune of Rs.13 crore. Look – East Policy enunciated almost over 14 years ago which was revived after the ASEAN Summit in the recent years holds a promising economic growth for the North-Eastern States. The State Government thinks, as per the State Government document that the policy will help Arunachal Pradesh to aquire access to the global markets. In fact, the issue of border trade has attracted the attention of the planners in the North-Eastern States. There is a demand for opening-up of historic Stillwell road to facilitate border trades. In Arunachal Pradesh, the Pangchaw Pass which is about 6 Km. from the International border in Tirap District is considered as a significant opening for the border trade. Points like Zemithang approximately 18 Km. from the International border in Tawang District, Gelling about 5 Km. from the International border in Upper Siang District and Kibithoo approximately 30 Km. from International border could be viable areas for border trades provided transportation and infrastructural facilities are developed. The Look-East Policy lays emphasis on the need for road links between the geographically contiguous India and ASEAN countries.

## **12. Panchayati Raj**

12.1 The Panchayati Raj system has since been set-up under Arunachal Pradesh Panchayati Raj Act, 1997. It is a 3-tier system with Gram Panchayats at the village level, Anchal Panchayat at Block level, Zila Parishad at the District level. The elections to the 3-tier Panchayati Raj were conducted in April, 2003 and the system is now fully operational. It is expected to play a greater role in the development sector leaving social issues to the traditional Village Councils. The State has set-up State Election Commission and State Finance Commission. The State has a number of tribes having diverse traditional and customary laws. The functions of the Panchayat are different from that of the traditional customary system. The local disputes are settled through

traditional customary laws as per the Assam Frontier (Administration of Justice) Regulations, 1945 even today.

12.2 It appears from the ground realities assessed that the functions of the Panchayati Raj is confined to the development works and that the social and community affairs are looked after by the traditional village Councils now comprised of village elders – Gaonburahs. In fact, before the enactment of Panchayati Raj Act, 1997, the State Panchayat system was introduced in the State way-back in 1968 under the North-Eastern Frontier Agency Panchayati Raj Regulation of 1967.

### **13. Traditional Village Councils**

13.1 The traditional Village Councils are functioning in the State. The Commission had interaction with the traditional Village Council – “Bulyang” in Hija Village in lower Subansiri District. It is basically a Council of village elders. The State Government has recognized the role of the traditional Village Council comprised of the village elders and it has appointed in consultation with the Village Councils a number of Gaonburah – Village elders depending upon the size of the villages in conformity with the customary laws. Gaonburahs literally means village old-men i.e. village elders. The Village Council functions like Gram Sabha under the Panchayati Raj system. Hija village has like all other villages a platform set-up in the middle of the village for holding meetings of the Village Council – village elders – Gaonburahs to deliberate and decide on social issues and community affairs. It has a role to play in development matters as well. The Village Council elders – Gaonburahs explained before the Commission certain problems faced by the village which is inhabited by the Apatani tribe. They talked about the maintenance of the village paths leading to the agricultural fields and the forest areas, which are not being properly maintained. They demanded that the forest areas should be fenced to protect the crops grown in the agricultural fields from mithun and wild animals. The road which links the village with the Highway was re-built under the Pradan Mantri Gram Sadak Yojna. The village elders reported that the road was not built properly. The scheme provided for widening and soling of the road. The village people were not aware of the size of the expenditure made on the construction of this road. The Block Development Officer in the presence of the Deputy Commission and the village elders reported that the funds

provided were not adequate for the rural roads and village paths. This Block used to get around Rs. 40 lakh per year for various schemes. Now, it receive around Rs. 15 lakh annually for all development activities. The village does not have a proper piped water supply. Street lights are not operational as the electric power supply has been stopped, the villagers said. The villagers need a community hall. The village medical centre in the area has a Doctor but there are no medicine supplied to the centre for further distribution. Now, it is over a couple of years, this area has not received medicines. These problems raised by the Village Council have been discussed elsewhere in this report.

**13.2(a) The Commission recommends that the Forest Department in consultation with the Village Councils should set-up fencing around the forest area in the village to protect the agricultural crops from destruction and damages caused by mithun and wild animals. The fencing around the forest should allow a number of inlets and outlets to facilitate movement of the villagers for the collection of minor forest produce and for grazing purposes over which the communities/indigenous people have the customary rights.**

**(b) Some of these forest areas are jhumlands and village common lands in the ownership of the communities where the individuals have the possessory rights. In the State officers meeting, where there were many senior officers belonging to the tribal communities of Arunachal Pradesh the Commission discussed the problems arising out the of forest tribal interface. This was as a result of the declaration made by the Forest Department assuming such lands as forest lands and constitution of some Anchal forest reserves and Village forest reserves by bringing rules and regulations into effect of the Forest Policy under the Forest (Conservation) Act, 1980 etc. The investment on the fencing is in fact in the interest of the Forest Department provided such a fencing allows unhindered customary usage of the forest by the tribal communities.**

**(c) The Commission also observed that in the absence of the supply of the medicines, the health-care is not taken care of by the health infrastructure set-up in the rural areas of the State.**



- (d) **The Commission recommends that the population alone should not be taken as criteria for allocation of funds. The expanse of the area and relative economic backwardness of the villages also should be the criteria for the allocation of funds to the Development Blocks and for the various development projects sanctioned by the sectoral Departments.**

## **14. Culture**

14.1 The Tenth Plan provides for undertaking surveys and research to preserve and protect the indigenous tribal culture of the people through publication of monographs, articles and booklets pertaining to tribal life and culture, languages, history and archaeology of the State. The Department of Art and Culture has very small Annual Plan Budget of Rs. 1 crore for art and culture.

14.2 **The Commission recommends that Special Central Assistance may be provided for the State of Arunachal Pradesh as one-time package for the research and development efforts to preserve the age-old indigenous cultural heritage of the State.**

**There is an urgent need to undertake documentation of folk-lore, folk-songs, cultural practices festivals and history of the tribal people of the State and unless that is done some aspects of the cultural heritage will become extinct. There has been some sensitivity on account of a lurking fear of cultural invasion from outside which should be allayed through R&D efforts and also through protective measures.**

# Assam

The State of Assam is situated in the North-Eastern part of the country. It is bounded by 7 States viz. West-Bengal, Meghalaya, Tripura, Mizoram, Manipur, Nagaland and Arunachal Pradesh. It has International land borders with Bhutan and Bangladesh. Some vital statistics of the State are as under:-

Total Geographical Area	78,438 Sq.Km. out of which 10,991 Sq. Km. area falls in the tribal habitats where tribal population has the preponderance.
Population (Census 2001)	266.38 Lakhs
Scheduled Tribes	3308570
Sex Ratio	971

## The Scheduled Tribes (STs)

Under the 'Constitution (Scheduled Tribes) Order 1950', amended from time to time, the following tribes have been listed as the Scheduled Tribes in the State:-

### I. In the Autonomous Districts:-

1. Chakma
2. Dimasa, Kachari
3. Garo
4. Hajong
5. Hmar
6. Khasi, Jaintia, Syntong, Pnar, War, Bhoi, Lyngngam
7. Any Kuki tribes, including :-
8. Lakher
9. Man (Tai Speaking)
10. Any Mizo (Lushai) tribes
11. Karbi
12. Any Naga tribes
13. Pawi
14. Syntheng
15. Lalung

\* (i) Biatc, Bietc, (ii) Changsan, (iii) Chongloi, (iv) DOUNGEL, (v) Gamalhou, (vi) Gangtc, (vii) Guite, (viii) Hanneng, (ix) Haokip, Haupt, (x) Haolai, (xi) Hengna, (xii) Hongsung, (xiii) Hrangkhwal, Rangkhoh, (xiv) Jongbe, (xv) Khawchung, (xvi) Khawathlang, Kothalong, (xvii) Khelma, (xviii) Khoihou, (xix) Kipgen (xx) Kuki, (xxi) Lengthang, (xxii) Lhangum (xxiii) Lhoujem, (xxiv) Lhouvum, (xxv) Lumpheng (xxvi) Mangjel (xxvii) Misao, (xxviii) Riang, (xxix) Sairhem, (xxx) Selnam, (xxxi) Singson, (xxxii) Sitlhou, (xxxiii) Sukte, (xxxiv) Thado, (xxxv) Thangngeu, (xxxvi) Uibuh, (xxxvii) Vaiphei.

## II. In the State of Assam excluding the Autonomous Districts:-

- |                      |              |
|----------------------|--------------|
| 1. Barmans in Cachar | 11. Hajong   |
| 2. Boro, Borokachari | 12. Singhpho |
| 3. Deori             | 13. Khampti  |
| 4. Hojai             | 14. Garo     |
| 5. Kachari, Sonwal   |              |
| 6. Lalung            |              |
| 7. Mech              |              |
| 8. Miri              |              |
| 9. Rabha             |              |
| 10. Dimasa           |              |

Under the Scheduled Castes and Scheduled Tribes Order (Second Amendment) Act, 2002, some substitution and additions have been made. Under the item 'in the Autonomous Districts' at entry 11 'Mikir' has been substituted by 'Karbi' and at entry 15 'Lalung' tribe has been inserted.

Under the item 'in the State of Assam excluding the Autonomous Districts' after entry 9, the tribes at 10 to 14 have been inserted under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act 2002 and listed as Scheduled Tribes - 10. Dimasa, 11. Hajong, 12. Singhpho, 13. Khampti, 14. Garo.

The tribes – Kachari, Garo, Hajong, Dimasa and Lalung appear in both the lists described as above.

The Young Paite Association, Karbi Anglong, in its memorandum submitted to the Commission, claims that the Paite people residing in Karbi Anglong are different from Kuki tribe culturally and linguistically. This community has been recognized as Scheduled Tribe in the States of Manipur and Mizoram. They have demanded that the Paite community be recognized as ST (Hills) in the State of Assam. The representatives of the Association were advised to send a proposal with necessary justification to the Ministry of Tribal Affairs, Government of India.

The tribal population in the State is mainly divided into two major territorial groups considering their geographical concentration and socio-cultural factors. These are:-

Scheduled Tribes (Hills)

Scheduled Tribes (Plains)

As per 2001 census, out of the total population of 266.30 lakh, the total ST population of the State was 28,74,441 i.e. 12.82% of the population of the State. The distribution of 12.82% is given as under:-

Scheduled Tribes (Hills) = 1.96%

(Autonomous Council Areas under the Sixth Schedule)

Scheduled Tribes (Plains) = 10.86%

### **Autonomous Council (Plain Areas) other than under the Sixth Schedule**

There are Autonomous Councils created for some tribal groups in the Plain Areas of the State and to these Councils, provisions of the Sixth Schedule do not apply. After the upgradation of the Bodo Autonomous Council (BAC) to the Bodo Land Territorial Council, there are now three Autonomous Councils in this category in the Plain Areas of the State created under the State Acts viz. (1) Rabha Hasong Autonomous Council (RHAC) created under Rabha Hasong Autonomous Council Act, 1995, amended in 2001; (2) Tiwa Autonomous Council (TAC) created under Tiwa Autonomous Council Act 1995, amended in 1997 and in 2001; and (3) Mising Autonomous Council (MAC) created under Mising Autonomous Council Act, 1995.

These Autonomous Council Acts have almost uniform provisions as to the Constitution, powers and functions of the Councils set-up. The General Councils of the TAC and RHAC have 30 Members each, of which 26 are elected and 4 are nominated by the Government, whereas the General Council of the MAC has 40 Members, of which 35 are elected and 5 are nominated by the Government. 34 subjects covering almost all the sectors of economy have been placed under the control of the General Council. These Autonomous Councils have Executive Councils which consist of Chief Executive Councilor and 3 Executive Councilors elected according to the provisions made. The Village Councils have been given 29 subjects. These Acts of 1995 provide for a Village Council with 10 Members. The General Council, Executive Council and the Village Councils all have 5 year term of office. There are two funds – General Council funds and Village Council funds. The sources of these funds are – State Plan

funds and other resources – under CSS and special funds from Central Government. The land revenue and the local rates collected are deposited into the Village Councils.

The Act provides for protection of rights of non-tribals and other ethnic groups. The General Councils have been given powers to reserve jobs for the Scheduled Tribes within its jurisdiction subject to the provisions of the law for the time being in force. Powers and functions of these Autonomous Councils are almost similar to those of the Autonomous Councils under the Sixth Schedule.

For the development of these Council Areas funds out of the TSP and General State Plan are released to these Councils as grants-in-aid. Funds flow to the Autonomous Councils in the Plain Areas from general plan, TSP and grants-in-aid for the transferred subjects exclusive of the **salary component** during the Annual Plan 2003-04 are as under:-

1. MAC	Rs. 6.81 crores	3. RHAC	Rs. 3.66 crores
2. TAC	Rs. 1.76 crores	4. BAC	Rs. 29.56 crores

### **Bodoland Territorial Council (BTC)**

The erstwhile Bodo Autonomous Council has been upgraded to Bodoland Territorial Council by amending the Sixth Schedule of the Constitution – under the Act called the Sixth Schedule to the Constitution (Amendment) Act, 2003.

Bodoland Territorial Council (BTC) consists of not more than 46 Members, of whom 40 shall be elected on the basis of adult suffrage of whom 30 shall be reserved for Scheduled Tribes, 5 for non-tribal communities, 5 open for all communities and the remaining 6 shall be nominated by the Governor having same rights and privileges as other Members including voting rights, from amongst the un-represented communities of the Bodoland Territorial Council Areas District, of which at least 2 shall be women.

The interim Executive Council assumed office on 08.12.2003 and it shall be for a period of six months during which the elections to the Council shall be made.

The State Government reported that as per the Memorandum of Settlement signed between BLT representatives and the State Government, 3108 villages form part of

the Bodoland Territorial Council Area comprised of 4 new Districts namely - Kokrajhar, Chirang, Baska and Udalguri.

40 subjects covering almost all the sectors of economy have been given to the BTC and it will have powers to make laws with certain provisos. Under the arrangement, it appears that the BTC have the control over these 40 subjects.

Apart from the annual allocation under the State Plan, the Bodoland Territorial Council (BTC) will be provided Rs. 100 crores every year for development of socio-economic infrastructure. The Memorandum of Settlement also envisages for the establishment of Central Institute of Technology and institutions for various technological and vocational disciplines such as Food Processing, Business Management Bio-Technology etc. The State Government has also reported that the schemes under the Non-Lapsable Pool have been taken in the Bodoland Territorial Areas Development Districts. Some schemes like 100 beds civil hospital at Udalguri; drinking water supply at Gossaigaon; mini stadium at Chapaguri; a number of school buildings; and for a game centre at Kathalguri, Kokrajhar etc. – estimated cost of all these projects together is Rs. 21.32 crores.

## **Tribes Advisory Council**

The provisions of the Fifth Schedule of the Constitution have not been made applicable to the State of Assam. The State, at present, has not set-up Tribes Advisory Council, although there is a provisions in the Fifth Schedule that the States without Scheduled Areas can also have Tribes Advisory Council set-up. Some of the tribal leaders of the Plain Areas have suggested setting-up of Tribes Advisory Council in the State during the interaction the Commission had with them.

There is an Advisory Council for the ST (Plains) constituted in accordance with the rules for the constitution of the Advisory Council for the welfare of the Scheduled Tribes living in the Plains Districts of Assam. These rules were notified in May 1967. Advisory Council is comprised of Members of Lok Sabha and Assam Legislative Assembly belonging to the Scheduled Tribes of the Plains Districts of Assam representing any Constituency. There are ex-officio Members, apart from such other Members as may be nominated by the Governor. The Vice-Chairman of this Advisory

Council shall be elected from amongst the non-official Members. The rules do not specifically stipulate that the non-official Members should be from the tribal communities only.

The 33 Member Advisory Council re-constituted in July, 2001 is headed by the Minister-in-charge, Welfare of Plains Tribes and Backward Classes etc., MLAs and ex-officio Members. It has the President of All Assam Tribal Sangha as one of the Members of the Advisory Council.

The functions assigned to this Council are – (1) to advise the Government of Assam on all matters pertaining to the welfare of the STs of Plains Districts; (2) to assess the requirement of the Scheduled Tribes in the Plains Districts of Assam and formulate the schemes for their welfare; (3) review the working of the schemes sanctioned; (4) advise the Government on any matters affecting the interest of the Scheduled Tribes of Plains Districts of Assam. These functions are in some-way similar to those under the Sixth Schedule to the Constitution.

The Advisory Council is consulted in the process of finalization of the Annual Plan. It appears from the criteria and the procedure followed for the preparation of the TSP that there is no Project Advisory Committee at the ITDP level for consultations and for people's participation in the development of the Tribal Sub-Plan. However, each ITDP has a project Implementation Committee which has the membership of non-official tribal as well.

**The Commission recommends that the Tribes Advisory Council may be set-up in the State under the provisions of the Fifth Schedule of the Constitution. As described in the foregoing paras, the tribes of Assam fall in four categories viz. 1) Scheduled Tribes (Plains) in the plain areas, 2) the Autonomous Council Areas (Plains); 3) Bodoland Territorial Council Area and; 4) Scheduled Tribes (Hills) in the Autonomous Council Areas under the provisions of the Sixth Schedule. There are certain common matters concerning tribal development, tribal welfare, Constitutional safeguards for the protection of the interests of the Scheduled Tribes and the tribal affairs which need a common forum for the tribals to deliberate**

upon and tender advice. A provision may be made for setting-up a Tribes Advisory Council in the State of Assam on the pattern provided under the Fifth Schedule of the Constitution. It will provide opportunities to the tribals to advise the State in all Legislative, Executive and Development matters concerning all tribes in Assam.

## **Tribal Area**

The areas specified in the Part-I of the table under the paragraph 20 of the Sixth Schedule, i.e. the North Cachar Hills District and the Karbi Anglong District are the 'tribal areas' in the State of Assam. Each of these Districts have the Autonomous Council under the provisions of the Sixth Schedule.

The Tribal Development/Welfare in the Plain Areas are covered under the Tribal Sub-Plan whereas for the Autonomous Council Areas under the Sixth Schedule a separate Hill Area Plan has been devised.

## **Tribal Sub-Plan**

The Plain Areas Tribes of the State are covered under the Tribal Sub-Plan. Under the TSP, priority has been given to the promotion of self-employment and poverty alleviation, human resource development and also for providing the basic services such as health-care, drinking water supply, roads and communication infrastructure, agriculture and allied sectors. It is important to mention here that the agriculture and allied sectors continue to be the main-stay of the tribal economy. The TSP projects and programmes cover 26 sectors of development – almost all the sectors of economy and social services. In the Annual Plan for the year 2003-04, the total funds flow from State Plan to TSP was to the tune of Rs. 134.80 crores i.e. 12.29% of the total State Plan of Rs. 1096 crores for the identified sectors.

The funds allocation to the Autonomous Council Areas (Plains) for the Annual Plan 2003-04 exclusive of salary component from General Plan, TSP and CSP are as under:-

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\* The information about constitution of Committee of the MLAs as required under Article 371 is still awaited from the State Government.



MAC	: Rs. 6.81 crores
LAC	: Rs. 1.76 crores
RHAC	: Rs. 3.66 crores

All the annual plan funds to these Councils are given as 'Assistance to Autonomous Councils' under TSP, SCP and General separately in the Departmental budget. No Special Central Assistance is directly released to these Councils in the Plain Areas.

The Bodoland Territorial Council will be provided Rs. 100 crores every year for infrastructure development in addition to the annual plan flows.

Special Central Assistance as an additive to the Tribal Sub-Plan are being utilized for income generating programmes and infrastructural development in the tribal areas. The figures pertaining to last ten years show that the Government of India allocated in 1992-93 Rs. 1077.61 Lakhs and expenditure incurred by the State Government was Rs. 956.61 Lakhs. That in 2001-02, the Government of India released Rs. 3058.99 Lakhs against which the State Government expenditure was Rs. 2499.99 Lakhs. This gap is there throughout in all these ten years which shows that the Special Central Assistance flows are not being utilized fully.

**The Commission recommends that special attention need be paid to implement the tribal development programmes under Special Central Assistance ensuring full utilization of the funds. The additional funds allocation would be justified only if the State Government is able to fully utilize the funds. In order that the tribal interest in enlarging the scope of economic development is served, the State Government should step up the level of efficiency in implementing the development programmes.**

There is no separate budget head for TSP but a separate sub-head has been created for TSP in the budget for each sectoral Department.

The funds flow from General State Plan to the TSP is in proportion to the Scheduled Tribes (Plain) population percentage. Special Central Assistance to the TSP is released by the Ministry of Tribal Affairs, Government of India as an additive to the State TSP. The Annual TSP allocation is finalized in the Planning Commission, Government of India and that the TSP allocation is communicated to the State by the

Planning Commission. The Department dealing with the Welfare of the Plains Tribe make the sectoral allocation which are communicated to the concerned sectors for implementation.

**The District Rural Development Agencies** implement the schemes assigned to them on the pattern obtaining all over the country. There are views that the ITDPs/ITDAs should be allowed to operate the funds meant for the Scheduled Tribes under DRDA.

**The Commission observed that the Ministry of Rural Development, Government of India should consider this point and examine the feasibility of assigning of the schemes under DRDAs to the ITDPs/ITDAs for implementation. There are many schemes under ITDPs which benefit non-tribals as well. The schemes under DRDA when assigned to ITDPs for implementation would cover the schemes for non-STs as well. There are very few schemes under ITDPs which are exclusively for the Scheduled Tribes in the ITDP Areas.**

The schemes and programmes which do not fall under the purview of the TSP and the Sectoral Departments are implemented by the Assam Tribal Development Authority and Assam Plain Tribes Development Corporation.

### **Integrated Tribal Development Projects (ITDPs)**

There are 19 ITDPs/ITDAs in the State for the Plain Areas with tribal population. As per the information made available to the Commission by the State, out of these 19 ITDPs, 11 have the preponderance of the ST population. Rest of the 8 ITDPs do not have the tribal preponderance, however, none of them has tribal population less than 30%. Most of these ITDPs have three to six Development Blocks except for ITDPs Majuli, Sibsagar, each of them having only one Development Block and the other three ITDPs viz. Jorhat, Tinsukia/Sadiya and Silchar, each of them have two Development Blocks.

### **Assam Tribal Development Authority (ATDA)**

Assam Tribal Development Authority (ATDA) has been constituted under the Assam Tribal Development Authority Act, 1983. The Chief Minister of the State is the

Chairman of this Authority. The Authority is comprised of the MLAs and the ex-officio Members. This Authority has been set-up for the development of Plains Tribal Areas of Assam. It meets once in three months unless it is specially called at shorter intervals.

The functions assigned to the Authority are – to prepare short-term and long-term plans for all round socio-economic development of the areas covered under the Act. It has powers to review development schemes and called for reports in respect of the development programmes in the areas under the Authority. The Authority has its own funds called the Tribal Development Authority fund into which all sums received from the Government for the development of the area is credited. This fund is non-lapsable. The provisional budget for the year 2003-04 was Rs. 8.74 crores. The source of fundings were – Special Central Assistance, Central Sectoral Schemes, State Plan and the Loans etc. The schemes taken up by the Authority are the schemes other than those in the Tribal Sub-Plan. In fact all schemes and projects for the tribes of the Plain Districts can be brought under the TSP and these can be implemented by the TSP agencies and the sectoral Departments with a centralized coordination. The State Government may like to go into the efficacy of having the ATDA as an additional development agency.

## Hill Areas Plan

### Development Funds Allocation to the Autonomous Councils under the Sixth Schedule of the Constitution

The allocation during the financial year 2003-04 to the Autonomous Councils set-up under the Sixth Schedule of the Constitution namely North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council are as under:-

(Rs. in lakhs)

Plan	Period	Allocation	Expenditure	%age	Period	Allocation	Expenditure (upto 2 <sup>nd</sup> Qtr.)	%age
State Plan	2002-03	9,259.95	8,367.73	90.36%	2003-04	10,638.00	4,837.45	45.47%
Additive Plan (Special Central Assistance)		5,111.00	5,065.94	99.11%		5,000.00	2,017.23	39.47%
<b>Total</b>		<b>14,370.95</b>	<b>13,433.67</b>			<b>15,749.00</b>	<b>6,854.68</b>	

The ratio of sectoral allocation between the Karbi Anglong Autonomous Council and North Cachar Hills Autonomous Council is made as per the report of the Phene Committee. The annual plan funds under the State Plan and Additive Plan and other earmarked funds are distributed in the ratio of 70:30 i.e 70% for Karbi Anglong and 30% for North Cachar Hills Council. There are other programmes like Watershed Development Project for Shifting Cultivation Areas and Non Lapsable Central Pool of Resources to which this ratio of 70:30 is not applicable. This ratio is also not applicable for the distribution of grants-in-aid under Article 275 (1) of the Constitution of India, as the funds flow under Article 275 (1) is entirely based on the project report in respect of each scheme/project submitted by these Autonomous Councils.

The Additive Plan is provided by the Planning Commission as 100% grants in the ratio of 70:30 to Karbi Anglong and North Cachar Hills respectively. During the year 2003-04 under the Additive Plan, a sum of Rs. 51.11 crores was released. There is no increase in the flow of funds under this for 2003-04. The funds flow from the State Plan to the Hill Areas Plan for Autonomous Councils is at the rate of 90% as grants and 10% as loan. In all these years, under the non-lapsable central pool of resources (NLCPR), an amount of Rs. 29.16 crores was released for these Councils for various schemes. During the year 2003-04, an amount of Rs. 1.61 crores allocated to these Councils for implementation of various schemes under Article 275(1) of the Constitution of India.

## **Agriculture**

Agriculture continues to be the main source of livelihood of the tribals in the Plain Areas as well as in the Hill Areas of the State. In the TSP areas emphasis is given on the Integrated Agricultural Engineering, Compact Area Development Schemes and for agriculture marketing schemes etc. These schemes have the object of helping the small and marginal farmers by providing transport subsidies and encouraging the farmers for practicing double/triple cropping considering the limited land available for cultivation.

Agriculture and Horticulture have the contribution towards the ST family budget to the tune of 40% in terms of the proportions the various sectors of economy have in the ST

family budget. Approximately 70% of the population of the tribal habitats of the State subsists upon the agriculture sector. The main agricultural crops are paddy, maize, mustard, pulses, jute, sugarcane and various vegetables round the year. The main horticulture crops are pine-apple, citrus, mango, lichi and banana etc. The State has identified some areas which are suitable for certain horticultural crops both in the Plain Areas and the Hill Areas. The Department of Agriculture has already initiated schemes for the expansion of certain horticulture crops under the Technology Mission and Centrally Sponsored Schemes. The extension services for both agriculture and horticulture farming are being provided.

**The Commission observed that the extension services delivery system has not made its impact on the agri/horticulture farming in the tribal habitats particularly in the Hill Areas. The Commission during its visit to the State had interaction with the farmers of a couple of ITDPs in the Plain Areas and also with a number of farmers in Karbi Anglong and North Cachar Hills Autonomous Council areas. There is a need to have a massive awareness programme and that there is no programme through extension services to educate the farmers on the use of high yielding varieties of seeds for grains production and for the improved varieties of fruit trees for commercial production to help increase the productivity and the level of income which can turn to be a major source of employment and income generation for the tribal farmers.**

The ICAR and Assam Agriculture University have the major role to play in all these aspects of agri/horticulture development. Though, the State has claimed having achieved some success in propagating the modern methods of agri/horticultural farming by introducing high yielding varieties, practice of integrated farming system, integrated nutrient management and plant protection management by encouraging organic farming etc. to help the ST families both in the Plain Areas and the Hill Areas achieve increased productivity and higher returns from the farming, yet the ground realities show that a lot more is required to be done to build and develop this important sector of economy on scientific lines to increase the productivity and maximize the income from farming as agriculture sector continues to be a main-stay as far as the tribal economy of the State is concerned.

Coordination of the efforts put-in by the Development Blocks and ITDPs is essential. The Development Blocks which have the well equipped extension services infrastructure should be used by the ITDPs. The efforts on this account need be integrated and that the ITDPs need not have separate infrastructure for the extension services. For an effective delivery of extension services professionally and technically well equipped extension officers/technologists should be deployed through the Development Block machinery with the backup from the experts of the Department of Agriculture and Horticulture at the District and State levels with a machinery for the transfer of technology from 'lab to the farms' with the assistance of ICAR, Research Institutes, Agriculture University and Centrally Sponsored Technology Mission. An important aspect of the extension service is on the timely delivery of agricultural inputs – improved varieties of seeds, plant material, chemical fertilizers, plant protection material, technical assistances and technology support for production of vermi-compost and organic manure etc. which is lacking particularly in the Hill Areas – Autonomous Council Areas.

### **Jhum Cultivation**

The traditional jhum cultivation is being continued in the Hill Areas – Autonomous Councils particularly. In the Karbi Anglong Autonomous Council itself 630 Sq. Kms. area has so far been put under the jhum cultivation and 54000 families have done jhum cultivation in all these years. For the North Cachar Hills Autonomous Council Areas, the area so far put under jhum cultivation has not been specified but about 30,000 families have done jhum cultivation in all these years.

As per the status report, an ecological imbalance has been caused due to destruction of forest resources – trees, medicinal plants, bamboos etc. The practice of jhum cultivation has caused massive soil erosion and loss of moisture in the soil and depleted the green coverage of fragile Hill Areas of the Autonomous Council Areas. The top soil is removed due to the adverse affect of rainfall on the soil. There has been a drop in rainfall at an alarming rate over the years. All this is attributed to jhuming/shifting cultivation. The Integrated Jhumia Development Programme aims at

control of shifting cultivation and rehabilitation of jhumia tribal families for sustainable economic activities such as planting of trees, creation of orchards, terracing and bunding the land already put under the jhum cultivation.

There are Integrated Jhumia Development Projects (IJDP) and Mini Jhum Control Projects (MJCP). The object of these projects have been to wean away the jhumia families from shifting cultivation and settle them with land-based sustainable occupation. There are a number of Centres set-up for the implementation of these programmes about 20 each in these Autonomous Council Areas and these centres covered 1055 families in Karbi Anglong and 102 families in North Cachar Hills District areas. The jhum control measures taken through these projects have had little impact in the absence of perennial and sustainable activities provided to the jhumia families. The strategy now adopted is for intensive cash crop production like tea, rubber, coffee, cardamom with the help of Rubber Board, Tea Board, Coffee Board and in some cases as joint ventures. During the financial year 2003-04, an amount of Rs. 3.50 crores was allocated for the rehabilitation of jhumi cultivators under the jhumia control programmes/projects. In all these years from 1991-92 to 2003-04, every year, except for two years between 1994 and 1996, the annual funds released have ranged from Rs. 1.32 crores to Rs. 3.50 crores.

These schemes also have the object of providing alternative source of income by promoting cottage industry, handloom and handicraft, textile, livestock farming etc. Integrated Jhumia Development Projects (jhum control programme), Integrated Jhumia Development Programme, Compact Area Development Programme, Mini Compact Area Development Programme, Watershed Development Programme for the control of shifting cultivation area have been launched all with the object of providing an alternative to the traditional jhum cultivation on a sustainable basis by encouraging settled cultivation through terracing and agriculture land development and also by promoting self-employment in allied sectors such as animal husbandry, dairying, piggery and poultry farming, cottage and agro-Industrial, business sector, handloom and handicraft sector. These schemes are expected to provide employment and income resources on a sustainable basis.

Under the Watershed Development Project Ministry of Agriculture, Government of India have launched Watershed Development Projects for shifting cultivation areas of North-Eastern region with 100% grants to the State Plan schemes from the Eight Five Year Plan period. The project aims at overall development of jhum areas on watershed basis for restoring ecological balance in the Hill Areas and for meeting the socio-economic condition of the jhum cultivators in the tribal communities. For the year 2003-04, an allocation of Rs. 3.50 lakhs was given for the implementation of this project. There is a budget provision of Rs. 60 lakhs for the year 2003-04 for the Autonomous Councils at the rate of 30 lakhs each for each of these two Autonomous Council. The supplementary demands have been submitted for Rs. 3.35 crores under the project to the Government of India.

**The Commission observed that the funds made by the State Government for the control of jhum cultivation and rehabilitation of jhumia cultivators on sustainable basis have been in the right direction and are laudable. There are Centrally Sponsored Catchment Area Development Programmes and National Waste Land Development Programmes under execution in the Autonomous Council Areas – Karbi Anglong and North Cachar Hills, for shifting the shifting cultivators to take up sustainable activities for a settled cultivation through agriculture crops as well as through horticulture crops, socio forestry and cash crop plantation etc. The State Government may need enlisting the cooperation of the tribal community leaders and of the Autonomous Council members for getting the land survey completed; building the land records and documentation of record of rights of the cultivators in land; assigning the land already put under jhum cultivation to the jhumia for settled cultivation; and building a mechanism to help them pledge the land assigned to them against the loans for Agricultural Land development etc.**

**The Commission observed that bamboo cultivation on scientific lines under the integrated Bamboo Development Programme of the National Mission on Bamboo Technology and Development launched by the Planning Commission would help generate employment and income on a sustainable basis in the Hill Areas of Assam inhabited by the tribals.**



## **Irrigation**

In the irrigation sector, there are no schemes which can be taken up exclusively for the benefit of the tribals in the Plain Areas. The general irrigation schemes cover both tribal and non-tribal land. Despite this factor, there are outlays in the Tribal Sub-Plan which was around 18% of the State Plan during the Ninth Plan period. In the Tenth Plan period allocation to TSP is around 32% of the total State Plan for the minor irrigation schemes.

## **Animal Husbandry**

In the TSP area a number of institutions have been established to provide treatment and for disease control and to propagate improved cattle breeding. There are schemes for distribution of livestock and the extension services in the TSP area and the Autonomous Council areas in the Plain Areas. Piggery and poultry farming are quite popular and Special Central Assistance is being provided to the tribals for income generating schemes as an augmentation to the TSP funds.

The upgraded cattle farming is intended to increase the milk production. There being emphasis on this aspect of cattle farming during the Tenth Plan period it is expected to generate employment and income on a sustainable basis. The State Government reported that the per capita availability of milk in Assam at present is below 90 gms. which is far below the recommended level of 250 gms. per head. To meet this deficit, the State Government has taken up Milk Village Scheme by the Dairy Development Wing of the Department of Animal Husbandry. This scheme covers the tribal habitats in the Plain Areas under TSP and the tribal areas under the Sixth Schedule of the Constitution. The scheme includes the provision of technical assistance, inputs and training of the beneficiaries and financial assistance to pay insurance premium for cattle insurance and also for cow-shed construction and to meet fodder requirement etc.

**The Commission observed that the State Government has not done any impact study of Milk Village Scheme and other promotional and development schemes in the animal husbandry sector specifically for the tribal habitats and tribal areas. The impact study is an essential tool to**

**monitor the success of the programmes particularly the Dairy Development Programme in the tribal areas.**

### **Forest**

The State Government reported that there are no reserved forests in the Tribal Sub-Plan area. Therefore, there is no displacement of tribals in the process of declaring the reserved forest in the State. No tribal has been displaced from the forest for the last 50 years, as the areas occupied by the tribals have been excluded from the reserved forest area at the time of final notification of the classification of forest in Assam based on the land survey done. The State Government has reported no problem associated with the implementation of National Forest Policy in respect of the tribal areas in the State. Tribals are allowed to derive benefits from the forest. The rights and concessions enjoyed by them are recorded. They collect fuelwood, fodder, bamboo and other minor forest produce for their domestic use. The State Government recognizes the symbiotic relationship that exists between tribals and forest. The minor forest produce is described as non-timber forest produce which can be harvested. Minerals and wild animals or other derivatives are excluded. Bamboo and cane are not included within the meaning of the term - forest produce as bamboo and cane have been defined as trees in the Assam Forest Regulation.

The total forest area covered in the State of Assam as per the Forest Report 2001 is 27714 Sq. Km. The depletion of forest by way of encroachment, and Inter-State border disputes etc. is 2997 Sq. Km. The State reported that the economic condition of tribals and other people living in the fringe villages of National Parks and wildlife sanctuaries have improved over the years due to growing eco-tourism.

### **Forest Villages**

As per the Government document, there are 524 Forest villages with the total population of 1,60,179 comprised of 20,694 families as per 1971 Census. ST population constitutes 47.11% of this total population of the forest villages. The forest villagers are entitled to certain facilities from Forest Department such as grazing and collection of grass and timber for construction of houses free of royalty. The tribal forest villagers are mainly agriculturists, but there are substantial augmentation of their income resource by way of collection of minor forest produce in the forest areas.

Bamboo bearing areas of the State have been leased out to the Paper Mills in the State and bamboo collection is made by Hindustan Paper Mill Authorities. Many tribal families now get only some employment in bamboo felling and collection operations carried out by the Paper Mills. On the whole, availability of minor forest produce and non-timber wood etc. has become scarce for these tribal forest villagers, the Commission observed.

**The Commission is of the view that these 524 forest villages with the total population of 1,60,179 as per the 1971 census should be notified as revenue villages, as the villagers of these forest villages are reported to be mainly agriculturists. This will help these villages to have basic services and infrastructural facilities as are provided to the revenue villages.**

Social Forestry Programmes have been given priority during the Tenth Five Year Plan by integrating this programme with other development activities which is expected to build a larger scope for alleviating the poverty of the tribal people. Land available outside the forest areas are the animal grazing land, banks along the rivers/streams, roadside land etc. which have been taken up for social forestry alongside the joint forest management programme. All the nineteen ITDP areas under TSP areas are being covered gradually under the social forestry programme.

In the tribal areas of State, social-forestry schemes have been propagated not only for the protection of the forest and bio-diversity but also as a means of alternative employment and income generation. Funds flow to TSP in the year 2003-04 for social-forestry was to the tune of Rs. 2.78 crores.

**The Commission recommends that social-forestry particularly bamboo plantation should receive impetus as this can create employment on a sustainable basis in the areas where the agricultural production is not feasible.**

## **Land**

Most part of the land is in the ownership of the communities and the village chiefs in the Autonomous Council Areas whereas in the Plain Areas mostly land is in the

tribal individuals. It was also reported that there are land holdings under the tribal ownership in the Autonomous Council Areas also.

The provisions of the Assam Land and Revenue Regulations, 1886, as amended from time to time provides for the protection of the interest of the tribals in their land. All events, reforms and allied reform measures can be taken under the provisions of these regulations. The provisions of these regulations totally prohibit transfer of parts of land allotted to non-tribals in certain pockets/belts/blocks numbering 47 of the State. The provisions further provide that a person cannot acquire any right or title on the basis of length of possession if such land was transferred to him in these 47 belts/blocks in violation of the provisions of these regulations. Further amendments cannot be made. Section 20 provides for penal action against both transferer and the transferee of parts of land in belts or blocks where the transfer of such land was effected in contravention of the provisions of the Chapter X.

The Commission has reported that a number of reform measures have been taken regarding allocation and distribution of surplus land under the ceiling among the farmers of the State including the tribal areas, house sites for landless tribals and land surveying, updating the land records etc.

The Commission observed that a number of tribal families are reported to have been covered under the scheme of the distribution of surplus land under the ceiling, house sites etc. but there are no figures separately for tribals in the State. The statistics in this regard would be important in respect of Plain Areas Tribes. However, for the Hill Areas land continues to be in the ownership or under the control of the community and the village chiefs owning a few individual land-holders. The State Government and the Autonomous Council authorities do not have any specific land tenure measure planned for the assignment of the community land or land under the control of the tribal chiefs to the cultivators or jhumias for a settled cultivation on sustainable basis so that the cultivators/jhumias are able to invest in the land they cultivate to increase productivity and maximize the benefits.

In the TSP area the Revenue Department has taken up the work of land-reforms and they have undertaken the cadastral survey in the areas covered by the tribal habitats under Assam Land and Revenue Regulation, 1886 amended from time to time. Allocation of plan funds to TSP in the year 2003-04 for land reforms is Rs. 60 lac 28% of Rs. 210 lac for the State Plan which is quite substantial contrary to the general assumption that tribal areas do not require land reform because the land there is under the control of the community barring stray individual land ownership cases.

The North Cachar Hills District has adopted the Assam Land and Revenue Regulation, 1886 amended from time to time. Except for the reserved forest, railways and urban areas, all the land in the interior areas of NC Hills are village common land, barring a few individual land holdings as reported by the revenue authorities of the Council. The villagers pay house tax for the village community land use. The individual villagers have been given the right of occupation and they have no other rights on the land. If any family of the said village shifts to another village, it ceases to have any right to occupy the land in the village. This is in accordance with the tradition and customary law as well. There are cases where individual villagers have started occupation of the village land permanently by taking up paddy cultivation and horticulture. In such cases, the Council grants occupation of the land with the consent of the village authority on annual khiraj patta which are generally renewed on year to year basis. The Revenue Officer of this Council area reported that the Council has started the operation for mapping the area of land occupied permanently and also for preparation of records of rights of the occupants. The patta holders enjoy all rights over the land i.e. the right of occupation, inheritance and transfer. These rights are valid for 30 years at the first instance which are renewable for further period provided patta holders do not violate conditions of the pattas. Under the North Cachar Hills Land Revenue Act of 1953 and 1982, the Autonomous council exercises the powers of the State Government in respect of administration of land revenue in the District. One of the Executive members is in charge of the land as Revenue Officer of a State and exercises power of the Commissioner as well.

**The Commission appreciates that the NC Hills Autonomous Council has built-up a good system of record of rights, land management and for regulating the transfers etc. The Commission recommends that this revenue system in respect of community land as well as land under**

individual ownership/patta can be built-up as a model revenue manual and that special grants-in-aid may be provided under Article 275 (1) of the Constitution or under any Special Central Assistance scheme. The Council has also a settlement officer appointed and it has started cadastral survey including settlement operation under the land reforms schemes building and updating revenue record as an essential base for assessment of land revenue, the Commission observed.

### **Bonded Labour**

The Plan documents show that bonded labour is not prevalent in the State of Assam including in tribal areas.

### **Rural Indebtedness**

The Government document show that there exists indebtedness among ST (Plains) and that some unscrupulous money-lending agencies are responsible for the indebtedness among the ST (Plains). Assam Indebtedness Relief Act, 1975 is in operation. In the ITDP areas Gram Panchayat Sambay Samities (GPSS) have been constituted to extend help to the tribal families avail of credit facilities.

**The Commission observed that laws regulating money-lending and indebtedness have not been effective in the State in respect of scheduled tribes of the Plain Areas. GPSS mentioned as above, does not have enough resources to provide financial assistance to the tribal families for higher investment in the agricultural sector and for starting small business etc. The financial institutions/banks and the National Scheduled Tribes Finance and Development Corporation have not yet been able to assist the tribes of the Plains.**

In the Autonomous Council Areas under the Sixth Schedule of the Constitution the land, most part of it, is in the ownership of the village community and some land with the tribal chiefs – though a few small holdings are with the individual owners. It is only because of the community land ownership with the community control over the land that there are neither any cases of land alienation nor there exist any scope for this kind of exploitation in the Hill Districts.

## **Infrastructural facilities – Roads/Tele-communication**

The priorities in respect of infrastructural development – roads and transport for the Tribal Sub-Plan area, are the same as that for the general State Plan areas. However, there has been emphasis on the measures for the improvement of the existing roads, to give better road transport facilities in the State including the tribal habitats. In the Tenth Plan period, approved outlays for the roads and transport for the State is Rs. 275.07 crores, out of which allocation to TSP as provided is Rs. 43 crores. The priority assigned during the Tenth Plan in this sector is for improvement of the existing roads, metaling and blacktopping etc.

**The development of roads and transport network is essential for the economic development particularly of the Hill Districts. The Autonomous Council Areas of Karbi Anglong and North Cachar Hills District have pleaded before the Commission during its visit to these Council Areas that the development of road network should be accelerated. Not much attention has been paid to this important infrastructure in these Council Areas. The Commission was told that even the roads which have been built in all these years including those built by the Border Roads Organisation are not being properly maintained and there were complaints of the poor quality of construction of these roads. The Commission recommends that apart from the funds flow from the State Plan there should be a special funds allocation made by the Planning Commission for construction of new State highways and rural roads as well as for the maintenance of these roads. The commission also recommends that a couple of inter-state highways and at least one National Highway must pass through both these Council Areas under the Sixth Schedule of the Constitution.**

**The Commission was told that the performance of the Tele-communication Department has been dismal to say the least in these two Autonomous Council Areas. We are of the view that the Ministry of Tele-Communications should provide adequate telecom network in these two Autonomous Hill Districts and it should also start the Cellone network of the BSNL.**

## **Handloom and Handicraft and Textile**

Weaving has been the way of life for the tribal women of Assam. The tribal textile designs have a rich heritage. Handloom has a vital role in the development of economy in the tribal areas/tribal habitats as a supplement to the family budget and this industry has a tremendous potential for employment and income generation.

The Tenth Five Year Plan provides for Rs. 52.15 crores for handloom and textile sector out of which Rs. 14.40 lakhs has been earmarked for the Tribal Sub-Plan for the Plain Areas. Flow of funds to TSP appears to be substantial almost 29% of the total provision for the State. The schemes include expansion of training programmes, publicity/advertisement, production of handloom fabrics etc.

**The Commission observed that there is a need to have resource mobilization for the optimum use of existing potentials including human resource – skills and expertise in this traditional sector. The handloom industry should be developed as an organized sector through the tribal weavers cooperatives; modernization of looms by way of programme for improving the skills; diversification of production; design development as per market demand; arranging supply of inputs to the weavers and finally marketing tie-up arrangements.**

**The Commission observed from the views expressed by the State Government functionaries and the tribals during the interaction with them that there has not been much technical and financial support coming from the national level promotional organisations. We recommend for this vital sector of economy, having tremendous potential for employment and income generation for the tribal people as also to protect the tribal heritage, financial and technical assistance to be provided particularly for design development on traditional lines to generate market demands for building commercial base on sustainable basis. There is a need to strengthen the technical assistance and extension services delivery system in this sector for tribal habitats both in the Plain Areas and the Hill Areas as well.**



### **Village and Small Scale Industries**

The Tenth Plan outlay for the State Plan for the Village and Small Scale Industry is Rs. 54.50 crores out of which allocation to the TSP is Rs. 2.4 crores. This allocation is meant to execute training programmes particularly of unemployed youth for setting-up small and tiny sector units. Entrepreneurship training is the main component of this programme. Loan to SSI Units, margin money for loans are other important schemes covered under the Tenth Plan allocation. The State's new Industrial Policy 1997 provides for a new package of incentives to ensure balanced regional development by promoting village artisans, small ancillary centres in the State which covers tribal habitats and tribal areas as well on the basis of techno-economic potential survey. For the tribals incentives provided under this new Policy are – interest subsidy, power subsidy, generating sets subsidy, feasibility report subsidy etc. There are provisions for supply of improved tools under the Policy. There are no reports available about the impact of this new Industrial Policy in the tribal areas.

### **Sericulture**

As per the Report of the State, about 50% of the tribal people in the State have taken up sericulture in the Tribal Sub-Plan area. The cultivators are provided financial assistance for sericulture. For cocoon marketing, cocoon marketing units have been set-up at Kokrajhar, Udalguri, Dhanbanga for which allocation of Rs. 1.40 crores was provided in the financial year 2003-04.

### **Education**

The universalisation of the elementary education is the main target of the State Government in the field of education and for achieving this object, infrastructural development such as school buildings, labs etc. have been given priority. Sarva Shiksha Abhiyan is the main component for the universalisation of the elementary education.

As per the State Report, majority of the ST population of the State still remains below the expected level of educational achievement. The enrolment of ST children as compared to the children of general classes is lower. The drop out rate is stated to be comparatively higher. There are 5811 primary schools and 1433 middle schools in the TSP areas of the State. The schemes taken up for educational development of the

Scheduled Tribes in the elementary and middle stages are for opening-up more primary/middle schools; supply of free text-books; providing furniture grants to the schools; construction/maintenance of school buildings (PMGY) and scholarships/other incentives etc.

The State Government has entrusted to the Karbi Anglong and NC Hills Autonomous Councils the subject of elementary and secondary education and these Councils exercise the executive powers of the State Government in respect of the subject transferred to them.

### **Health**

The plan allocation to the TSP for the Tenth Plan period is Rs. 38.16 crores in the Health Sector. This allocation is for the construction of health institutions and other recurring and non-recurring expenditure. The object of the health sector is to wipe out all sorts of health hazards by providing primary health-care particularly in the remote tribal areas. The tribals in the Tribal Sub-Plan areas are getting health-care both under the Tribal Sub-Plan scheme as well as general areas schemes in the health sector. The State Government reported that during the Ninth Plan period there was a target to build 15 primary health centres and 5 community health centres etc. in the TSP area which were actually achieved.

The State Government has entrusted to the Karbi Anglong and NC Hills Autonomous Councils the subject of health and family welfare and these Councils exercise the executive powers of the State Government in respect of the subject transferred to them.

### **Job Reservations**

The job reservations in the State Government and Public Sector Undertakings are being provided at 10% for the Scheduled Tribes of the Plains and 5% for the Schedule Tribes (Hills). The rationale, it appears, is population ratio of the tribes in the Plains and Tribes in the Hill Areas - Autonomous Council Areas. The same pattern of percentage is also made applicable for filling-up of the reserved seats for admission to the medical colleges and technical institutions.

All Assam Tribal Sangha submitted a memorandum to the Commission during its visit to Assam demanding creation of employment opportunities and faster socio-economic development of the tribal people of Assam. Their specific demand is that the reservation in jobs and services should be provided to the tribals in the State as per the population percentage which is not being provided in practice. They have also demanded that the State Government of Assam should stand necessary guarantee to the Assam Plains Tribal Development Corporation for the loans sanctioned by the National Scheduled Tribe Finance and Development Corporation for the tribal beneficiaries. The Sangha has also raised some points in respect of distribution of scholarships, setting-up of residential schools in the tribal areas etc. The Commission observed that their demands may be examined by the State Government.

### **Anti Exploitation Measures**

Under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the State Government has constituted a Special Court and deployed Special Public Prosecutors in each Districts of the State. The Court of Session in the Plains Districts and the court of Deputy Commissioner in Hill Districts have been designated as Special Court under this Act by the State Government.

### **Autonomous Councils under the Sixth Schedule of the Constitution**

There are two Autonomous Councils namely:-

- 1) Karbi Anglong Autonomous Council for the Administrative District of Karbi Anglong with geographical area of 10,434 Sq. Km.
- 2) North Cachar Hills Autonomous Council for the Administrative District of North Cachar Hills District with geographical area of 4888 Sq. Km.

Both these Administrative Districts were part of United Mikir and North Cachar Hills District formed on 17<sup>th</sup> Nov., 1951 which was bifurcated into two separate Administrative Districts on 11<sup>th</sup> Feb., 1970. The Mikir Hills Autonomous District was re-named as Karbi Anglong Autonomous District on 19<sup>th</sup> Oct., 1976. Even before the bifurcation into two separate Administrative Districts, the District had two Autonomous

District Councils, one for the Mikir Hills (now Karbi Anglong) and another for North Cachar Hills.

Under the Sixth Schedule to the Constitution (Amendment) Act, 1995, these two Autonomous District Councils have been renamed as – North Cachar Hills Autonomous Council and Karbi Anglong Autonomous Council.

**The Karbi Anglong Autonomous Council** has 30 Members of which 26 are elected and 4 are nominated by the Governor of Assam. There are 26 elective Constituencies in the Karbi Anglong Autonomous Council area for election to the Autonomous Council. The Council has five year term unless it is dissolved before the term is completed.

**The Legislature of the Council** is headed by a Chairman and a Deputy Chairman elected by its Members. There is a Secretary-in-charge of the Legislative Wing of the Council. The Autonomous Council meets three times in a financial year. The Council has inherent powers on the subjects like primary education, land and revenue, forest etc. The management of land other than the reserved forest has traditionally been the inherent powers of the Council. The council has adopted the Assam Land and Revenue Regulation, 1886 amended from time to time to exercise control over the management of the land. Although, the aforesaid regulation has been adopted yet not all the provisions of the said regulations have been applied for the management and control of land. In actual practice, the village customary chiefs or headmen is vested with the powers to control the land as has been the tradition.

The Council has powers to assess and collect the land revenue in respect of land in accordance with the principle set in the Assam Land and Revenue Regulation, 1886 amended from time to time. The Council has powers to make laws for allotment or use of land other than reserved forest; management of any forest other than reserved forest; management of canal and water pools for the purpose of agriculture, regulating the practice of jhum cultivation; appointment or succession of village chiefs or headmen, regulating inheritance of property; marriage, social custom etc. The Council also regulates the money-lending and trading by non-tribals.

**The North Cachar Autonomous Council** has 27 Members of which 23 are elected and 4 are nominated by the Governor of Assam. The Legislature of the Council is headed by a Chairman and it has also a Deputy Chairman and both are elected by its Members. The Council has a Secretary appointed. The Council meets three times in a year i.e. once in four months. The Executive powers given to the North Cachar Hills Autonomous Council are the same as that entrusted to the Karbi Anglong Autonomous Council. This Council has also adopted the Assam Land and Revenue Regulation, 1886 amended from time to time. The subjects allotted to this Council are the same as allotted to the Karbi Anglong Autonomous Council.

**Administration of Justice in these Autonomous Council areas** are to be regulated as per the provisions in the paragraph 4 of the Sixth Schedule to the Constitution. The NC Hills Autonomous District Council has framed NC Hills Autonomous District Council Administration of Justice Rules, 1955 and that Subordinate District Council Courts have been constituted. The Karbi Anglong Autonomous Council has not yet constituted Council Courts. There are customary law Courts under the traditional customary judicial system of Karbi headed by customary heads which have been functioning since time immemorial.

These Autonomous Councils have enacted the Laws, Rules and Regulations to protect the interests of the tribals which inter-alia regulate the transfer of land from tribal to non-tribals as well as from tribal to tribal.

In April, 1995 a "Memorandum of Understanding" (MoU) was signed between the Chief Minister of Assam, Autonomous State Demand Committee (ASDC), Karbi Students' Association, North Cachar Hills Students Federation and Dimasa Students Union in New Delhi in the presence of Union Home Minister granting some more powers to these two Autonomous Councils within the frame work of the Sixth Schedule to the Constitution. Under this MoU 30 subjects were transferred to the Autonomous Councils.

In pursuance of the said MoU, the Sixth Schedule of the Constitution was amended by an Act of 1995 under which the Karbi Anglong Autonomous District Council was re-named as Karbi Anglong Autonomous Council and North Cachar Hill Autonomous District Council was re-named as North Cachar Hills Autonomous Council. By

inserting para 3A in the Sixth Schedule, Legislative powers were given to both these Councils in respect of the transferred subjects. Paragraph 20 B A was inserted by which the Governor can exercise his discretionary powers after consulting the Council of Ministers and the North Cachar Hills Autonomous Council or Karbi Anglong Autonomous Council, as the case may be, and take such action as it considers necessary in his discretion. **These provisions allow considerable autonomy to these Councils in the matter of legislation and development for these Council areas, the Commission observed.**

Both the Councils have been given **executive powers of the State** in respect of these 30 subjects transferred to the Councils. Each of these Autonomous Councils has 11 Member Executive Committee including Chief Executive Member who is elected by the Members of the Councils. The Executive Members are appointed by the Governor on the recommendation of the Chief Executive Member. Under the Executive Committee, there are a Principal Secretary, five Deputy Secretaries all deputed by the State Government and there are other additional three Deputy Secretaries and two Secretaries appointed by the Councils themselves. The posting of the officers on deputation to the Councils are made by the State Government in consultation with the Councils. The Councils give administrative approval and financial sanctions for the schemes prepared by the Departments which are executed by the District Officers under the Councils. The funds provided in respect of the transferred subjects for both Plan and Non-Plan Sectors are allocated by the State Government on six monthly basis to the Councils and these Councils in turn release funds to the respected Departments executing the Departmental schemes.

**The Commission observed that there is a need to prepare the record of rights of individual cultivators of the community lands as per the guidelines provided under the Assam Land and Revenue Regulation, 1886 – amended from time to time, which in fact has been adopted by these Councils. The documentation of revenue records of the community land allotted to the individual cultivators is intended to help these cultivators avail of the soft loans from the financial institutions/cooperative /commercial banks for investment in the agricultural development which is essential for increasing the productivity and maximizing the returns from the land under cultivation. The revenue manual of the community**

land under the chiefs and headmen as per the traditions need be prepared for the guidance of all concerned and also for taking financial help as well as the subsidies for agriculture, horticulture development available from the State/Central Government. There should be a legal instrument devised in consultation with the community and the chiefs or headmen for helping the cultivators to pledge the land where the land under cultivation is in the ownership of the community or the tribal chief to help the farmer/cultivator to obtain necessary soft loans, facilities and subsidies etc. The North Cachar Hill Autonomous Council has initiated land reform measures, a good system of record of rights, land survey and settlement operation. We have given some details about this in this report under the sub-head 'land'.

The Commission was told by the Council during its visit that the Plan funds provided as 100% Central Assistance has been static for the last several years which has adversely affected the economic development of the Councils. These Councils have their minimum expenses to run the administration which as the percentage of total funds made available is very high, because the overall funds provided is so small to make the minimum expenditure on administrative infrastructure appear larger giving the impression of a situation where availability of funds for execution of development works is very small.

The Commission observed that there is a need to strengthen the Council's finances. These Councils have weak resource base. There is not much scope for these Councils to expand the tax resource base, the funds flow to Plan as well as Non-Plan is too small and major part of it is spent on administration of their Councils leaving very little for the development activities. Almost 70% of the funds are spent on administration which does not appear to be due to any indulgence in extravaganza because in absolute terms the funds spent on the administration appears to be commensurate with the needs of the minimum administrative infrastructure that the Councils have to set-up. In order to reverse the pattern of expenditure – 70% (Administration) and 30% (Development), the Commission recommends for the increased funds flow to these Councils.

The Commission would like to propose that a weightage should be given on the relative economic backwardness of these Councils in the distribution of Hill Areas Plan funds between the Councils. The Autonomous Council Areas are the Hill Areas where the cost of development will be comparatively higher than that in the Plain Areas. Apart from the size of the area, the type of terrain and soil conditions should also receive weightage.

These Hill Areas have very poor infrastructural facilities like road, transport and telecommunication and that the funds for development should be augmented to accelerate the development of these infrastructural facilities which is a key to the overall development of the area. The very object of having Autonomous Councils for these areas is to give special attention by providing measure for an accelerated economic development. The population alone should not be the criteria for allocation of funds to these Councils. In the case of North Cachar Hills Autonomous Council Area there has been decrease in the Plan allocation from Rs. 49.49 crores in 2000-01 to 48.80 crores in 2002-03, further to Rs. 44.61 crores in 2003-04. The Karbi Anglong Autonomous Council is also facing the similar financial crisis. The Commission, therefore, recommends that there is an urgent need to review the criteria of funds flow to these Autonomous Councils both from State and Central Pool – State Hill Plan, Additive Plan, Special Central Assistance, Non-Lapsable Pool of Resources and funds under Article 275 (1) of the Constitution.

Although, there are no statistics built-up separately for these Council areas, the economic growth rate in these areas have been too low taking the State economy as a whole. The Commission further recommends that a study should be undertaken by the Planning Commission to ascertain the impact of development efforts made in all these years in these Council areas.

These Councils have also demanded that there should be direct funds flow from the Central Government rather than routing it through the State Plan in respect of funds



which flow from the Planning Commission and the Central Ministries. A point was also made that the successive Finance Commissions have not given special award to the Autonomous Councils despite the established factor of weak resource base these Councils have. The Finance Commission award is for the State as a whole and it expects the State Government to ensure that the Council Areas also receive the benefit of the award.

**The Commission is of the view that the 12<sup>th</sup> Finance Commission can have an exercise done to assess the ground realities through realistic studies of the resource base of these Council Areas situated in the Hills of the Assam and make recommendations to overcome the deficit in ways and means possible for these Councils. There is no purpose served by transferring 30 Departments/subjects to these Councils by amending the Sixth Schedule of the Constitution in 1995 without adequate funds flow. These Councils feel that the ban on timber operations have virtually cut the forest revenue of these Councils.**

There are virtually no industrial activities in these Council Areas. Agriculture and the public sector employments are the only source of employment. There is a saturation of job opportunities in the absence of the development of industry, trade and commerce. The unemployment problem among uneducated youth in these Council Areas is a matter of concern. There is not much scope for raising the employment opportunities in the Government and Public Sector.

**Expansion of development activities by enlarging the funds flow to these Council Areas for the development alone can help mitigate problems arising out of the unemployment. Some forest and agro based, cottage and small sector eco-friendly industrial projects should be promoted in these Council Areas. Fortunately, some parts of these Council areas are connected by rail link. The road construction, bridges should receive impetus. Programmes under PMGSY can help a little bit but there should be a network of roads and transport services built in these Council Areas to link them with the other parts of the State and with the neighbouring States as well. There is a need to make special allocation for the infrastructural development not only to provide employment but mainly to help build the economy of the area. The Border Roads**

**Organisation is reported to have constructed some road stretch from Mahur to Laisong a few years back. There was a question mark put on the quality of the construction and presently it is not being maintained, rendering it unfit for traffic. The road from Lumding to Silchar which is now NH-54 Extension is considered to be a lifeline road for the NC Hills Autonomous District. As a part of East-West corridor, we would suggest Ministry of Surface Transport to look into the reasons for the slow pace of construction and the maintenance of the built-up part of the road, as people of the area have demanded that this road should be made operational for vehicular traffic.**

# Chhattisgarh State

## INTRODUCTION

1.1. Chhattisgarh State came into existence on 1.11.2000 with the bifurcation of Madhya Pradesh State. It is known for evergreen forests, rich mineral resources and great potential for energy.

### Basic Data

1. Geographical area of State - 136.03 lakh hac.
2. No. of districts - 16
3. No. of villages - 19,720
4. Janpad panchayats - 146
5. Gram panchayats - 9139
6. Population (2001 census) in lakhs  

		S. T.
Total	208.33	66.16
Male	104.74	32.87
Female	103.59	33.29
7. Density per sq. km. - 154
8. Sex ratio 2001 – 990 General, 1001 ST
9. Literacy rate (2001 census)  

Total	- 65.12
Male	- 77.86
Female	- 52.28
10. Area under irrigation - 20.66%
11. No. of villages electrified - 18,075
12. No. of villages and hamlets having problem for supply of safe drinking water - 54,818
13. Total no. of Scheduled Tribes (STs) - 42 \_\_\_\_\_ (Appendix I)
14. Total no. of seats in the Lok Sabha - 11 ( of whom 4 ST)
15. Total no. of seats in Rajya Sabha - 5 (1 ST)

**Major Tribes-** Gond, Kanwar, Baiga, Halba, Bhatra, Oraon

### Primitive Tribal Groups (PTGs) – (5)

Abujhmaria, Baiga, Birhor, Kamar, and Pahadi Korwa.

1.2. The Commission toured from June 5 to 14, 2003 in 11 out of 16 districts, namely, Jashpurnagar, Surguja, Korba, Bilaspur, Dhamtari, Kanker, Jagdalpur, Dantewada, Rajnandgaon, Durg and Raipur. They held discussions with the State Chief Secretary and his team of officers at Raipur and with District Collectors and other district level officers in the field. The Commission also had interaction with NGOs, tribal leaders, MPs, MLAs and Panchayatiraj functionaries. The Commission held indepth discussions with President Bharatiya Vanvasi Kalyan Ashram and also Tribal leaders representing different tribal communities of Jashpur district, namely, the Munda, the Kawar, the Oraon, the Nagesia and the Pahadi Korbas at Jashpur nagar.

1.3. Member of Parliament representing Jashpur and Chairperson, Municipality, Jashpur

nagar also met the Commission. At Kanker, views of M.L.A. and Chairman, Zilla Panchayat were taken note of. General Secretary, Bharatiya Janta Party apprised the Commission of the problems of Dantewada district. Nearly 30 non-officials representing Chhattisgarh state met the Commission and gave their evidence at Raipur.

**Problems specific to districts**

1.4. The Commission was apprised of special problems in each district visited as given below:

1. Surguja district	<ol style="list-style-type: none"> <li>1. Lack of connectivity, transport and communication system in 2003.</li> <li>2. Three percent higher secondary schools have shown zero percent result.</li> <li>3. Lack of development in settlement of Pando tribe at Jheega Jolka in Surajpur Tahsil.</li> </ol>
2. Korba and Bilaspur districts	<ol style="list-style-type: none"> <li>1. Alienation of tribal land by industrialists by fraudulent methods.</li> </ol>
3. Dhamtari district (Nagri Tribal Area)	<ol style="list-style-type: none"> <li>1. Lack of medical personnel in PHCs of Nagri.</li> <li>2. Lack of development of Kamar (PTG).</li> <li>3. Lack of development in Kukrel village (recently converted from Forest Village to Revenue Village) in Nagri Block.</li> <li>4. Lack of development in Belarbehra in Nagri Block.</li> </ol>
4. Kanker district	<p>Inaccessibility, lack of culverts and roads, inadequate water and power supply are the main constraints of development. Teachers visited the school once a fortnight. Kerosene oil was not available to the villagers at PDS shops.</p>

<p>5. Bastar district 6.</p>	<ol style="list-style-type: none"> <li>1. The Forest Department did not permit the district administration even to instal handpumps in villages located in forest areas for drinking water purposes.</li> <li>2. Tribals were unhappy for not receiving bonus for MFP items like <i>Tendu</i> collected by them during 2002.</li> <li>3. Ban imposed by the State Govt. on sale of Malik Makbuja Timber (trees standing on the agricultural lands of tribals).</li> <li>4. Almost cent per cent tribal families lived below poverty line. Land has not been consolidated and the survey of forest and revenue Land is also not very clear. Although dams were constructed at some places, there was no irrigation for want of canals. MLAs are interested in opening the schools without waiting for infrastructural facilities. Some teachers attended the schools on Independence and Republic days only. In Narayanpur area 100 teachers were not given full salaries due to their prolonged absence.</li> </ol>
<p>6. Dantewada</p>	<ol style="list-style-type: none"> <li>1. Transport and communication are most neglected.</li> <li>2. Two-thirds of the district is affected by naxal elements.</li> <li>3. Govt. staff does not stay in villages.</li> </ol>
<p>7. Durg district</p>	<ol style="list-style-type: none"> <li>1. Dropout rate of tribal students from Class I to X was 90%.</li> <li>2. Building of model school for tribal students at Dondi is in bad shape.</li> </ol>
<p>8. Common problems of tribals in the State</p>	<ol style="list-style-type: none"> <li>1. Lack of awareness among tribals of various schemes of development.</li> <li>2. Need for development of PTGs and Most Backward Clusters of Tribal villages.</li> <li>3. Need for community hall in every tribal village.</li> <li>4. Simplification of procedure for issuance of community certificate to tribals.</li> </ol>
<p>9. Jashpur district</p>	<p>Socio-economic inequalities and loss of tribal culture, tradition, customs and rituals resulting from the change of faith, need more intensive development works along with measures for preservation of their identity.</p>

#### **Felt needs and basic requirements of STs**

1.5 Wherever the Commission interacted with the tribal people, general aspirations, demands and problems were concentrated on (a) issuance of land *patta* to the landless, (b) house for homeless, (c) regular supply of safe drinking water, (d) generation of employment opportunities, (e) sources of minor irrigation, such as check dam, etc., (f) approach road to the

village / hamlet and also to those villages which fall under reserved and protected forest areas, (g) although, they were not hopeful of satisfactory healthcare round the year, yet they urged that medical care may be arranged at least for three months during monsoon, when people die of malaria, water borne diseases and snake bites, (h) victims of cloudburst and lightening required quickest possible care, and dependents of those who die needed monetary relief for rehabilitation, and (i) other priority areas for intervention were checking further alienation of tribal land, electrification of tribal hamlets and quality education in the schools. Some of the tribals demanded that Freedom of Religion Act banning conversion of tribals by fraud and allurement should be effectively implemented.

### **Highlights of Governor's Report for the year 2001-02**

**1.6** In accordance with the provisions contained in the Fifth Schedule of the Constitution of India. Governor. Chhattisgarh State in his Annual Report for the year 2001-02 highlighted the under mentioned policy issues:

- (1) A proposal to notify Tribal sub-Plan area of the State as Scheduled Area has been sent to Govt. of India.
- (2) State Govt. provided special incentives to its employees working in the Scheduled Areas.
- (3) Setting up of a Tribal Research Institute.
- (4) On the advice of Tribes Advisory Council, it has been decided to allow tribals to brew their own liquor upto five litres for self consumption and that no case against a tribal for excise related offence shall be registered by the Police or the Excise Officer until and unless permission of SDO (civil) or the District Magistrate has been obtained.
- (5) Computerisation of land records has been started in tribal districts of Bastar, Durg, Rajnandgaon, Surguja and Raigarh.

### **Tribes Advisory Council (TAC)**

**1.7** Government of Chhattisgarh constituted TAC on 25 November, 2000. TAC consists of 28 persons and is headed by the Chief Minister with Minister for Scheduled Tribes Development as Deputy Chairman. Tribal MLAs, two tribal MPs from Lok Sabha and one tribal MP from Rajya Sabha are also members of the TAC as well as Chairman of the State Scheduled Tribes Commission and Secretary, Tribal Development is the Secretary of the TAC. Action taken by the government on various recommendation made by TAC is given at Appendix II.

**1.8** The State Government has not favoured the nomination of the Chief Secretary or Secretary to the Governor for their inclusion in the TAC for the reason that they may not necessarily belong to Scheduled Tribes. We had suggested in our questionnaire whether the Government would like to nominate the Chief Secretary and the Secretary to the Governor to the TAC for the reason that Chief Secretary has to play an important role for the 'peace and good governance' of the Scheduled Areas and the Secretary to the Governor should act as the eyes and ears of the Governor to keep him informed of the sentiments and views expressed by the members in the TAC meetings. There was no question of these persons being tribal or non-tribal. **The Commission after their visit in the state and discussions with the tribal leaders**

recommend that the Chief Secretary as the head of the administration in the state and the Secretary to the Governor should be special invitees of the TAC. Under Clause 4 (1) of the Fifth Schedule of the Constitution the membership of the TAC should not be more than 20.

### **Criteria for Identification of Scheduled Areas**

**1.9** State Govt. considers that criteria for identification of Scheduled Areas are alright in so far as compactness and reasonable size of the area, under-developed nature of the area and marked disparity in economic standard of the people are concerned. As regards criterion of preponderance of tribal population, this does not hold merit now, as there is continuous migration of non-tribals to the existing Scheduled Areas in search of new economic pursuits and thereby STs number is narrowing down. It has been suggested that a Gram Panchayat should be taken as an administrative unit. In case of Chhattisgarh, only 81,861.88 Sq. Kms. area has been notified as the Scheduled Area as against 88,000 Sq. Km covered under Tribal Sub-Plan Area, thus nearly 6138.12 Sq. Km. area is still left out of the purview of the Scheduled Area. State Govt. has suggested that entire Tribal Sub-Plan area may be notified as a Scheduled Area by the Govt. of India.

**1.10** The Commission recommends that proposal for the notification of Scheduled Area so as to make tribal sub-plan area co-terminus with Scheduled Area may be examined by the Government of India.

## **2. Tribal Unrest in Scheduled Areas**

**2.1** Eight districts of the State namely Jashpur, Surguja, Kawardha, Durg, Rajandgaon, Bastar, Kanker and Dantewada are naxal affected. These districts have boundaries with the districts of the States of Jharkhand, Orissa, Maharashtra and Andhra Pradesh and Naxalites have easy access to the districts of Chhattisgarh. Most of these districts were part of Indian princely states. At the time of Independence, these districts were peaceful and the tribals had congenial relationship with the forest department which subsequently deteriorated. Lack of development in these districts is an important factor in fomenting unrest among the tribals. The then ruler of Bastar State was instrumental in awakening the tribals. Social reformers also were able to mobilize the tribals and gradually they realized that they were being exploited by various government agencies and outsiders.

**2.2** The Government of India established a Dandkaranya Development Authority covering the tribal areas of Orissa and present Chhattisgarh State for the rehabilitation of East Pakistan (Bangladesh) refugees who were given land as well as other means of livelihood for their relief and rehabilitation. On the other hand, tribals did not receive due attention which also contributed as one of the causes of tribal discontent. The linking up of Raipur with Jagdalpur facilitated the entry of non-tribals into Bastar. Between 1992 and 1996, a nexus of officials and timber merchants conspired to strip Bastar of a significant amount of timber. The forest department started mono tree cultivation depriving tribals of their fuel, fodder and grass requirements. This, however, was stopped on account of protest by environmentalists. Exploitation of tribal women at the hands of non-tribals in developing urban centers led to great

resentment among the tribals, although some steps were taken to meet the situation.

**2.3** The naxals from the neighbouring states penetrated these tribal areas and were able to mobilise the tribals against lack of development, inadequate attention by the state authorities specially the forest department. To meet the situation, the administration created three districts out of former Bastar district and a Divisional Commissioner was posted at Jagdalpur. The emerging industrial centers of Bhilai, Durg, Rajnandgaon also created a hiatus between the tribals and non-tribals. The tribal lands were acquired for setting up a steel plant and various ancillary industries. A railway line was laid only for carrying iron ore from Bailadilla to Visakhapatnam. The mining of iron ore resulted in depriving the tribals even from getting potable water for them and their cattle and the iron content in the streams and rivers adversely affected the crop production. Many of the agricultural fields were rendered unfertile by the new industries that came up in the tribal areas.

**2.4** In the garb of encouraging tribal handicrafts the Government encouraged non-tribals to enter these areas and the tribal artisans were reduced to the status of piece wage workers for production of bell metal artifacts and wooden articles. Bulk of the benefit was derived by the non-tribal traders. Hotels and eateries were established by the non-tribals but the tribals did not derive any benefit from these developments.

**2.5** The cumulative effect of the deprivation by which the tribals suffered was harnessed by the naxals in consolidating their stronghold in the tribal areas. The naxals have become powerful in those areas where the Government machinery was demoralised. To further their ideology and keep the tribals under their influence, the naxals didn't allow the construction of culverts or any developmental works. There are very few voluntary agencies working in these areas with exception of some with selfless service to the tribals in the field of education and health care who are not obstructed by the naxals in their day to day activities.

**2.6** The Commission was pained to meet in sub jail at Kankar a few young ST boys who were booked as associates to naxals. Particulars of a few inmates with whom the Commission interacted on 8/6/03 were as under: -

S. No.	Name	Nature of crime	Educational status	Since when in Jail
1	Umesh	Naxal	X Fail	9 months
2	Laloo	Felling of 7 trees in forest	X Pass	1-1/2 months
3	Ram Lal and his wife Laxmi Bai	Naxal	X Pass	6 months

**2.7** The Commission was informed that out of 121 under trial persons, 60 were booked as Naxals (u/s 151 IPC), 12 of whom belonged to Maharashtra State. On 9/6/03 the Commission paid a visit to district jail at Jagdalpur. 48 persons were booked under naxal related activities of whom six were women

**2.8** In view of the aforesaid, the Commission recommends that to counter the activities of the naxals it is necessary to encourage voluntary agencies to play a balancing role by taking up various developmental programmes with the participation of the tribal



people. Voluntary agencies should play an important role in the naxal affected areas. They should post one multipurpose worker from among the tribals at every Gram Panchayat level with the consent and cooperation of the Gram Sabha. The voluntary organization should encourage and teach improved methods of cultivating herbal crops, give health care emergency services and render help to tribals in managing PDS shops. At the same time, the State Government should enter into a dialogue with the naxals frequently at various levels to bring about harmony in the area. Adequate package of rehabilitation measures for them should be preplanned by the district administration in consultation with the banks, tribal finance and development corporation and other line departments, so that energy of tribal youth is properly and usefully channelised after their release from jails.

### **3. Protective Safeguards**

#### **(a) Land Alienation**

**3.1** Transfer of land by tribals to non-tribals is prohibited under Sections 165, 170 and 170, 170 (a) and 170 (b) of the Land Revenue Code. Under the PESA Act, 1996, consultation with Gram Sabha is done prior to acquisition of land in the Scheduled Areas.

**3.2** In Bilaspur district, land owned by tribals passes on to non-tribals fraudulently by different modus operandi. One such method is land given in 'Charity' to the Government, which in course of time is put to auction and non-tribals get it. It was informed that in such cases where tribal is a donor, auction of land may be restricted among the tribals only. Second mode was putting land of tribal to auction by the Banks as per rules. Thirdly, land is taken by the Govt. in public interest due to process of urbanization under section 165 (c) of the Land Revenue Code and thus the land in course of time passes on to the non-tribals. At Bilaspur it was stated that it would be very difficult for the tribals to protect their lands from alienation in future due to heavy allurements by the powerful segments of society. In a study conducted by the M.P. Tribal Research Institute in Bilaspur district during 1997, it was found that non-tribals have been purchasing lands belonging to those non-tribals, who had lands adjoining the tribals, for which there are no restrictions. Subsequently, the non-tribals encroach upon the nearby lands of the tribals who find it very difficult to get possession over such encroached lands.

**3.3** The Commission recommends that cases of wrongful possession of tribals' lands held by the non-tribals should be dealt with sternly and quickly by "Special Revenue cum Police Squads" or any other machinery set up under the SC and ST (POA) Act, 1989. It further recommends that some percentage of share in favour of tribals out of the tribal property thus alienated in the urban areas, such as, hotels, industries, multi-storey buildings, shopping complexes, colonies, etc. may be earmarked.

**3.4** Computerisation of Land Records- Work relating to computerisation of land records, is likely to be completed in fifty-one tahsils of Bastar, Durg, Rajnandgaon, Surguja and Raigarh districts out of 98 tahsils in the State. The Commission recommends that record of land as on computer should be displayed at every Gram Panchayat.

#### **(b) Money Lending Prohibition Act**

**3.5** It is generally on account of natural calamities, uncertainty of rains damage done to agricultural crops and self-consumption needs that the tribals are not able to repay the loan and

consequent burden mounts up. In a study on causes of indebtedness among the tribals of Bastar and Raigarh districts (and also Mandla and Dhar districts of Madhya Pradesh), M.P. Tribal Research Institute had reported in 1997 that out of 254 surveyed families a large number of them had borrowed money for meeting requirements of day to day essential commodities followed by requirements for agricultural pursuits and trade in bamboo and other commercial pursuits. It was suggested by the Research institute that a wide network of daily requirement depots should be set up in tribal areas so that tribals did not go to the money lenders and were saved from their clutches and that the consumer articles must be made available to tribals at convenient locations round the clock. This single step will go a long way in changing the economic dependence of tribals on money lenders.

**3.6 The Commission is of the firm view that moneylenders can only be replaced by effective scheme for grant of consumption loans and public distribution system. We have recommended elsewhere in the report that fair price shops should be set up for every 2 to 3 villages in a radius of 2 kms. in tribal areas and at least one such shop should function late in the evenings in every Gram Panchayat.**

**(c) Bonded Labour**

**3.7** In accordance with the provisions of Bonded Labour (System) Abolition Act, 1976, 931 cases were registered in 2002-03 and an expenditure of Rs. five lakhs was made for rehabilitation of released bonded labourers. The Commission expresses their concern on the prevalence of bonded labour system in the state even after two and a half decades of its abolition. **The Commission recommends that close vigilance may be kept by the district authorities and offenders booked under the provisions of the Act.**

**(d) Child Labour**

**3.8** Child labour is prohibited for those below the age of 14 years under Child Labour (Prohibition and Regulation) Act of 1986. Although, no specific survey has been undertaken for determining the actual number of child labourers, the State Govt. has however, introduced two schemes namely "Padhbo Padhabo School Jabo" and "Noni Babu Johar". Under the National Child Labour Project, 100 schools have been set up in 5 districts of the State namely Rajnandgaon, Durg, Bilaspur, Raigarh and Surguja where vocational training has been given to 5663 child labourers. This figure includes data on tribal children also, as separate data for tribals are not maintained.

**(e) Excise Policy**

**3.9** STs have been allowed to brew country liquor not exceeding five litres per household, for self-consumption and for meeting social and religious requirements. Issue of licences for sale of retail country and foreign liquor is governed in accordance with the rules, which came into force on 1.4.2002. Table showing revenue received and number of excise contractors is given below: -

S. No.	Year	Income (Rs. in crores)		No. of Contractors
		Total	Tribal sub-Plan Area	
1.	2001-02	316.96	58.80 (19%)	30
2.	2002-03	362.48	54.69 (15%)	59

**3.10** Under the PESA Act, 1996, the Gram Sabhas have been empowered to regulate and prohibit sale of liquor in the Scheduled Areas. During 2002-03, total number of cases registered for violation of excise policy was 4745 as against 6187 in 2000-01, which makes it amply clear that sale of illicit liquor has declined over the years. **In almost all the districts visited, members of the Women Self-Help Groups have urged the Commission to put a blanket ban on the sale of liquor by the contractors. The Commission advised them to persuade the Gram Sabha / Gram Panchayat members to adopt a resolution and move the District Magistrate for taking appropriate action to ban sale of liquor in the shops.**

**(f) Implementation of Panchayat Extension to Scheduled Areas Act, 1996**

**3.11** In Dantewada district, the Commission was informed that Gram Panchayats had no say in the administration of Chhattisgarh Panchayatraj (Sanshodhan Adhiniyam) 2002 and no heed is given to the proposals passed by the Gram Panchayats. Chairman of District Panchayat has neither been delegated powers to write confidential roll of Chief Executive Officer nor conferred the status of Minister of State so far. Woman Chief was still without a security guard.

**3.12** The Commission recommends that wide publicity should be given with regard to the provisions of the Chhattisgarh Panchayatraj (Sanshodhan Adhiniyam) 2002 and officials and non-officials imparted re-orientation training at Block levels. Literature on the subject may be circulated widely in the educational institutions / hostels / police stations etc.

**4. Forest**

**4.1** As on 1.11.2000 when Chhattisgarh State was formed, area under forest was 59,772.4 sq. km. (44.2%) out of total geographical area of 1,35,133 sq. kms, as under:

<u>Type of Forest</u>	<u>Area in Sq.kms.(1999 data)</u>
Reserved	25,782.167
Protected	24,036.100
Unclassed	9,954.133
<b>Total</b>	<b>59,772.400</b>

(an increase of 238 Sq.kms. over previous survey)

**4.2** Thus, as against 32% forest cover in the country, the state has 44% area under forest which is a noteworthy feature. Sal tree is widely grown in the state and it has been declared the State Tree of Chhattisgarh. Tribals' domestic requirement of fuel-wood, fodder, MFP and construction timber is the first charge on forest. They have been extended certain privileges of collecting headloads of fuel wood (*Jali, Kati, Mari and Padi lakdi*), grass for cattle and thatching roof, small quantity of limited timber for house repair etc. out of the forest free of cost. In case of additional requirement these and other essential materials were being made available through *nistar/upbhokta* depots, at concessional rates – 50% to 80% of the market rates. State Government in their revised policy of 1996 on extending Nistar facilities (such as collection of fuel wood, bamboo, small timber and grazing for cattle) to villagers have made following provisions:

- (i) the policy of Nistar facilities in Bastar district and to Basor community shall remain unchanged.
- (ii) In other areas, the previous policy will remain unchanged for those villages, which fall within five km. radius of forest boundary.
- (iii) The residents of Municipal Corporation, Municipality and Town Panchayat shall have to purchase forest produce from the local market and the Forest department shall not supply any forest produce to such institutions.
- (iv) The residents of villages outside the radius of 5 km. of forest boundary shall collect forest produce through their Panchayats at market rates.
- (v) The residents of villages within 5 km. radius of forest boundary shall collect forest produce through village Forest Committees, Forest Protection Committees set up in accordance with the Joint Forest Management.

**4.3** Joint forest management is being encouraged for management of forests. Village and Forest protection committees have been constituted for protection of forests on revenue and forests lands. **In the Scheduled Areas, Gram Sabha should be actively associated with the various committees set up under Joint Forest Management.**

#### **Minor Forest Produce (MFP)**

**4.4** MFP generally collected from the forests are tendu leaves, sal seeds, herra, bahera and gum and other items include medicinal plants such as *musli, kalmegh, shikakai, kusum, malkagni, dhawai flower, karanj seed, kosa, chirota* etc. Edible products are *tamarind, mohua, achar, amala* and various tubers such as *ken* and *hathi kand* and *tikhur*.

**4.5** In Chhattisgarh, nationalised MFP (*tendu patta, sal seed, harra etc.*) is collected through minor forest produce societies at field level. The collection, drying, packing and local transportation is being undertaken by these samitis. Marketing of these products is done by Chhattisgarh MFP Federation. During May-June every year, *tendu* leaves are collected by the tribals and given to the Federation. The Commission was informed that MFP Federation collected the *tendu* leaves only for 7 to 10 days in the season and produce remained untapped in the forest for about next 20 to 30 days in 2003. In Jagdalpur district, against the target of 22000 standard bags of *tendu* leaves, 35,000 bags were collected. The forest officials' view was that they collected the commodity as per the target fixed by their head office annually. This is done keeping in view the godowning capacity, market trend and transportation to safer places before onset of monsoon. District Collector, Jashpur informed the Commission that extremists from Ranchi area did not allow the local tribals to collect *sal* seeds and the commodity was lying in abundance in the forests. Target for *harra* was collection of 1000 qtls and against this 1120 qtls were collected.

**4.6** Most of tribal leaders complained that bonus for MFP collected in 2002 was not distributed so far. As regards privileges conferred upon tribals to collect MFP from the forest, District Collector, Kanker informed the Commission that tribals have been given usufruct rights over the produce in the forests and they can freely collect herbs and minor forest produce. State Government was considering a proposal to grow forests in 8000 acres of revenue land where local people will have usufruct rights.

**4.7** Study report on the collection and marketing of MFP in Rajnandgaon and Kanker districts brought out in 2002-03 by the M.P. Tribal Research Institute has mentioned that the

collectors of MFP, mostly tribals, neither got timely payment of MFP collected by them nor the bonus amount due to them. *Tendu patta*, for instance, is not collected in full and much of it remains untapped in the forest areas. **The Commission recommends that instead of fixing annual targets for collection of MFP, entire available material should be purchased from the tribals. Bonus out of sale proceeds should be disbursed to tribals within 365 days of its collection. More godowns should be built to store MFP.**

### **National Parks and Sanctuaries**

**4.8** There are three National Parks located one each in Bastar, Dantewada and Surguja districts. Eleven Sanctuaries in the state are located in Danewada (2), Surguja (2), Raipur (2), and one each in Dhamtari, Kawardha, Raigarh, Jashpur and Bilaspur districts. Information regarding number of tribal families living in the National Parks and Sanctuaries was not readily available with the authorities at the State level. It was also informed that no scheme was launched for relocation of settlers in any of the National Parks and Sanctuaries in the State.

### **Trees on land owned by tribals (Malik Makbuja)**

**4.9** The Madhya Pradesh Protection of Aboriginal Tribes (Interest in Trees) Act, 1956 was repealed and another legislation titled, "The Madhya Pradesh Adim Jan Jation Ka Sanrakshan (VrVrakshon me hit) Adhinyam 1999 was brought into force to protect the interest of aboriginal tribes in the trees standing on their holdings with a view to provide sufficient protection against indiscriminate felling of trees and to save the tribals from exploitation and to bring the law in consonance with the other laws and the changed situation on the field. The Act extends to the whole of Madhya Pradesh (inclusive of Chhatisgarh). Salient features of the legislation are -

- that no trees of the specified 20 species standing on the holding of a Bhumiswami belonging to an Aboriginal Tribe shall be cut, griddled or pruned except with the permission of the Collector.
- The permission to cut the trees in a year shall be restricted only to such number of specified trees as may fetch the Bhumiswami such amount of money, not exceeding fifty thousand rupees in a year as is considered by the Collector to be adequate to meet the purpose specified. The ceiling could be raised to one lakh of rupees under special circumstances.
- the amount received shall be deposited in a Bank of the district in the joint account of the Collector and the Bhumiswami.
- a defaulter on conviction shall be liable to rigorous imprisonment which may extend to three years and fine upto ten thousand rupees.
- all offences under the Act are cognizable.

**4.10** During their visit to the State, the Commission was informed that the tribals were not permitted to sell the trees standing on their lands for the last five years causing hardships and miseries. Reacting to the observation, the State Government apprised the Commission that Hon'ble Supreme Court had imposed a ban on cutting of all trees in Bastar district in February 1997 and later for the entire state in December, 1999. The ban on cutting of Malik Makbuja trees was however lifted in 2002.

**4.11** In a survey conducted in 1998 on trade in Malik Makbuja trees standing on individual land holdings in Bastar district, it was noted that permission to cut timber was accorded by the authorities very late, i.e., within six months to 3% persons, 6 to 12 months to 34% persons, 12 to 18 months to 38% persons and more than 18 months in respect of 25% persons. Salient features of the report are as under:

- (i) A tribal sold on an average 6 trees as against 10 by a non-tribal.
- (ii) Trees are sold generally to get cash money for house construction, purchase of bullocks, agricultural implements, solemnizing marriages and medical treatment.
- (iii) 57% persons got less than Rs. one lakh, 31% Rs. 1 to 3 lakhs, 10% Rs. 3 to 5 lakhs and 2% Rs. 5 lakhs and more.
- (iv) Middlemen and government employees have been reported to be exploiting the tribals and cases of corruption are being investigated by C.B.I.

**4.12** The Commission recommends that

- (a) Section 4(2) of the Act referred to above may be modified and Project Officer, ITDP may also be included alongwith the Tehsildar, Sub-Divisional Officer (Revenue) and the Divisional Forest Officer for enquiry and submission of the report to the Collector for granting permission to fell the trees.
- (b) The ceiling of Rs.1.00 lakh (One lakh) under Section 4(3) of the above Act may be raised to Rs.5.00 lakhs (Five lakhs) enabling a person to sell the trees under special circumstances. This power may be vested with the State Government.
- (c) Among tree owners, those who are widows, sick people to look after and propose to send their children for higher education outside the district, should be given preference to sell their trees.
- (d) The Forest department in co-ordination with Banks and the PO ITDP should ensure that trees are treated as surety and loans made available to tribals against trees for carrying out improvements in raising crops and other economic pursuits, such as, purchase of pump sets, construction of wells and houses etc. The State Govt. may suitably formulate a scheme, as has been done by Gujarat state, whereby trees are offered as co-lateral security for the purpose of bank loan and officers of the Forest, Corporation and Development departments provide guarantee.

**Settlement of pre and post 1980-1993 forest 'encroachers' on land and distribution of "Pattas" to ST allottees.**

**4.13** Pattas have been distributed to all eligible encroachers up to 1976. The issue with regard to post 1980 encroachments is pending before the Hon'ble Supreme Court. **The Commission recommends that all 'so called' encroachments of forest lands by the tribals should be regularized.**

**Plantation Fund**

**4.14** Govt. of Chhattisgarh has modified certain Rules under Sections 240(1) and 241 of their Land Revenue Code, 1959, on 1.4.2002, whereby a landowner has to seek permission of the Divisional Forest Officer for cutting of timber trees and obtain transit pass under the provisions of Chhattisgarh Transit (Forest Produce) Rules, 2001. The landowner is required to plant double the number of trees required to be felled in his own land or has to deposit an amount @

Rs. 150 per tree in the "Plantation Fund". No Bhoomiswamy belonging to BPL is required to deposit such an amount. Trees standing in the revenue lands shall be notified as Protected Forest or Panchayat Forest and managed by the Joint Forest Management Committee of Panchayat Forest Committee.

**4.15** In order to have improved tribal-forest interface the State Government has enunciated People oriented State Forest Policy – 2001 and suggested the following measures in this regard:

- (a) To accord approval to execute development works in forest areas upto 5 hectares of land by the Forest Department.
- (b) To develop People Protected Areas to protect important species of medicinal plants, bio-diversity and conserve ecology and also to conserve the Mahanadi catchment area.
- (c) To augment stocks of fodder, fuel and pasture in the Forest Development Agency Areas through Forest Divisions.
- (d) To make Peoples Protected Area into Poor Peoples Pool of Assets.
- (e) To ensure food security for men and fodder for cattle.
- (f) To make Chhattisgarh a Herbal State.

**4.16** In regard to improve Tribal – Forest interface, the Commission supports the above mentioned suggestions of the State Govt. In addition, the Commission recommends the following:

- (a) Godowning capacity of *tendu* leaves may be raised from 20 lakh standard bags to 40 lakh bags, so that not a single leaf collected by a tribal is returned unpaid.
- (b) Herbal dispensaries may be set up by the Forest department in each Forest Range.
- (c) Women Self Help Groups may be organized for forest related activities.
- (d) Processing units for herbal medicines may be set up in Scheduled Areas.
- (e) A specialized wing of Forest Officers may be formed to look after the PTGs and another wing for plantation and production of Non-Timber Forest Produce, such as, medicinal plants, herbal species, bio-diesel plants (*Jatropha curcas*, *Pongamia pinnata*) and agro-forestry. This will improve availability of fuel wood, fodder and timber for basic needs and also raise employment generation for forest dwellers.

## **5. Health Care**

**5.1** Health related data for India and Chhattisgarh show that people of the state require better medical care, though it has rich treasure of indigenous medicines. A few health indicators are given below:

<u>Index</u>	<u>India</u>	<u>Chhattisgarh</u>
Decennial growth rate	21.34	18.06
Sex ratio	933	990

Human development index	45	39
Birth rate (2002)	26.7	25.8
Death rate (1997)	8.9	10.6
Infant Mortality Rate (per thousand)	68	79

**5.2** For the state population of 208 lakhs there are only two medical colleges. Number of ayurvedic and homeopathic colleges are one and two respectively. Modern equipments are not available in most of the hospitals. Testing laboratories of prescribed standards are absent. In order to cover 136.03 lakh sq. kms. area of the state, 17 civil hospitals, 114 CHCs, 513 PHCs, 3818 sub-centres and 48 mobile health units (in 48 blocks out of 146 blocks) are highly inadequate. The criteria for setting up health centres though relaxed as under in regard to tribal areas required further relaxation on the basis of geographical area:

S. No	Scheme	(Population)	
		General Area	Tribal Area
1.	Community Health Centre	1,20,000	80,000
2.	Primary Health Centre	30,000	20,000
3.	Sub-Health Centre	5,000	3,000

**5.3** The Commission recommends that criteria of population for establishing CHCs, PHCs and SHCs in Scheduled Areas may be relaxed as 40,000, 10,000 and 1500 respectively, keeping in view geographical area, elevation above mean sea level and density of road length.

**5.4** The Commission was further informed that only 25% of sub-centres, 50% of PHCs and 75% CHCs have buildings. Besides this, there is shortage of staff and specialists. Availability of residential accommodation for doctors and staff is also unsatisfactory. Some private hospitals, such as, mission hospitals at Ambikapur, Kunkuri (Raigarh), Dhamtari, Ramakrishna Mission Hospital at Narainpur and Shahid Hospital at Dalhi Rajhara have been rendering good service to the society. Health awareness campaign launched by the Health Volunteers known as "Indira Swasthya Mitanin" has become popular in the state.

**5.5** The Commission was informed that a few common diseases prevalent in the tribal areas are malaria, pneumonia, malnutrition, water-borne diseases and leprosy in some areas. Snake bite cases are also reported during May end to September every year. M.P. Tribal Research Institute conducted a study on extent of leprosy and goiter in Bilaspur district during 1999-2000. Number of leprosy affected persons were reported to be 15,161. With the adoption of multidose treatment prevalence rate of leprosy has been brought down from 66 cases for 1,000 to 13 cases by 1996-97. Efforts are necessary to wipe out the disease completely. As regards prevalence of goiter, 379 cases (62%) out of 613 pertained to tribals of Scheduled Areas and mostly the victims were old persons.

**5.6** In tribal areas, people were unhappy while narrating the health infrastructure. Non-availability of buildings at various sub-centers, vacant posts of lady doctors and specialists and non-functional equipments (X-Ray, etc.) were repeatedly heard by the Commission. Life saving medicines, at times, were not in the stock at many PHCs. As distances between PHCs and CHCs and the district hospitals were long, and means of transport and communication scarce, the tribals were left with no other alternative but to visit private doctors and quacks and pay huge money. On an average 25% to 50% health staff was not available in the health



institutions located in the tribal areas. X-Ray machines were not reported to be operational at 80% locations, either due to machine failure or non-availability of radiographer/technician. For delivery purposes, 90% to 95% pregnant women relied on family care and the village dais. The Commission during its tours studied the health infrastructure available in the tribal areas. In Bastar district 23 PHCs and 102 Sub-centres did not have adequate buildings, 10 posts of class I Doctors out of 18 posts were vacant and 30 posts of Health Workers (female) were vacant. In Jashpur district, five posts of Medical Specialists out of six, 10 posts of Assistant Surgeon, 19 posts of Compounders, 49 posts of male Health Workers, 16 posts of female Health Workers were lying vacant. There was shortage of staff in other posts as well. Out of 10 places, at only 2 places, X-ray machines were functional.

5.7 State Government in their Health Policy document has indicated that they would accord priority for the following:

- (a) to set up a Mobile unit in each Development Block.
- (b) to provide incentives to doctors posted in tribal areas.
- (c) free eye testing and supply of spectacles.
- (d) to control malaria on war footing.
- (e) to control deficiency of iodine, vitamin 'A', sickle cell anemia, thalassaemia.

5.8 The Commission hopes that the goals of health policy document would be fulfilled and recommends that each tribal habitation, big or small should have a Health Promoter from among the local educated tribal girls and location of health institutions should be decided on the basis of geographical area, road density per 100 sq. km. and population and also the prevalence of area specific diseases. District Administration may be given authority to recruit medical personnel for specified period from the adjoining states. A separate Health sub-cadre for the Scheduled Areas of the state should be created.

## 6. Drinking Water

6.1 There are about 54,818 villages inclusive of hamlets which have been notified as problem villages so far as drinking water is concerned. District wise position of number of such villages in 11 districts visited by the Commission is as given below:

District	No. of problem villages inclusive of hamlets
1. Surguja	7925
2. Bastar	7527
3. Dantewada	5206
4. Raipur	4314
5. Kanker	3816
6. Jashpur	2969
7. Dhamtari	2884
8. Bilaspur	2839
9. Rajnandgaon	2320
10. Korba	2297
11. Durg	1954

6.2 It may thus be seen that problem of supply of safe drinking water is acute in Surguja, Bastar and Dantewada districts including the forest villages. In Surguja, the Commission was

informed that 14,800 handpumps had been installed and 400 of them were out of order. There are places in the district where machines could not be transported on account of no approachability. About 80% of water source in the district is not safe from health point of view. Tatapani area of Balrampur Block has acute problem of drinking water and piped water needed to be made available. Different problem villages needed different types of water supply arrangements. In Kanker district, there were 22 problem villages which had iron content in water. In Bastar District, iron content was reported in 175 villages.

6.3 A member of Janpad at Bachel in Dantewada district in his memorandum stated that there was acute iron content in the drinking water at village Badebacheli, Patwari Circle No. 18, Revenue Inspector Circle Dantewada with the result that the villagers neither got safe drinking water nor could harvest normal crops. There has been poor production of crops since 1980 and the tribals have not been compensated by the National Mineral Development Corporation (NMDC) or by the State Government. They fear that in course of time they would not be able to harvest crops even for their livelihood.

6.4 The Commission recommends that availability of safe drinking water in Scheduled Areas should be accorded top priority. NMDC should also shoulder the responsibility of treating the water and ensuring supply of safe drinking water in areas falling under their command. The State Government should examine the reported fall in the production of agricultural crops and if this is established give the farmers alternate lands with assured irrigation facilities.

## 7. Education

7.1 Education has been accorded top priority. There are two Departments responsible for imparting education i. e. Deptt. of Education and Deptt. of Tribal Development. Deptt. of Education looks after the work relating to education in whole State except for the Scheduled Areas which comes under Deptt. of Tribal Development. The Tribal Development Department is running 297 higher secondary schools, 322 high schools, 2241 middle schools and 9263 primary schools. The Department has provided 328 residential primary schools for boys and 129 for girls. They are also managing 95 residential schools for girls and 68 for boys. In addition 978 pre-matric hostels and 109 post matric hostels for boys and girls are also functioning.

7.2 Deptt. of Tribal Development has made efforts to improve the literacy percentage as a result of which there is a gradual increase in literacy percentage among the tribals as may be seen from the table given below:-

**Literacy rate among Scheduled Tribes**

Year	Male	Female	Total
1961	9.18	1.20	5.17
1971	17.14	3.14	10.09
1981	23.46	5.41	14.36
1991	39.69	13.86	26.70

7.3 Enrolment of S. T. students during last three years has been satisfactory for classes I to

V but there is heavy dropout thereafter. Number of S. T. students from primary level to middle level declines by 72% and from primary level to senior secondary level by 86.64%.

**7.4 Universal Primary Education (UPE)** - State Govt. has taken a policy decision to set up at least one primary school in every village and a middle school at every 3 Km.

**7.5 Examination Results** - Examination results of academic session 2002-03 of tribal students in classes V, VIII, X and XII were 77.33%, 75.18%, 34.52% and 64.19% respectively. It was disheartening to observe that performance of tribal students falls at class VIII and class X level of Board Examination. Govt. of Chhattisgarh had issued instructions to 80 higher secondary schools to follow CBSE pattern of education. With this sudden switchover, the teachers as well as students, more so tribal students, found it difficult to cope with the subjects and the syllabi. As a result, pass percentage in secondary certificate examination in most of the schools was reported to be less than 20%. The parents, the teachers and the students were unhappy on this account.

**7.6 Quality Education**- State Govt. has taken several steps to provide quality education to the tribal students, some of which are as under:

(a) **CBSE pattern of education**- CBSE pattern of education was introduced in classes IX to XII in 80 schools w.e.f. 2001-02 session and it was extended to classes VI to VIII w.e.f. 2003-04. Total number of S.T. students admitted were 24,014.

(b) **Jawahar Talented Student Scheme** - The scheme introduced in 2002-03 provides for admitting talented ST students in good schools at district and state levels in classes VI, IX and XI on the basis of marks obtained in preceding board examinations. Selected students are well looked after and entire expenditure on their lodging, boarding, uniform, text-books and stationery etc. is met by the govt. Total number of seats sanctioned for such students at district level was 256 and at state level 36.

(c) **Merit Upgradation Scheme** - Coaching is provided to ST students for upgradation of their merit enabling them to appear in competitive examinations for Pre-Medical and other professional courses. The scheme has been introduced in 5 model higher secondary schools at Durg, Jashpur nagar, Rajnandgaon, Bilaspur and Bastar for S.T. students.

(d) **Indira Information Technology Scheme**- 18,636 tribal students of Classes IX to XII were admitted for computer education during 2003-04.

(e) **Appointment of teachers on contract basis**- State Government has taken a policy decision to appoint teachers on contract service. Local teachers with knowledge of local dialects are preferred.

(f) **Coaching**- ST students are provided coaching facilities for seeking admissions to the professional institutions and getting recruitment to various services including civil services. The coaching facilities are arranged through Chhattisgarh State study circle for 100 candidates every year.

### 7.7 Other measures –

- i) English has been introduced in the State from class I onwards.
- ii) 100 seated residential schools numbering 156 would be started soon for tribals.
- iii) As against the existing capacity of 53,000 seats in hostels for tribals, the capacity would soon be raised by another 22,000 seats.

**7.8 Future Plan of Action-** The state has adopted following diverse strategies based on time bound plan for providing necessary educational infrastructure in tribal areas of the state during the years 2003-2010:

1. All children to go to the school by 2003.
2. All children to complete five years of primary schooling by 2007.
3. All children to complete eight years of elementary schooling by 2010.
4. Focus on elementary education of satisfactory quality with emphasis on education for life.
5. Bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010.
6. Universal retention by 2010.
7. Bastar and Surguja Package:

<u>New Institutions to be set up in 2003-04</u>	<u>Bastar</u>	<u>Surguja</u>
(a) Ashram Schools	156	50
(b) Girls Hostels		
Pre Matric	6	26
Post Matric	3	21
P. G. Hostel at Raipur	2	
(c) Girls Complex	-	1
(d) Girls Sports Complex	-	1

### Observations

**7.9** Inadequate *pucca* buildings for schools, insufficient equipment, teacher absenteeism, single teacher schools, vacant posts of teachers, non-availability of teachers in science and mathematics, irregular arrival and departure of teachers were main reasons for poor quality of education in tribal areas. Over and above, cent percent children were declared successful in their school examinations upto primary level with the result they are unable to cope with the load of syllabi of higher classes. Thus, they either fail in the examination or prefer to drop out of the school education. Teachers in drunken condition cannot be role models for tribal students and parents. In many places teachers, commuted 70-80 kms one way to reach their place of posting and had no energy left to teach the pupils. "A few parents remarked that a class V student did not know the table of Nine and the quality of education is poor. What purpose will this education serve in future, he commented." The Commission was informed during their field visits that crucial stage for arresting dropout is class V and that rate of dropout among ST children after Class VIII is 70% to 80% and that after Class X it works out to 80% to 90%. [Modification of school syllabus by incorporating teaching in agricultural and forest practices are considered appropriate for popularizing education].

**7.10** The Commission makes following recommendations to improve quality of education in tribal areas:

## **Primary Education**

1. **Anganwadis set up under ICDS programme should be developed into Pre-primary schools and each hamlet should have at least one such Anganwadi. Self-Help Groups and NGOs should be actively associated.**
2. **Every primary school should have at least two teachers, one of whom should be a lady teacher. Teachers quarters must be provided in all existing villages having schools and sanction of school building and teachers quarters should be issued simultaneously for the new institutions.**
3. **Wholesome mid day meals should be given till class V.**
4. **Residential schools may be set up in those cluster of villages where ST female literacy rate is less than 10%.**
5. **As the literacy rate of ST females as per 1991 census is less than 2% in Geedam, Bastanar and Kuakonda Blocks of Dantewada district, a special package of "Literacy Drive" may be launched during X Five Year Plan itself by associating Govt. as well as NGOs. This will require efforts on war footing for all the age groups of females in these Blocks. In this connection the Commission recommends that the State Govt. should take benefit of Ministry of Tribal Affairs scheme of advancement of education in the pockets having low ST female literacy rate.**

## **Secondary Education**

6. **Every Middle/High School/H. S. School should have attached hostels for boys and girls and quarters for the teachers.**
  7. **A Model Residential H. S. School may be set up in each Block headquarter.**
  8. **Children who are not able to continue their studies further should be identified and Back to School programme launched.**
  9. **A Vocational School/I. T. I. may be set up in each Tribal Block.**
  10. **Teachers, who are not sincere, may be weeded out annually and new recruitment may be made only on contract basis.**
  11. **Toilet facilities for girls should invariably be provided in Secondary Schools.**
- General**
12. **A Transit Hostel for short stay for STs at all district headquarters and important towns, such as, Bhilai and Bailadilla may be constructed facilitating them to take vocational training coaching etc.**
  13. **Tribal educated youth may be guided to appear in civil services, defence services, banks and other public and private sector institutions at all the district headquarters.**
  14. **Portable generators may be provided to those departmental hostels and Ashram schools where electricity has not been supplied.**
  15. **A 20-seated post matric hostel each for girls and boys may be set up at New Delhi.**
  16. **LPG (gas) may be provided to departmental hostels/Ashram schools.**

## 8. ECONOMIC DEVELOPMENT PROGRAMMES

### Agriculture

**8.1** Area under net cultivation in the state is 48.63 lakh hectares and area under double crop is 9.15 lakh hectares. Eighty per cent of the total population of the State is dependent on agriculture. Main crops grown are paddy, wheat, maize, jowar, bajra, kodo, pulses and oil seeds. Area under food crops, pulses and oil seeds is 43.37%, 21.16% and 7.51% respectively and the remaining area is used for miscellaneous crops, vegetables and horticulture. Mango and jackfruit are popularly grown by tribal groups. Area under irrigation is only 11.46 lakh hectares. Tribal districts of Bastar, Kanker, Dantewada, Korba, Surguja and Jashpurnagar are by and large rainfed and hardly one-tenth of the cultivatable land is under irrigation. In Kanker district, improved seeds of *arhar* and *urad* were distributed among 8000 farmers. Traditional crop of paddy is grown in 2.5 lakh hectares and pulses and oil seeds in 8000 hectares. The other crops, such as, maize, groundnut and *surajmukhi* also have sufficient potential. In Dondi tribal area of Durg District, the Commission met Shri Daya Ram Mandavi, a Gond tribal at his village—Dhuria on 11.6.03, who was a recipient of State Level Dr. Baghel Award of Rs. 2 lakh for being a progressive farmer. His message to tribals is – “keep cattle healthy and crops green”.

### 9. Minor Irrigation

**9.1** The Commission visited Dabena tank in Kanker district on 8.6.2003. Its construction began in 1987 with an estimate to irrigate 82 hectares of land belonging to 54 tribals. As against cost of project of Rs. 152.92 lakhs the irrigation department provided only Rs. 50 lakhs during the past 15 years and therefore, the work is not yet completed. It was informed that clearance of Forest Deptt. was awaited on account of compensatory afforestation for which Rs. 5.96 lakhs have to be paid to the Forest Deptt.

**9.2** Minor irrigation schemes executed in Dondi Block of Durg district included dug wells, tube wells and small stop dams which have proved beneficial to the tribals according to a study conducted in 2000-2001 by M.P. Tribal Research Institute. Lift irrigation through wells was successful in 80% cases as against 89% tube wells. The beneficiaries had to use diesel at higher price as electricity was not available to some of them.

**9.3** The Commission recommends that minor irrigation schemes should cover construction of water harvesting structures, check dams to create water bodies for implementation of lift-irrigation schemes to enable the Scheduled Tribes to cultivate rabi crops.

### 10. Sericulture

**10.1** Tussar and mulberry are the two varieties popularly cultured on *Saja*, *Sal* and *Arjun* trees. Nearly 37,000 persons got employment annually and a person earned Rs. 2500 to Rs. 3,000. State Govt. has established 108 Tussar centres and organised 800 women self-help groups in the State. Sericulture project at Bilaspur costing Rs. 117.16 crores has been commissioned in 2001-02 with the assistance of Japanese Bank for International Cooperation. The project aims to grow tussar in 4,000 hectares and to provide employment to 9,900 persons through self-help groups. Another project with the assistance of UNDP has also been launched in Bilaspur district. In an evaluation study of impact of sericulture schemes in Bilaspur district conducted by M. P. Tribal Research Institute in 1999-2000, it was found that 52% of beneficiaries belonged to STs (679 out of 1316). The area covered by 30 sericulture centres was spread over 3682 acres of land of which 81% (2962) acres was under plantation. The tribals earned their livelihood out of various works such as silk worm rearing, and thread

reeling etc.

**10.2** Mulberry development, a non-traditional sericulture activity has been expanded to cover 1,177 acres so as to grow 2,354 quintals by 2004-05 and to assist 1,626 persons to enable an individual to earn about Rs. 19,000 per annum. Sericulture is popular in Kanker district. Nearly 203 families are engaged in silk rearing and processing at 15 different centres. The workers are engaged for about 13,742 mandays in the production of about 4.50 lakh cocoons. As marketing is no problem, the industry has good potential and prospects. Additional coverage of 100 acres was being planned for 2003-04 at an estimated cost of Rs. 15.83 lakhs.

**10.3** The Commission recommends that sericulture schemes should be stepped up in tribal areas by providing technical know how to improve the economic conditions of STs.

## **11. Cooperation cum Marketing**

**11.1** Three tier co-operative structure in the State is as under:

- |                     |   |   |
|---------------------|---|---|
| (a) State level     | : | Apex Bank   |
| (b) Distt. level    | : | Distt. Cooperative Central Bank   |
| (c) Grassroot Level | : | Primary Large sized multipurpose<br>Cooperative Societies (LAMPS), Agricultural Societies<br>(PACs) and Farmers Service Societies (1333). |

**11.2** It is mandatory for the LAMPs in Scheduled Areas to have their presidents from among the ST persons. For the benefit of STs, the District Co-op. Central Bank provides cash credit to LAMPs/PACs to purchase seeds and manure. Paddy at minimum support price is purchased by them as sub-agent of the State Cooperative Marketing Federation. Moreover, MFP Co-operative Societies are also working for purchase and marketing of MFP.

**11.3** At Co-operative Bank level, the plan of credit and credit linked marketing is drawn annually. District Co-operative Central Banks are working as credit institutions at secondary level in tribal areas and provide consumption credit alongwith agriculture credit. It has been reported by the State Govt. that LAMPs/PACs sometimes faced hardships in obtaining credit from District Co-operative Central Banks as they have been incurring losses in activities related to PDS. Two lakh Kisan Credit Cards and loan of Rs. 279.75 crores for kharif and rabi during 2001-02 bear testimony for this. The scheme of grain-golas is useful for STs. Medium term and long term loans to individual members are given through District Co-operative Agriculture and Rural Development Banks. Although differential rate of interest scheme has been operative but it is not popular among the tribals. For the present, LAMPs have been purchasing paddy on support price and nothing else. They were engaged in the sale of wheat, rice, sugar and kerosene oil only and that too was not very effective. Trade in MFP done earlier by the LAMPs has been taken over by the MFP Federation. As regards recovery of loans, the position is far from satisfactory. State Govt. has informed that LAMPs have not been viable as their area of operation is very large.

**11.4** The Commission recommends that jurisdiction of LAMPs may be reduced and managerial subsidy provided to revive the LAMPs.

## **12. Chhattisgarh State Antyavsai Cooperative Finance and Development Corporation (CFDC)**

**12.1** CFDC provides assistance to tribals by implementing schemes of NABARD for which loan upto Rs. 10,000 is given to those whose annual income is not more than Rs. 19,750 in rural areas and Rs. 27,750 in urban areas. Under the schemes sponsored by the National Scheduled Tribes Finance and Development Corporation, assistance is made available for purchase of tractor-trolley, jeep-taxi, auto rickshaw and mini trucks to those with an annual income not exceeding Rs. 39,500 in rural areas and Rs. 54,500 in urban areas. Loan up to Rs. 10 lakhs is advanced to eligible persons who contribute 5% of the project cost. Under the Tribal Women Empowerment Scheme term loan upto Rs. 50,000 on concessional rate of interest is made available to BPL persons. During 2002-03, an amount of Rs. 1140.49 lakhs (Rs. 950.68 lakhs loan and Rs. 189.81 lakhs subsidy) was made available to 2900 ST beneficiaries under the above schemes.

**12.2** According to study report on the evaluation of working of Finance and Development Corporation in Raigarh district during 2002-03, it was noted that tribal beneficiaries supplied with a pair of bullocks and milch cows had benefited from the assistance and not those who entered into trade of grocery shops. Transport sector has however improved the economic status of tribal beneficiaries.

**12.3** No material has been furnished to us to indicate in what manner the scheme has been performing, nor the extent of recovery of loans. It needs to be evaluated. Further we observed that the cooperative structure has not made much headway in the State. Nevertheless, we would like the cooperative structure to be put on firm foundations, as this is possible considering the communication ethos of the tribal societies.

### **13. Roads**

**13.1** The road connectivity in the tribal areas is far from satisfactory which is evident from the following:

State road density – 25.89 km. per 100 sq. km

TSP road density – 12.00 km. per 100 sq. km. The initiatives taken by the State Govt. are to construct 2606 Kms. road length as per under-mentioned plan:

- (1) East West Corridor - 4 roads      (2) North South Corridor-2 roads

**13.2** State Govt. has also prepared a Master Plan for construction of roads in Bastar district for Rs. 241 crores (870.39 kms.). Considering the constraints in the construction of roads in the naxal-affected areas, the State Govt. has handed over 240 kms. of roads to the Border Roads Organisation. Construction of 17 roads for Rs. 14.87 crores has already been started in the tribal areas of 8 districts of the State with the grant under Article 275(I) of the Constitution. The number of villages covered with *pucca* roads as on 31.03.2002 was 7,825 out of 19,720 villages in the State. The progress of road construction has been slow during last two years due to unrest in some of the tribal pockets of Bastar and Surguja districts. In Kanker district, road network is very poor. It is due to poor transport system that Naxal elements take shelter in the villages and many a time they do not allow the contractors to build roads. The local labourers are advised by the Naxals not to accept road construction work. In Jagdalpur, no contractor was willing to submit tenders for construction of road from Chhote Dongar to Orchha due to the pressure of Naxals. The Commission was informed that in some tribal villages of Bastar district, the villagers had decided to ban the entry of Naxalities, so that pace of developmental



work does not suffer.

#### 14. Integrated Rural Development Programme

14.1 Whereas participation of tribals under the Swarojgar Yojana was about 44% in the State, their participation in labour oriented employment schemes was only 35%, as shown hereunder:

(i) Swarna Jayanti Swarojgar Yojana

	Total	No. of Beneficiaries	
		S.T.	%
2001-02	26907	12,161	45.2
2002-03	25950	11,533	44.4

(ii) Sampurna Rojgar Yojana

	No. of Beneficiaries (Man days in lakhs)		
	Total	S.T.	%
2001-02	375.09	124.89	33.3
2002-03	377.68	141.46	37.4

14.2 Implementation of Integrated Rural Development Programme in Bastar district has not been able to enable a single beneficiary to cross the poverty line during VIII plan period, according to a study report brought out by M.P. Tribal Research Institute. It has been reported that (a) half of the assistance was used for meeting domestic requirements (b) the beneficiaries had no experience of running trade activities (c) Govt. and banks employees did not evince interest in educating the tribals and motivating them, (d) 56% beneficiaries did not repay loan and only 22% repaid part of the loans. There is an impression that loans advanced would be written off. The scheme was implemented half-heartedly.

(iii) Prime Minister Gram Sadak Yojana (PMGSY)

14.3 Under PMGSY, 34.75 km. road was laid in two Blocks of Surguja district, namely, Premnagar and Odgi during 2000-01. During 2001-02, 14 roads were approved of which nine roads were to be completed by May 2003 and five roads by August 2003 end. Delay was reported to be on account of Naxal activities in the district. During 2002-03, 32 roads with a road length of 293.65 km. at a cost of Rs. 54.68 crores have been approved. Five roads of the above are likely to be funded out of Asian Development Bank.

14.4 The Commission recommends that road network may be increased in Scheduled Areas at a faster pace by entrusting the additional responsibility to both the Border Roads Organisation as well as the CPWD, in addition to State PWD. All hill top villages and those having more than 250 population in Scheduled Areas may be connected by road network on priority.

#### Development works out of M.P. / M.L.A. Fund

14.5 The Commission was informed that projects out of M.P. / M.L.A. Funds were mainly

taken up for construction activities, such as, stage making for cultural events, community hall and road filling in towns. The tribal leaders demanded that teachers' quarters and school buildings may be constructed out of M.P. / M.L.A. Fund and infrastructure developed in the interior villages. Women Self-Help Groups may be promoted and made viable so that Banks also helped them with adequate finances. **The Commission recommends that Tribes Advisory Council should consider this issue so that tribal villages in the Scheduled Areas receive due attention for development works out of MP/MLA funds.**

#### **15. Communication Strategy and Communications**

The State Government has laid emphasis on use of computers in their Mass education programme and formulated a scheme known as "Indira Suchna Shakti".

#### **16. Electricity**

Tribals living in revenue as well as forest villages placed before the Commission their demand of connecting every hamlet with electricity for domestic purposes. The power supply is not available in many villages and even if electricity is provided to a village, only main hamlets were covered and not all the hamlets / *majras* / *tolas*. In Kanker district only 944 villages out of 1003 were connected under one point formula. Electricity to another 59 villages could be arranged only after clearance of forest department was received. Out of 2420 hamlets 1572 have been electrified and 848 hamlets shall be covered after the receipt of sanction for Rs.20 crores. In Jagdalpur district, 95% villages have been electrified with one point connection, but 700 hamlets out of 1500 are still under darkness. The State Government took a decision in 2001 to provide electricity upto 10 units free of cost to those STs who are notified as B.P.L. families. During 2002-03 the limit of 10 units was raised to 15 units. Out of 19,720 inhabited villages in the state, 18,251 (92.55%) villages have been electrified. Most of the non-electrified villages are forest villages, for which a proposal to cover them with solar energy has been sent to Government of India. During 2000-2003 state government has also laid down electric lines to cover 1872 habitations / hamlets. State government envisages to electrify all the villages by 2007. As regards covering all the hamlets, only 315 tribal habitations were covered during 2001-02 as per Report of the Governor, however, electric connections were extended to 1872 *majras/tolas* during 2000-2003 (break-up of tribal areas has not been separately furnished). In view of slow pace of coverage of tribal areas, **the Commission recommends that higher allocations over and above outlays under TSP may be earmarked for electrification of tribal habitations.**

#### **17. Minimum Wages**

Minimum wages for agricultural operations fixed by the State Govt. are uniform for both men and women at Rs. 52.66 per day but much less payment was made by the Govt. agency as well as contractors and well to do farmers who employed tribals as agricultural labourers in the villages. A man generally got Rs. 40 and a woman Rs. 35 only. **The Commission recommends that Labour Inspector's powers to enforce the Minimum Wages Act should be delegated to the Project Officers of I.T.D.Ps. in the Scheduled Areas of the state so that prescribed wages were paid and action initiated against institutions/industry paying less wages to the tribals.**

## 18. Public Distribution System (PDS)

18.1 PDS has been introduced since 01.06.1997. As during January 2003, the position of issuance of ration cards was as under:

	<u>No. of ration cards (in lakhs)</u>
APL	24.57
BPL	18.60
Antodaya	2.83
Annapurna	0.26

18.2 The tribal students staying in hostels have also been issued ration cards and food grains are made available to them at B.P.L. rates. A fair price shop has been set up in urban areas for a population of 5,000 persons and for the rural areas, one shop is set up in each Gram Panchayat. Thus, there are about 4,500 fair price shops in tribal areas, out of a total of 7,839 shops. Where as the cooperative societies have 4,479 shops under their control, the private persons have been allocated 3,360 shops. As cooperative societies did not find the operation of fair price shops economical in the districts of Raigarh, Jashpur, Surguja, Korea, Bastar, Kanker and Dantewada individual traders were entrusted with the responsibility. In order to have proper check on the functioning of fair price shops, village Panchayats have been empowered to exercise vigilance over such shops. For the present, fair price shops supplied wheat, rice, sugar and kerosene oil but they can also be asked to supply edible oil, salt and soaps, etc. During 2002-03, out of 1101 unapproachable distribution centers in the state, the number was quite large in Surguja (163), Bilaspur (137) and Kawardha (102) districts.

18.3 Observations made by the Commission during their visits are as under:

**Kanker district-** Number of BPL families was 35,000 out of 46,000 and yet people were not able to lift rice from PDS shops. This is attributed to irregular supply of ration by private traders. It was reported that even the LAMPS have not been able to do the job properly. The District Administration has now approached the Gram Panchayats and the Gram Sabhas to shoulder the responsibility for supplying foodgrains through their Self-Help Groups. In Naxal affected areas of Bhanupratappur, no one was interested in running PDS.

**Bastar district-** There were 598 PDS shops to cater to a population of 7.38 lakhs. Number of BPL families were 1.27 lakhs as almost 100% tribal families lived below the poverty line. Although the ration was available, the supply of Kerosene oil was negligible and it was alleged that it is pilfered to non-tribal areas.

**Surguja district-** Kerosene oil was a scarce commodity and much sought after. The private traders charged even Rs. 15 per liter for this item. Number of BPL families (49391) were more than APL families (46225). Number of Antodaya families cardholders was also quite large, i.e. 6053 families. Ration supply is irregular as 214 shops are located in inaccessible areas. As regards shortage of Kerosene oil, State Government has informed that they received short supply of quota from the Government of India (Petroleum and Natural Gas Authority). Whereas Chhattisgarh State received supply of kerosene oil at the rate of 0.75 litre a person per

month, it was higher for Madhya Pradesh (0.86 litre), Maharashtra (1.44 litre), Gujarat (1.61 litre) and Goa (1.63 litre). Among the three newly created States of Jharkhand, Uttaranchal and Chhattisgarh the distribution average was 0.85, 1.18 and 0.75 litres respectively.

**18.4** In a study carried out in Durg and Dhamtari districts, M.P. Tribal Research Institute brought out in that report in 2002-03, that one PDS shop caters to 2 to 12 villages, whereas for tribal areas it should have been not more than 3 villages. As more than 50% shops are run in rental houses, the foodgrains are not well protected, which leads to wastage. Many a time the ration cardholders return empty handed for want of adequate stock or for the reason that the shop operates for not more than 2 to 3 days in a week or due to non adherence of scheduled timings of business hours. Supply of Kerosene oil has been reported to be highly inadequate and irregular. Distribution of edible oil and salt should be made a regular feature of the PDS system.

**18.5** The Commission recommends that availability of Kerosene oil tankers must be increased and PDS shops must be set up for every 2 to 3 villages in a radius of two Kms. and at least one shop should remain open round the clock in every gram panchayat. The working of PDS institutions should be closely monitored by the district administration and they should ensure that Kerosene oil is always available with PDS shops. The Panchayats and Gram Sabhas may be activated in Scheduled Areas for this purpose. The Commission also recommends that all the families of PTGs may be treated as poorest of the poor and covered under the Antyodaya Yojana. Wherever Self Help Groups are associated with the supply of foodgrains, security deposit of Rs. 2500 in their case may be waived and banks should give them loans at differential rate of interest to run PDS shops.

## **19. Displacement**

The State Government has followed the Model Rehabilitation Policy, 2002 formulated by Govt. of Madhya Pradesh for the rehabilitation of those who are displaced due to the construction of various projects such as mining, industry, irrigation and water resources. The state government has informed that project affected persons are given adequate compensation and relief as laid down in the policy. All efforts are made to ensure that the displaced persons purchased land out of the cash compensation paid to them. As far as possible, the displaced community is rehabilitated as one entity at the place of settlement and in case a person demands separate settlement, his request is also considered.

## **20. Administrative set-up of Nodal Department**

**20.1** The Scheduled Tribes and Scheduled Castes Development Department is headed by a Cabinet Minister and assisted by a Minister of State. At officers' level, there is a Principal Secretary in the Department with a separate Director, Tribal Development to execute programmes. At field level, there are 12 Assistant Commissioners, 4 District Organisers, 18 ITDP officers, 9 MADA Project Officers and 2 Cluster Project officers. The Department is the nodal department for all matters relating to tribal development, Tribal sub-Plan, Special Central Assistance and for PTGs. State Government has also set up a Scheduled Tribes Commission for the development of STs on 12.11.2000.

**20.2** Main responsibility of the Department lies in the implementation of various educational development schemes, such as, pre-matric and post-matric scholarships, hostels and ashram schools for boys and girls, educational institutions from primary schools to Higher Secondary

Schools in tribal areas and grant-in-aid to NGOs etc. Economic and regional development schemes administered by the Department are self-employment schemes, S. T. Finance & Development Corporation and other local development works, such as, construction of dug wells, drainage, approach roads, buildings for schools and their repairs. Social development schemes under the charge of the Department are implementation of SC&ST (POA) Act, training to dais, legal aid, community marriages, promotion and preservation of culture, awards to folk artists and awards in the field of bringing awareness and social awakening among the tribals.

20.3 Initiatives taken/proposed to be taken during 2002-04 were (a) setting up of a Study Circle for providing coaching facilities to ST candidates for appearing in All India Services and for seeking admission into professional institutions (b) providing assistance to ST candidates to join flying clubs to get licence as Pilots and (c) establishing 206 ashram schools, 66 hostels and 1 sports complex as a package for Bastar and Surguja districts.

## 21. Tribal sub-Plan (TSP)

21.1 Tribal sub-Plan Area of the state consists of 18 Integrated Tribal Development Projects, 9 Mada Pockets and 2 Clusters. The State Government has set up Project Advisory Boards in all the 18 ITDPs. A person nominated by the State Govt. who is either a Minister belonging to the STs or an MLA or Chairman, District Panchayat or Chairman, Janpad Panchayat, heads it. Financial powers for sanctioning project to be implemented within the same financial year have been delegated upto Rs.10 lakhs to such Boards. In regard to the implementation of TSP, Project Advisory Boards have been given wide powers to tailor the schemes according to the local needs, however in regard to PTGs proposals sent by Project authorities are reviewed by the State Government before they are sent to Govt. of India. Although, TSP for the year 2001-2002 was prepared by the Tribal Welfare Department, a similar exercise for 10<sup>th</sup> Five Year Plan period was done by the line deptts. and consolidated at the state level. Govt. of Chhattisgarh has taken a policy decision to allocate funds to the TSP much more in proportion of tribal population to the total state population.

21.2 As against the proportion of 32.45% ST population to the total population of the State, flow to TSP was higher, as shown in the table below:

Year	State Plan	Flow to TSP	(Rupees in Crores)
			Percentage
2001-02	1326.67	429.29	32.36
2002-03	2025.73	793.35	39.16
2003-04	2822.45	1069.41	37.88

21.3 A few sectors, such as, tribal welfare, education, forest, irrigation, agriculture, health and public health engineering have been earmarked comparatively more funds for the development of tribals. In order to monitor the flow of funds towards TSP, the State Govt. has created a separate Budget Demand, which is closely reviewed by the Tribal Welfare Department. After the funds have been allocated for TSP, these are further distributed among the ITDPs in the ratio of 60:40 i. e. taking into account the total geographical area and the population respectively. Funds are further allotted to different departments for developmental activities and the Tribal Development Department monitors the implementation and progress of the schemes. Thus the department functions as a nodal agency. A study of allocations made and budget utilized during 2002-03 reveals that Rs. 117 crores, Rs. 92 crores, Rs. 34 crores, Rs.

32 crores and Rs. 29 crores were allocated to Departments of Public Works, Water Resources, Forests, Agriculture and Public Health respectively. The expenditure by the PWD exceeded by Rs. 12 crores while there was a shortfall of Rs. 12 crores by the Water Resources deptt., Rs. 7 crores by the Agriculture deptt. and Rs. 2 crores by the Forest deptt. Utilization of funds was more than 100% in a few sectors such as energy, public health and family welfare, women and child welfare. The Commission notes that higher funds than the proportion of tribals towards the TSP have been allocated and recommend as follows:

- (a) Higher allocation of funds for minor irrigation works should be allocated and the schemes should be identified and executed in consultation with the Scheduled Tribes.
- (b) A Tribal Area Development Planning Unit in the Tribal Development Department may be formed for effective planning.
- (c) In order to make posting in tribal areas attractive, well being of the children of employees and their families should also be made an integrated part of TSP Strategy. In view of this, post matric and pre-matric hostels should be thrown open for them.
- (d) Residential complexes for employees at different locations for serving a group of 15 to 20 villages should be set up in Naxal affected eight districts, namely, Dantewada, Bastar, Kanker, Durg, Rajnandgaon, Kawardha, Jashpur and Surguja.
- (e) The Commission has observed that Project Officers of ITDPs have very little influence over line departments and they looked at Sub-Divisional offices for support. The rank and status of Project Officers needed to be raised. Young IAS/IFS officers having powers of Additional Collector may be appointed as Project officers. In case adequate number of IAS officers are not available, two ITDPs may be placed under the charge of one IAS Project Officer. Posting of Forest officers belonging to IFS and even the Police Officers belonging to IPS as POs may also be considered at appropriate places.
- (f) The Commission has observed that POs of ITDPs are not monitoring the regulatory laws like land alienation, money lending, mining act, excise laws etc. The TSP strategy is not only to promote their economic and educational development but also check the exploitation of the tribals.

## **22. Primitive Tribal Groups (PTGs)**

**22.1** According to a survey of five PTGs, namely, Abujhmaria, Pahadi Korwa, Baiga, Kamar and Birhor conducted in 2002, their population in the State was 1,12,892, which works out to 2% of tribal population of the State. Earlier they were dependent on shifting cultivation and lived in forests, but today they are landless in terms of revenue record. Whereas Kamar, and Baiga have by and large taken to agriculture, the other three tribes, namely, Abujhmaria, Pahadi Korwa and Birhor still prefer to live in forests. A brief profile of each of them is given at Appendix III.

**22.2** State Govt. has prepared a plan for 2002-2003 to 2006-07 for Rs. 40 crores for family beneficiary oriented programmes as well as community based items and development of infrastructure for all the PTGs. During 2002-03, land was allotted to 305 landless persons and assistance given to 1600 land owners among the PTGs for land development. The State Govt. considers that plan of development for PTGs should accord priority to food security, drinking water and healthcare followed by education, employment and development of infrastructure. In

Abhujmarh area of Bastar district, tribal children are imparted education in classes I & II in their local dialect and only those teachers are posted in such areas who are conversant with the tribal dialect. State Govt. has sent detailed proposals for the development of PTGs and a special proposal for Pahadi Korba to the Ministry of Tribal Affairs in the Govt. of India.

**22.3 Inclusion in the list of PTGs-** The State Govt. has stated that existing criteria of classifying communities as PTGs has become outdated and this criteria should exclusively be relatable to educational and economic backwardness. The State Govt. desires that two tribal communities namely Pando and Bhunjia should also be notified as PTGs. The State Govt. has in the meanwhile, set up a Development Agency for Pandos in Surguja district and another Agency for Bhunjias of Raipur, Dhamtari and Mahasamund districts during 2003-04 at a cost of Rs. 70 lakhs each.

**22.4 In regard to the development of PTGs, the Commission recommends that-**

- (a) Govt. of India may examine inclusion of Pando and Bhunjia tribes in the list of PTGs.
- (b) A portfolio of development of each PTG village-wise may be prepared for next 20 years and two sets of plans drawn, one forest based and the other horticulture cum agriculture based. The Forest Department should be closely associated and entrusted with the development of PTGs opting for forest related activities.
- (c) The State Govt. should set up a Sub-Committee of TAC on PTGs as a policy making body and also a "PTG Mission Authority " to execute the programmes for the PTGs.
- (d) The PTGs must be extensively taken round the State on field visits so that they are acquainted with other tribal groups.
- (e) 2% of jobs in group 'C' and 'D' posts at district level may be reserved for PTGs against posts reserved for Scheduled Tribes in the State. For village level posts, such as Forest Guards 100% recruitment should be done from among the PTGs in the Scheduled Areas.
- (f) In order to develop the PTGs and to bring them at par with other tribal communities, it is necessary that dose of economic assistance is boosted up.
- (g) Allocation of funds for PTGs should be made separately by the State Govt. out of their budget.

## **OTHER ISSUES**

### **23. Self Help Groups (SHGs)**

**23.1** Nearly 2 lakh women in the State have been activated to form 16,000 self-help groups. The participation of women in tribal areas is around 70,000 in approximately 600 SHGs.

**23.2** The Commission recommends that women SHGs should be encouraged to shoulder the responsibilities of District Administration by involving them in the efficient management of maternal and child health care, repair of hand pumps, processing of minor forest produce, nursery raising, PDS shops, pre-primary education and stoppage of liquor vending.

### **24. Non-Governmental Organisations (NGOs)**

NGOs numbering 198 out of 209 in the State have largely taken up educational

activities, such as, running 17 balwadis, 54 primary schools, 32 middle schools, 19 higher secondary schools, 29 hostels and 47 ashram schools. Five NGOs have devoted themselves in the field of healthcare and the remaining six are engaged in other socio-economic activities. NGOs which are running five and more institutions in the State are Vanvasi Sewa Mandal (56), Mata Rukmani Sewa Mandal (42), Sanatan Sant Samaj (21), Catholic diocese Bishop House (17), Harijan Sevak Sangh (15), Mahatma Gandhi Mahila Evam Bal Kalyan Sansthan (10), Akhil Bhartiya Kalyan Ashram (6), Rama Krishna Ashram (6) and Deendayal Sewa Samiti (5). Pioneering work has been done in Jashpur district by Akhil Bharatiya Vanvasi Kalyan Ashram and in Bastar district (undivided) by Rama Krishna Ashram. Catholic diocese has been active for several decades in Chhattisgarh State.

## 25. Tourism

State Government has informed that they have a proposal to open an Institute of Hotel Management and Catering Technology at Raipur. There is scope for recruiting local youth to operate as Guides, however, State Government did not spend any money towards promotion of tourism in tribal areas during 2002-03. **The Commission are of the view that a very cautious approach may be followed while promoting tourism in the Scheduled Areas.**

## 26. Training, Research and Evaluation

The State Government is considering a proposal to set up a Tribal Research and Training Institute and as and when a training centre is set up, the functionaries of NGOs will also be imparted training alongwith government employees. No survey/evaluation studies have been conducted so far. Benchmark survey has been undertaken for only PTGs and the information is made use of for preparing development plans. **The Commission recommends that the State Government should set up a Tribal Research Institute with a Training Centre and a Tribal Museum. In the meanwhile, Universities and Research Institutes could be entrusted with research studies. Independent State level monitors could also be engaged on project mode temporarily.**

## 27. Personnel Policy for Tribal Areas

27.1 Government of Chhattisgarh follows the policy laid down by Madhya Pradesh for providing incentives to its employees working in the scheduled and tribal areas in the following manner:

- (1) Employees posted in Scheduled Areas get special allowance ranging from 5% to 15% of basic pay according to three different categories.
- (2) Employees residing in Government quarters are provided relaxation in their house rent allowance/license fees.
- (3) Employees working in Scheduled Areas get seven days casual leave and 10 days earned leave in addition to normal entitlement.
- (4) Children of such employees who are posted in tribal areas get admission in nearest tribal hostel/ashram.
- (5) Following restrictions in leave travel concession have been relaxed:
  - (i) There will be no restriction of distance while posted in other than their home district.



- (ii) While posted in home district the restriction of distance will be 20 kms. (in general areas the distance restriction is 80 kms.)

Policy of appointment, posting, promotion and transfer of Government employees in the Scheduled Areas.

27.2 Govt. of Chhattisgarh follows the policy of appointment, posting, promotion and transfer of government employees in Scheduled Areas as laid down in Govt. Order dated 11.1.1984 of Govt. of Madhya Pradesh for its 30 departments, salient features of which may be seen at Appendix IV.

27.3 As pointed out earlier, the Commission during their visit to tribal areas noticed at several places the paucity of government employees and their frequent absenteeism, despite the aforesaid personnel policy and the incentives given to employees in the tribal areas. Tribal Leaders at many places expressed the view that many government employees have become delinquents and don't perform their duties.

27.4 The Commission feels that employees in the tribal area should be fewer, a better lot and best cared for pool of manpower and recommends that-

- (a) for smooth functioning of field level institution, appointment of employees on the posts in category 'D' and certain posts in category 'C', such as, police constable, excise constables, forest guards, forest watchers, ICDS/Anganwadi workers, should be reserved for local tribals, invoking the Fifth Schedule of the Constitution. Tribals on such posts should be recruited first and sent for in service training later.
- (b) Employees posted in Scheduled Areas should be transferred/attached/shifted to other areas of the State only by the State Government on the recommendation of the District Collector. An employee must serve at least for one-third of his career in tribal areas, may be in two spells, so as to serve the tribals who constitute one-third of the State population.
- (c) Categorisation of the State for the purposes of incentive should be in three grades such as Grade I for district and Tahsil Headquarters, Grade II for Block Headquarters and places having bus facility and telephone communications and Grade III should be for inaccessible locations. Lucrative incentives linked with punishment should be spelt out to the government employees working in the three categories as above.
- (d) Monetary awards and Certificates of Merit should be introduced and presentations made on the eve of Republic Day every year at state and district levels.

## 28. Reservation for STs in State Govt. services

Percentage of reservation for STs in services is only 20% as against their 32.46 % proportion in total population of the State. Demand of the STs was to raise the reservation percentage to 33% in the entire State and 50% in Class III and IV posts in the Scheduled Areas. The Commission recommends that reservation in services for STs should be in proportion to their population in the State, i. e., 33% and this should be done without any loss of time. Reservation for STs in Groups 'C' and 'D' in Scheduled Areas should be higher.

## 29. Visit to Bailadila Iron Ore Project, National Mineral Development Corporation Limited, Dantewada District.

29.1 National Mineral Development Corporation Limited (NMDC) is operating 3 fully mechanized iron ore mining projects producing about 15 million tonnes a year. NMDC spends money for development works in the surrounding villages. It spent Rs. 110.31 lakhs on schemes relating to education (Rs. 32.49 lakh), road & buildings (Rs. 48.77 lakh), drinking water (Rs. 7.77 lakh) and health (Rs. 9.44 lakh). The group wise manpower status and representation of STs as on 1.01.03 was as follows:

GROUP	TOTAL NO.
"A" -- E-01 and above	195
"B" -- S-10, JO & E-0	364
"C"-S-03 & S-09	788
"D"-S-01 & S-02	403
<b>TOTAL</b>	<b>1750</b>

29.2 Since the project is located in South Bastar District of Chhattisgarh, which is a tribal area, preference is given to local S. T. candidates in recruitment so that they may get the benefit of employment in the project. For this purpose NMDC has been recruiting local SC/ST candidates even more than the prescribed reserved posts for them. **The Commission recommends that for local recruitment the percentage of reservation for STs should be in accordance with their percentage of population in the State.**

29.3 In direct recruitment, the reservation percentage for SC, ST and OBC candidates for all categories of posts is as under:

Category	All India basis (by open competition)	All India basis (other than open competition)	Local Recruitment
SC	15%	16.66%	14%
ST	7.5%	7.5%	23%
OBC	27%	25.84%	13%

29.4 The Commission paid a visit to Iron Ore Project Bailadilla (Bacheli) in Dantewada district on 9.6.03 and held discussions with General Manager. The PSU has set up a Model School for providing quality education. It provides two years vocational training to the youth of 20 villages located within a radius of 10 kms. In the 120 bedded hospital, 50% to 60% patients are tribals suffering from infection, septic, stomach disorders, anaemia, malaria, TB, etc. not only its employees but also local tribals. The hospital is well equipped to provide specialized treatment and only in very special cases, the patients are referred to Raipur. The PSU even tries to get specialist doctors from Hyderabad to give treatment at Bacheli itself. During the year 2002, the hospital treated 38461 outdoor patients, 4024 indoor patients

belonging to STs. 137 major and 438 minor operations were performed on STs.

### 30. Visit to Bhilai Steel Plant (BSP)

30.1 The percentage of STs in the BSP as on 1.01.2003 was as follows:

Employment	Total	ST	%
Group			
'A'	3,173	137	4.3
'B'	10,334	851	8.2
'C'	25,483	4190	16.44
(Excluding Safai Karmachari)			
'C' (only Safai Karmacharis)	754	112	14.85
<b>Total</b>	<b>39,744</b>	<b>5,290</b>	

30.2 The number of posts reserved for ST in promotion in 2002 was as given below:

Group	Total number of vacancies filled	ST	% of ST
'A' (E-O only)	-	-	-
'B'	2271	186	8.19
'C' (Excl. S.K.)	5913	1001	16.93
'C' (Safai Karamchari)	246	37	
<b>Total</b>	<b>8430</b>	<b>1224</b>	<b>14.52</b>

30.3 No. of ST posts dereserved and filled by general candidates in the year 2002 was as follows:

Group	ST
'A'	00
'B'	03
'C'	02
<b>Total</b>	<b>05</b>

30.4 The representatives of SC/ST Association of BSP brought to the notice of the Commission their grievances, some of which related to a) submission of false SC/ST certificates by job seekers, b) non-allotment of land to SC/ST Association for constructing their own building, and c) hardships in getting SC/ST certificates from district offices.

### 30.5 Other activities of BSP for welfare of ST

Bhilai Steel Plant has taken several measures for the welfare of STs as under:

- (1) BSP Management has made education free for ST students in its schools from the academic year 2002-03.
- (2) 36 students of ST community who are below poverty line have been adopted by BSP and they are being given free education and free boarding and lodging facility.
- (3) As per the Scholarship Schemes of SAIL and BSP, wards of BSP employees are given scholarships for higher education (PM's Trophy, Scholarships, Merit-cum-Means Scholarships, Jawahar Lal Nehru Science and Technology Scholarships). Wards of

employees of ST community are given proportionate scholarships.

- (4) Management of Bhilai Steel Plant holds quarterly meetings with the office bearers of Registered ST associations of BSP. So far 50 meetings have been held.

**31. Acquisition of land belonging to tribals for National Mineral Development Corporation (NMDC) in the Scheduled Area of Bastar district.**

**31.1.** On 18.05.2001, NMDC requested the District Collector Bastar to acquire some land in Nagarnar and adjoining villages for setting up a plant to treat slime coming out of iron ore mines at Bachel and Kirandul of Bailadilla project. Accordingly, a notice was issued by the District Collector on 21.05.2001 to convene a meeting of Gram Sabhas concerned and a news item to this effect was published in local "Dainik Dandakaranya on 27.05.2001 and notices were issued on 04.06.2001 to the affected persons alongwith basic information of the proposed plant. Special meeting of the Gram Sabha at Nagarnar and Kasturi villages was held on 11.06.2001 and at Manganpur and Amagrda on 13.06.2001. The meetings were attended by the District Collector at two places one at Nagarnar and the other at Bahamni, and by other officers of the district administration and the NMDC at all the places. Whereas some villagers welcomed the project, a few others expressed their opposition. Having undertaken the exercise of "consultation" with the Gram Sabha and as required under Land Acquisition Act, 1894 and M. P. Panchayatiraj (second amendment) Act, 1997 and M. P. Panchayatiraj (Amendment) Act, 1999, action for acquisition of land was commenced on 29.09.2001.

**31.2** Apprehending acquisition of land belonging to tribals, a complaint was sent by the villagers of Maganpur to the National Commission for Scheduled Castes and Scheduled Tribes, Govt. of India, New Delhi on 23.08.2001 followed by another complaint dated 13.09.2001. Again on 1.10.2001, Kisan Sangharsh Samiti Nagarnar, Bastar submitted a memorandum to the Chairman, National Commission for Scheduled Castes and Scheduled Tribes, Govt. of India, New Delhi praying for redressal of grievances.

**31.3** The complaint was forwarded to the Govt. of Chhattisgarh for a high level enquiry and subsequently the matter was discussed in the Commission at New Delhi on 22.11.2001 in accordance with the provisions contained in Art 338 (5) of the Constitution of India with Shri M. K. Raut, Secretary, Panchayat and Rural Development Deptt. Govt. of Chhattisgarh, The Commission also looked into the reply furnished by the District Collector, Bastar. In their enquiry report of 7.12.2001, the National Commission for SC/ST concluded that-

1. "The policy and also the procedures, which have been laid down from time to time for the establishment of industries in the Scheduled Areas, have not been followed in the case of proposed steel plant in Bastar.
2. The choice of site has been made without going into merits of alternatives available. In the instant case, there appears to be misrepresentation of facts about quality of land. Nor has the need for the extent of land examined. The decision has been taken arbitrarily.
3. The statutory Guidelines formulated by the State Government themselves have not been followed. In respect of the mandatory consultation with the Gram Sabha before Land acquisition Act, there was no informed consultation. No formal resolutions were passed in the Gram Sabhas expressing their opinion as envisaged in the Guidelines which is mandatory as also the statutory rules about Gram Sabha meetings.
4. The decision to issue notification under Section 4 of the Land Acquisition Act has been taken on the basis of the so-called administrative reports in clear violation of the Guidelines. The administrative reports have no place in the law and the rules. Thus, both the Guidelines and statutory rules for consultation and issue of notification under Section 4 have been violated. The proceedings of Land Acquisition, therefore, have to be construed as null and void ab initio.
5. There is convincing evidence to show that the record of the Gram Sabhas concerning the

mandatory consultation have been fabricated. Moreover, false records have been prepared in the form of so called administrative reports.

6. The Guidelines of the State Government envisage special responsibility for the Collector and the representative of the Project. Their participation in the consultation meetings is obligatory. These officers, therefore, have to share the responsibility and deemed to be answerable for the fabrication and falsification. The responsibility may be fixed and suitable action be taken against all concerned.
7. Even the impugned process of land acquisition has violated mandatory provisions. There are reasonable grounds to believe the substance of notification under Section 4 was not displayed at convenient places in the concerned villages. Moreover, notification under Section 6 was issued 13 days ahead of the mandatory period of 30 days after the Section 4 notification. The notification under Section 6 cannot be deemed to be in accordance with law. All proceedings after Sec 4 including final award, payment of compensation, mutation in land records should reasonably deemed to be illegal.
8. The provisions concerning environmental clearance as envisaged in the Ministry of Environment and Forest Notification of 27 January 1994 have been violated. Even some work relating to the project has been started which is totally prohibited under the said notification. The proposed erection of boundry wall etc. will be illegal.
9. The administration has not cared to appreciate the principles of natural justice, which are central to peace and good governance in Scheduled Areas as envisaged under the Fifth Schedule of the Constitution. The people's genuine concerns have been sacrificed in the name of rules and procedures.
10. The local administration has not appreciated the responsibility of State, whom it represents, towards the protection and advancement of tribal people in the Scheduled Areas.
11. The local officers have failed to appreciate the spirit of the Extension Act and the central position of the gram Sabha in the democratic polity. The trivialization of the process of consultation with Gram Sabha is regrettable. The State Government should ensure that the message of the new law and even their own Guidelines is imbibed by the officers and conveyed to the people. Informed consent of the Gram Sabha based on relevant plans has to be accepted as an inviolable precondition for the process of land acquisition to start.
12. The State Government should have a comprehensive resume of the policy and procedures concerning establishment of industries in the Scheduled Areas and prepare a frame for future in the crucial area of industrialization. In any case no force should be used in disputes relating to land acquisition.
13. The process of establishing steel plant in Bastar should be re-started. The guidelines issued by the GOI in 1974 read with provision of the Extension Act should reasonably be accepted as the minimal base to build on. In other words, a comprehensive plan for the Zone of Influence of the proposed industry should be prepared, which ensures a place of honour in the new setting for all those affected, directly or indirectly.
14. The State Government may also prepare a policy frame for industrialization in the Scheduled Areas in light of the recommendations of the Committee of Selected MPs and Experts and the direction of the Hon'ble Supreme Court in Samata case. These basically envisage that command over resources remains with the community, which has already been incorporated in the Extension Act read with Article 263 M of the Constitution and that the local people are partner on terms of equality in the industrial enterprises."

**31.4** The report was forwarded to the Chief Secretary, Govt. of Chhattisgarh, Chairman, National Mineral Development Corporation, Hyderabad and the Collector, Bastar on 10.12.2001 for taking appropriate action.

**31.5** In reply to inquiry report made by the National Commission for SC&ST in their letter No. 9/27/2001 C.G./ESDW/11 dated 10.12.2001 alleging irregularities in the land acquisition

proceedings and the consultation with the Gram Sabhas as required under the PESA Act, the State Government in their letter dated 10.04.02 has refuted all charges except (v) above which is under investigation by the Police.

31.6 The Commission has observed that Madhya Pradesh Panchayati Raj Act, 1997 and 1999 were not fully implemented in holding prior consultation with the Gram Sabhas before process of acquisition of land was started. It would have been better if the consent of the villages had been obtained and the provisions of the Panchayati Raj Act were followed scrupulously. Even before the process of land acquisition was started, the rehabilitation programme for the Project Affected Persons (PAPs) should have been drawn up in consultation with the concerned Gram Sabhas to allay fears of PAPs. The principle of "land for land" was not followed and also landless workers were not adequately taken care of. The incident of putting the PAPs behind the bars was not tribal-friendly. The National Commission for SC & ST was correct in their findings that the provisions of State Panchayati Raj Act were not fully followed.

31.7 The Commission recommends that a Resettlement and Rehabilitation (R&R) Plan for the affected tribals should be prepared in consultation with the concerned Gram Sabhas and National Commission for Scheduled Tribes should be associated in it.

#### *Appendix I*

### **List of Scheduled Tribes**

1. Agariya
2. Andh
3. Baiga
4. Bhaina
5. Bharia Bhumia, Bhuinhar, Bhumia, Bhumiya, Bharia, Paliha, Pando
6. Bhattra
7. Bhil, Bhilala, Barela, Pateliasp
8. Bhil Mina
9. Bhunjia
10. Biar, Biyar
11. Binjhwar
12. Birhal, Birhor
13. Damor, Damarua
14. Dhanwar
15. Gadaba, Gadba
16. Gond; Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koliabhuta, Koliabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwanshi, Ojha, Raj Gond, Sonjhari Jhareka, Thatia, Thotya, Wade Maria, Vade Maria, Daroi
17. Halba, Halbi
18. Kamar
19. Korku
20. Kavar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chatri,
21. Khairwar, Kondar

22. Kharia
23. Kondh, Khond Khand
24. Kol
25. Kolam
26. Korku Bopchi, Mouasi, Nihar, Nahul Bodhi, Bondeya
27. Korwa, Kodaku
28. Majhi
29. Majhwar
30. Mawasi
31. Munda
32. Nagesia, Nagasia
33. Oraon, Dhanka, Dhangad
34. Pao
35. Pardhan, Pathari, Saroti
36. Pardhi, Bahelia, Bahellia, Chita Pardhi, Langoli Pardhi, Phans Pardhi, Shikari, Takankar, Takia [in (i) Bilaspur and Katghora tahsils of Bilaspur district, (ii) Durg and Balod tahsils of Durg district, (iii) Chowki, Manpur and Mohala Revenue Inspector's Circles of Rajnandgaon district, (iv) Bindra-Nawagarh, Dhamtari and Mahasamund tahsils of Raipur district]
37. Parja
38. Sahariya, Saharia, Seharua, Sehria, Sosia, Sor
39. Saonta, Saunta
40. Saur
41. Sawar, Sawara
42. Sonr.

*Appendix II*

**Statement showing action taken by the Govt. on various recommendations made by the TAC.**

S. No.	Decision Taken	Action Taken
1.	The name of Tribal Welfare Deptt. may be changed to Tribal Development Deptt.	Action taken
2.	Increase in the rates of scholarship/stipends.	An increase of Rs. 10 in the rates of scholarships and Rs. 100 for stipend has been agreed to.
3.	Increase in arrival allowance to Post Matric students	Increase of Rs. 300 in first year has been agreed to.
4.	Construction of compound walls in Ashram schools for girls.	During 2000-01 compound walls have been constructed in 11 girls' Ashram schools.
5.	Training to teachers in english	9,000 teachers have been trained for teaching English in classes I and II.
6.	CBSE pattern of education may be introduced	During 2001-02, CBSE syllabus was introduced in 80 higher-secondary schools.

7.	Increase in the flow to Tribal sub-Plan	As against tribal population of 32% in the State population, flow to Tribal sub-Plan has been raised to 38%.
8.	Excise Policy may be made tribal friendly	A tribal family can brew country liquor upto 5 liters for self-consumption.
9.	Govt. of India should be moved not to disinvest Bharat Aluminum Company Limited (BALCO)	Govt. of India was requested to consider the recommendation.

### *Appendix III*

#### **A brief note on Primitive Tribal Groups**

(1) **Abujhmaria-** They live in 2900 sq.km. area of Bastar district and eke their livelihood by doing shifting cultivation in 162 35.75 acres of land. As the area is Naxal affected their progress has been slow and can be developed only when irrigation, soil conservation, horticulture, fishing, poultry, sericulture, bamboo craft are developed.

(2) **Pahadi Korwa-** They live in the districts of Jashpur, Surguja and Korba of State. They are nomadic in nature and do shifting cultivation, go for fishing and thrive on MFP. Efforts to rehabilitate them on cultivable lands in the plains have not succeeded and they prefer to live in hills and forests.

(3) **Baiga-** They inhabit the districts of Kawardha and Bilaspur of the State. Mostly their habitations are in the reserve forests. In the revenue lands they do agriculture without the support of irrigation and live at subsistence level.

(4) **Kamar-** They live in Gariaband and Nagri area of Raipur and Dhamtari districts. Earlier they were engaged in shifting cultivation but of late have taken to agriculture in plains. Animal husbandry, poultry and pig rearing could be popularised among them.

According to a survey conducted in 2002, number of Kamar families was 3,910 making total of 17,412 persons. Their rate of literacy in 1995-96 was 16.20 and this increased to 40.16 in 2002. The Kamars inhabit 3 blocks of Raipur district and one block of Dhamtari



district i. e. Nagri. The Project has proposed to accord priority to construction of houses and distribution of land to the Kamars followed by supply of bullocks, land development, irrigation, bamboo handicraft, fisheries nets, agricultural implements, fertilizers, goatery, piggery and poultry, milch cattle, agriculture and horticulture, electric connection, bee keeping, health care, drinking water and approach roads.

**(5) Birhor-** They number around 1105 and inhabit the districts of Jashpur and Raigarh. Their growth rate is only 2% per annum. They earn their livelihood out of rope making as they are not very proficient in agriculture. They suffer from malnutrition, ill health and diseases. They have now come forward to take up goatery, poultry and fishing.

#### *Appendix IV*

##### **Salient features of policy of appointments to government posts:**

- (a) government employees may be posted on vacant posts in Scheduled Areas first and in case of no vacancy they may be posted to general areas, i. e. , other than Scheduled Areas.
- (b) in respect of gazetted officers, for whom posts are not available in Scheduled Areas, they will first be posted in any of the 15 Tribal districts and in the event of no vacancy in such tribal districts, they will be posted to non-tribal districts.
- (c) employees posted in Scheduled Areas shall not be attached to any office outside the Scheduled Areas.
- (d) this policy shall be applicable in respect of ad hoc employees also.
- (e) in case it is not possible to post all the new appointees to Scheduled Areas, this may be done on subsequent occasion within next five years. A person posted in Scheduled Areas may not be transferred outside for at least two years.
- (f) a person may be treated eligible for promotion only if he/she has served in Scheduled Areas for atleast two years.
- (g) those who have served in Scheduled Areas for more than five years shall be given preference for transfer to non-Scheduled Areas.
- (h) an employee in Scheduled Areas may not be relieved to non-Scheduled Areas on transfer till his reliever has joined.
- (i) an employee may not be posted at one place for more than five years.

# Report on Dadra & Nagar Haveli

## INTRODUCTION

1. The Union Territory of Dadra & Nagar Haveli (DNH) is situated on the western coast of the country, 187 kms from Mumbai. The Marathas assigned 72 villages to Portuguese and these groups of villages came to be known as Dadra & Nagar Haveli since 17<sup>th</sup> December, 1779. The DNH was liberated on 2<sup>nd</sup> August, 1954 and a local body known as free Dadra & Nagar Haveli managed the affairs till its formal merger with the Indian Union on 11<sup>th</sup> August 1961.

1.1 The Commission consisting of Chairman Shri Dileep Singh Bhuria and Members Dr. B.D.Damore and Shri S.K.Kaul toured in DNH from 23<sup>rd</sup> to 25<sup>th</sup> June, 2004. At Silvassa, on 24<sup>th</sup> June, the Commission visited Panchayat Amboli and in the afternoon met the non-officials, Administrator and other officials. On 25<sup>th</sup> June, the Commission visited Khanvel to see the work of voluntary agencies, a Govt. hostel, PHC and met a number of ST persons (**Appendix I & II**).

1.2 There are seven STs in DNH – Varli (68,822)\*, Dhodia (18,496), Kokna (18,430), Dubla (including Halpati) (2,505), Kolidhor (including Kolgha (919), Kathodi (98) and Nayaka or Naikda (8).

1.3 The number and area of ST operational holdings as per 1991 agricultural census was as follows:

Size Class (in ha.)	Scheduled Tribes		Size Class (in has.)	Scheduled Tribes	
	Holding (No.)	Area (Has.)		Holding (Nos.)	Area (Has.)
0.00 to 1.00 Marginal	5484	3003.66	4.00 to 10.00 Medium	600	3378.14
1.00 to 2.00 Small	3805	5059.98	10.00 and above Large	72	1068.54
2.00 to 4.00 Semi-Medium	1702	4671.00			

1.4 A brief demographic picture is given below:

1. Area (in sq. Kms.) : 491

\* Population figures given in brackets are as per 1991 census.

2. DNH comprises of 72 villages including Silvassa and Amli, the Census towns, divided into 11 *Patelads* for revenue purpose.

3. Population

Census	Total	Male	Female	Sex ratio
1991	1,38,477	70,953	67,524	951
2001	2,20,451	1, 21, 731	98, 720	810

4. ST population

Census	Population	%age of ST to total population	Sex Ratio
1991	1, 21, 104	50.45	1021
2001	1, 37, 225	62.25	1028

5. Land (in has.)

Land under agriculture :	23, 627
Land under forests :	20, 359

6. Languages spoken : Gujarati, Hindi, Portuguese and Marathi

7. Literacy

Census	Total	ST
1991	40.71	20.21
2001	60.03	N.A.

8. Lok Sabha seat : 1

9. No. of BPL families (1997 survey) : 17, 235

## 2. Protective measures

### 2.1 Land

#### Survey and Settlement

2.1.1 The first survey and settlement of land records and assessment was completed during the year 1964. In this survey the total area promulgated was 48,882.82 has. comprising of 72 villages including all occupied and unoccupied lands. There were 38,000 holdings. In 1965 land records were

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\* The fall in sex ratio is due to influx of male workers from outside working in industrial units.

notified and a fresh survey has been undertaken recently. The survey work in Silvassa and Amli villages has been completed and the work is in progress.

## **DNH Land Reforms Regulation 1971**

**2.1.2** Dadra & Nagar Haveli Land Reforms Regulation 1971 came into effect from 1<sup>st</sup> May, 1974. The main object of the Regulation is to abolish 'Alwara' and 'Teram' tenures, to confer occupancy rights on 'Alwara' and 'Teram' holders and their tenants, to impose a ceiling on possession of agricultural lands, to provide for acquisition and distribution of land held in excess of such ceiling and to regulate the relationship between the landlords and tenants, in the Union Territory.

The salient features of the Regulation are as under:

- Section 3 : Abolition of 'Alwara' and 'Teram' tenures and land vested to Govt.  
Section 4 : Grant of occupancy rights in respect of land vested to Government  
Section 8 : Prescribed ceiling area for possessing the land.

- (a) 7.5 hectares in the case of land capable of yielding two or more crops in a year; or
- (b) 11 hectares in the case of the land capable of yielding only one crop in a year; or
- (c) 16 hectares in the case of any other land.

The details regarding occupancy rights granted to the land holders are as under:

1. No. of cases/returns filed for grant of occupancy rights	11369
2. No. of cases disposed of	11369
3. No. of persons granted occupancy rights	18646
(a) Alwara Holders	11240
(b) Tenants (i) STs	7155
(ii) SCs	195

\* Alwara means a document evidencing the grant of concession to enjoy land given under article 50 of the Organizacao Agraria.

\*\* Teram means a lease of land granted under article 84 of the Organizacao Agraria

4. Number of persons granted occupancy rights for the village site land 305

**2.1.3** Section 4(6) and 4(7) of Regulation 1971 provides relevant checks against alienation of tribal lands. There is a ban on all cases of transfer of land without previous sanction of the Collector. The Administration has informed that statistics about agricultural land transferred from tribal to tribal and tribal to non-tribal are not readily available. However, tribals have sold total lands measuring 618.82 hectares (including agriculture/non-agriculture land). Some of the tribal representatives brought to the notice of the Commission that Administration invited applications from the persons who had indulged in un-authorised transaction of agricultural lands in violation of the provisions of Section 4(6) of the DNH Land Reforms Regulation 1971, for regularization. **The Commission was further informed that about 450 such cases were reported to the Administration for regularization and the proceedings in these cases were initiated. In some cases land was forfeited by the Administration under Section 4(7) of the Regulation. The purchasers whose lands were forfeited have requested to grant them land on payment of occupancy price. Although considerable time has lapsed after forfeiture of the land, these cases are still pending. This is a matter which should be looked into by the Administration sympathetically.**

**2.1.4** The Administration has furnished a number of cases arising out of proceedings during the course of implementation of the Land Reforms Regulation 1971 in the matters of deciding cases by prescribed authority for (i) land held in excess of prescribed ceiling, (ii) forfeiture of grass lands of land owners held in excess of prescribed limit, and (iii) selection of lands by land-holders while giving lands in excess of ceiling. **The Administration has informed that approximately 500 hectares of land has been acquired from various public purposes under the provisions of the Land Acquisition Act but no tribal has been rendered landless. The Administration has not**

**indicated how many ST persons were involved whose lands were acquired and whether they have enough cultivable land left to make their living.**

#### **2.1.5 Distribution of surplus land vested to Govt.**

Under DNH Land Reforms Regulation 1971, 3,722 landless ST persons were given 2920.90 has. of surplus land since the enforcement of the Act.

#### **2.1.6 Prohibition for sale of land**

Section 4(6) provides that no agriculture land including any part thereof in respect of which occupancy rights are deemed to have been granted to any person under this Section shall be transferred by way of sale, lease, mortgage, exchange or otherwise except in accordance with such rules as may be made in this behalf and, where such transfer is by way of sale also on payment to the Government of such premium if any as may be specified in such rules.

#### **2.1.7 Transfer of Occupancy**

Rule 17 of DNH Land Revenue Administration Rules, 1972 lays down the procedure for transfer of land and restrictions. A copy of the relevant provisions is given at Appendix III.

#### **2.1.8 Tribal land converted into non-agricultural industrial use**

Under the provisions of Section 42 of the DNH Land Reforms Regulation, 1971, the Collector is empowered to grant permission for conversion of agricultural land into non-agricultural use. During the period from 1993 to 2004, 14225 has. of tribal agricultural land was allowed to be converted into non-agricultural industrial use. However, the total area converted into non-agricultural industrial use is 220.19 has. Under rule 17 (4) of the DNH Land Revenue Administration Rules, 1972, the Collector will not permit the transfer unless he is satisfied that the consideration for the transfer is adequate and that the transfer will not be against the interests of the transferor.

**2.1.9** A number of STs met the Commission and narrated the manner in which

they were exploited by the non-tribals in taking possession of their lands after conversion of agricultural land into non-agricultural use and not making full payment as agreed to by them. On declaration of Tax holidays in DNH, the land of the STs had been grabbed at nominal price by land mafias and sold after obtaining no objection certificate. It was reported by the tribal representatives that the nefarious activities of land-mafias and other vested interests have made a number of tribal families landless. **The Administration is aware of such cases and the Collector before issue of no objection certificate is required to satisfy himself under rule 17 (4) of the DNH Land Revenue Administration Rules 1972 that the consideration for the transfer is adequate and that the transfer will not be against the interest of the transferor and therefore the Commission recommends that the ST transferor of agricultural land should be properly counselled. A special counselling unit should be established and attached to the office of the Collector/ Land Registration Officer so that whenever papers for conversion of tribal land for non-agricultural use are brought to the Collector/ Registrar's Office for issue of N.A. permission/registration, it will be compulsory for the tribal land seller to undergo one or more counselling sessions before land papers are registered. The tribal seller should be helped to understand the market value of his land and to understand the implications of selling his land. He should be guided in the investment of the money received from the sale and told to get all the payment before he vacates his land. The whole process should be an attempt to help the tribal land owner to get a fair market price for his land, if at all he decides to sell it, after it is converted. The counselling unit personnel can help him to negotiate with the buyer for a fair market price. Too often, the tribal land seller is the loser, and the non-tribal buyer or middle man gets rich at the tribal expense. This counselling rule should also be the practice for the tribal land seller, even when a tribal is purchasing it from a tribal. Many a times, 'front-man tribals' have been produced or named, to enable the purchase of tribal land by someone**

behind the 'front-man tribal' who is a non-tribal. The Commission further recommends that the Govt. of India In the Ministry of Home Affairs should investigate the activities of land mafias thoroughly so that interests of STs are protected from the land-sharks.

## **2.2 Forest**

**2.2.1** DNH was predominantly covered by thick forests when the Portuguese occupied it. They were interested in making maximum revenue from the forests and consequently the forests were over exploited. After the Portuguese left DNH in 1954, a free Dadra and Nagar Haveli came into existence under which exploitation of forests continued unchecked upto 1961 when DNH was declared a Union Territory.

**2.2.2** In 1967, the recorded reserve forest was notified covering an area of 203.21 sq. kms. The recorded forest area constitutes 41.46% of total geographical area of UT. Out of this, reserve forest constitutes 97.63% and protected forests 2.37%. In the year 2000, out of reserve forest area, an area of 92 sq. kms. was declared as Wildlife Sanctuary. The Administration further declared in 1988 all land within the boundaries of canals and roads alongside the canal etc as protected forests. A complete moratorium is imposed on commercial felling of trees since 1982-83. In 1999 Goa, Daman and Diu Preservation of Trees Act, 1984 was extended to the Union Territory.

### **Rights and concessions**

**2.2.3** During the Portuguese rule, the tribals had the right of cutting twigs and branches for rab burning, grazing in reserve forests except area under preservation, collection of firewood, etc. The tribals are allowed to collect MFP such as gum, *Amla* and *Bidi* leaves, prepare liquor from *Mahua* flowers and use of *Mahua* fruits for extraction of oil for their domestic consumption. They are allowed free and concessional grant of timber for construction of their houses once in life time and for repairs once in 10 years.



## **Teram plots**

**2.2.4.** Teram plots were leases granted on yearly basis by the erstwhile Portuguese regime. With the enactment of the Forest (Conservation) Act, 1980 further leases were discontinued. The practice of seasonal cultivation in the name of Teram Plots has however continued even after 1980. There are 792 Teram plot holders holding 835 Teram plots involving a total area of 613.30 hectares. of reserved forests and wildlife sanctuary. The matter of regularization of these lands have been referred to the Government of India and the issue was also brought to the notice of the Supreme Court by way of an affidavit filed by the Administration.

**2.2.5** In addition to the Teram lands, the STs have been cultivating lands in forest areas for generations which are termed by the Administration as "encroachments" or "Chorti plots". They had been cultivating these lands even prior to 2<sup>nd</sup> August, 1954 when the DNH territory was liberated. The Administration has dealt with Teram plot lands and *Chorti* plot lands cultivated by tribals as per customary rules, recovering the assessment from the tribals plot holders. Under the Dadra and Nagar Haveli Land Reforms Regulation, 1971 , occupancy rights to Teram plots and *Chorti* plots land holders were granted to the ST land holders.

**2.2.6** The Administration is exploring allotment of plots in non-forest area in a consolidated manner on the fringes of the forest area. Under Joint Forest Management, the Forest Department is taking up plantation of species like *Mahua*, *Imli*, *Amla*, etc. on Teram plots giving an assurance to the STs that the fruits shall be harvested by them.

**2.2.7** The State Govt. has set up the four under-mentioned committees to verify the ground position viz a viz records alongwith the history of individual cases on encroachments, evidence produced and prepare a list of eligible and ineligible encroachers:

- (i) Range level committees comprising Range Forest Officer, Sarpanch of Gram Panchayat, elected member and Patel Talati and Forest Guard

- (ii) Review Committee comprising of the Asstt. Conservator of Forests, Mamlatdar and Range Forest Officer to examine report of the Range level Committee.
- (iii) District level Committee comprising of the Distt. Collector, Deputy Conservator of Forests, Resident Deputy Collector, Social Welfare Officer and Asstt. Conservator of Forests to assist the field officers in identifying the encroachments and evicting the ineligible encroachers.
- (iv) Union Territory Level Committee with the Administrator as the Chairman, Secretary (E&F), Secretary (Social Welfare), Collector, AIGP and Conservator of Forests as Members to monitor the entire issue.

These Committees were expected to complete their work by Feb., 2004 and a clear picture of the ground situation in respect of both eligible and ineligible encroachers would emerge.

**2.2.8 The Commission was informed that it will be very difficult to find large areas fit for cultivation to be allotted to the Teram plot holders. The Administration has complicated the issue by declaring a Wildlife Sanctuary in 2000 knowing fully well that STs have been cultivating the lands in the forest areas from the time of Portuguese rule. The Commission, therefore, recommends that the UT Administration should inform the Ministry of Environment and Forests of the ground situation and the efforts made by them to locate land for settlement and in the absence of availability of good agricultural land that can be allotted to the Teram plot holders, the Ministry should approach the Supreme Court for allowing the Administration to give inalienable but hereditary rights to Teram plot holders who are cultivating the lands in the reserve forest.**

## **MFP**

**2.2.9** The Administration has allowed the STs to collect fuelwood, fodder, MFP free of charge. Mahua flowers and fruits, beedi leaves, gums of all kind and honey are the MFP collected by the tribals, which are used by them for consumption. Some small quantities of MFP are also sold in local markets,

though not permitted. The subject of MFP has been transferred to the District Panchayats.

## **Panchayati Raj**

2.3 In pursuance of 73<sup>rd</sup> Constitutional amendment, Panchayati Raj was introduced in the Union Territory of DNH. Under Schedule 11 of Article 243 (g) of the Constitution, devolution of powers in respect of 29 subjects are to be made. It is, however, seen that on 18-8-2001 devolution of powers in respect of only three departments have been fully placed under the District Panchayat and one or two schemes of agriculture, veterinary and electricity departments have been placed with the Panchayats for implementation. The activities of construction of rural village roads, rural water supply schemes, minor irrigation schemes and civil works pertaining to the Panchayats executed by the Public Works Department have been placed under the control of the District Panchayat. Similarly, Primary Education Department schemes comprising of primary education from I to VII standard, implementation of mid-day meal programmes and Sarva Siksha Abhiyan are still to be transferred to the District Panchayat. Community development programmes comprising of panchayat, rural roads, health and sanitation, grant of loan and subsidy to individual farmers for construction of irrigation wells, renovation of houses and all other centrally sponsored schemes in area of poverty alleviation programme have been placed under the District Panchayat. Under agriculture, the distribution of improved seeds and chemical fertilizers have been assigned to the District Panchayats but the field level functionary of agricultural assistant has not been placed under the disposal of District Panchayat. Package of schemes relating to cattle development and poultry development are being implemented by single Veterinary doctor without providing him with stockman and infrastructure. Maintenance of streetlights and implementation of *Kutir Jyoti Yojna* for LIG families is under the District Panchayat but the field level workers for maintenance of street lights has not been provided. Being a Union Territory, there is no legislature and no other democratic set up except the P.R.I.s, and **the Commission, therefore,**

recommends that the Panchayats should be empowered and all the subject matters mentioned in the 11<sup>th</sup> Schedule of the Constitution should be transferred to the District Panchayat/Panchayats without any further delay. The Commission also recommends that since there is no legislature, the only elected apex body being the District Panchayat, the President - cum - Chief Counsellor should be consulted by the Administration in respect of policy matters, framing and amendments of Rules/Regulations, preparation of budget and implementation, planning etc. The Commission further recommends that a Pradesh Council should be set up to ensure proper interaction between the people's representatives and the Administration. The Commission observed that the officers in DNH administration were saddled with a number of departments. CEO, District Panchayat handles three or four important posts. Similarly, the officer incharge of DRDA is also looking after a number of other departments and thus they are not able to give full attention to the important work of District Panchayat or DRDA.

2.3.1 There are hundreds of industries existing in DNH. They are legally bound to pay the house tax to the Panchayat. The majority of the industries do not pay the tax and repeated request of the Panchayats are ignored. A provision therefore should be made to recover the house tax from the industries and Panchayats should be empowered to initiate legal action against the defaulters.

### **3. Economic sector**

#### **3.1. Industry**

3.1.1 The first industrial unit was established at Piparia, Silvassa in the year 1965 in Cooperative sector. Three industrial estates were established at Masat (1978), Khadoli (1982) and second phase of Silvassa (1985). 8.29 has. of tribal land was acquired 97.14 has. of Govt. and other land was utilized for setting up these industrial States. At the end of the year 2003, 2033 industrial units were functioning, providing employment to 41,728 persons. The tax holiday incentives

providing 100% exemption from income tax alongwith 15 years of sales tax exemption has accelerated industrial development. Apart from the industrial undertakings set up in industrial estates, a large number of industries have come up in the rural areas just adjacent to the agricultural fields. The Administration has informed that whenever they give permission for conversion of agricultural land for non-agricultural use for setting up of industries, it is laid down that 80% of the jobs will be provided to the local people. The Commission was informed that no industry is giving employment as per their condition during its visit to two industrial units viz. Century Wire Rope Ltd. and M/s Nitin Casting Ltd. and found that no local person including ST was employed as skilled and unskilled worker. In both enterprises, labour (skilled and unskilled) employed belonged to other states of the country. The ingress of the outsiders has created problems for the local people. It was reported that some of the industries are pollution-prone units. These units manage to get electricity depriving tribals of electricity for domestic use. Similarly, they have monopolized the use of water and at many places the local people do not get potable water. Water of chemical units spills over agricultural fields of the tribals and render them unproductive. There is a Pollution Control Committee. Pollution control measures should be strictly enforced and agricultural lands rendered unfit due to pollution should be restored by the industrial units. Further, 50% of the members of Pollution Control Committee should be elected representatives of the STs.

## **Mining**

**3.2** It was reported that illegal stone mining is going on in DNH on the banks of Damanganga river. Most of these stone quarries are situated in the densely populated area thereby endangering the lives of tribals. The quarry owners are doing chemical blasting near the prohibited area of Madhuban Dam River Project. This dam provides irrigation water to the DNH and the southern part of Gujarat. The Commission recommends that the Administration should take urgent steps to stop illegal stone mining.

## **Tourism**

**3.3** DNH has immense possibility as a tourist spot. It has rivers, forests and many tourist spots and the Administration is taking steps to provide necessary infrastructural facilities. **The Commission recommends that the Administration should ensure that the ST persons become partners in the promotion of tourism and for this purpose STs should be given training at the various centers located in the neighbouring states of Gujarat and Maharashtra and given grants and loans to set up motels and shops to get permanent livelihood by self-employment.**

## **Co-operation**

**3.4** The UT Administration has informed that cooperatives provide credit at reasonable rates of interest, render financial assistance to the tribal agriculturists, distribute essential commodities besides marketing of agricultural produce as well as MFP. Large Size Multi Purpose Cooperative Societies (LAMPS), Primary Agriculture Cooperative Societies (PACS), Thrift Cooperatives, Consumer Cooperatives with a majority of tribal members are organized for the beneficiaries covered under the IRDP beneficiaries namely, Dairy Cooperatives, Poultry Cooperatives, Rural Cottage Industrial Cooperatives, Women Cooperatives etc. At the end of the year 31<sup>st</sup> March, 2004, 160 cooperative societies were working in the UT. 2 PACS and 6 LAMPS have advanced short term loans amounting of Rs. 24 lakhs to beneficiaries besides selling of essential commodities. Instead of selling agriculture produce through LAMPs, the tribals are selling it in *hats* i.e. weekly bazaars as it is in meager quantity. Except one PAC /LAMPS all are in profit. One Cooperative Sugarcane factory has also been registered but has not commenced its work.

## **4. Social Sector**

### **4.1 Education**

**4.1.1** There are 127 Primary schools (113 Govt., 13 aided and 1 unaided) and 91 Upper Primary schools (85 Govt., 4 aided and 2 unaided). The percentage of

enrolment stage-wise of ST students in schools as on 30-09-2003 was as follows:

<b>Stage</b>	<b>% of ST students</b>
Primary (I to V)	75.47
Upper Primary (VI to VIII)	70.82
Secondary (IX to X )	63.80
Higher Secondary (XI to XII)	54.67

Drop out rates at Primary & Upper Primary level for the year 2003-04 was as follows:

<b>Classes</b>	<b>Boys</b>	<b>Girls</b>
I to V	21.38	36.55
I to VIII	35.49	56.48

### **Educational facilities**

**4.1.2** Free education is provided to all students up to higher secondary school level. Cooked mid-day meals are provided to all students studying at primary level i.e. up to std. V. Free text books, two pairs of clothes are being supplied to each student every year. One pair each of shoes and socks is supplied to each SC/ST student every year. Cash award of Rs. 500/- is given to ST students of standard VIII to XII who secure 55% or more marks in respect of boys and 50% or more marks in case of girls. Talented students who secure first three ranks with a minimum of 60% and above marks in SSC Board and HSSC Board examination are given Rs. 1001/-, Rs. 501 and Rs. 301/- respectively.

**4.1.3** The territory is sandwiched between Gujarat and Maharashtra state hence there is demand for Marathi medium in areas adjacent to Maharashtra and Gujarati medium in areas close to Gujarat. Moreover, the area is industrially developed providing employment to the migrants from all over India and hence there is a demand for English & Hindi medium schools also. Thus there is an increasing demand for schools of English/Hindi medium. Due to the resource crunch, the UT Administration is finding it difficult in coping up with the demand. All the Secondary & Higher Secondary Schools are being run with acute shortage of teachers and hence the performance of the students is affected

adversely.

4.1.4 At Khanvel, teaching in science stream is not available. The boys have to go in for arts and commerce stream only. The medium of instruction is Marathi in Mandoni Patelad. At Silvassa, the medium of instruction is Gujarati. There was shortage of teachers in schools. The high school at Mandoni has arranged employment of teachers on daily wages. There is no play ground, no hall and no library for the school. At the primary school in Mandoni village, there was great congestion of students. Teachers who are employed on daily wages get about Rs. 5000 per month whereas regular teachers get a minimum of about Rs. 8000 per month. There is no college / University in DNH. It is proposed to establish an Arts and Science college. The students go to Una in Gujarat for higher studies. There is no Teachers' Training Institute in DNH.

**4.1.5 The Commission recommends that special coaching in classes V to VIII in hostels and free coaching in govt. aided and unaided schools should be provided for ST students to help them to pass their examinations creditably. The Commission further recommends that to encourage education among ST students, scholarships should be given to all ST students ranging from Rs. 50/- p.m. to Rs. 100/- p.m. in classes IX to X and XI to XII respectively.**

## **Hostels**

4.2 The Administration is running 15 social welfare hostels; out of which five are exclusively for girls. The SC/ST inmates are provided free lodging and boarding. 8 hostels are run by non-official agencies. Total intake capacity of hostels run by the Administration is 1550 inmates. The Commission saw one hostel and found out that there was over-crowding in the hostel. The expenditure on these hostels was being met under non-plan budget. The Administration has approached the Ministry of Tribal Affairs to sanction funds under Centrally Sponsored Programme for construction of five girls and 4 boys hostel buildings for 844 inmates. The Administration was sanctioned rupees one lakh by the Ministry of Tribal Affairs in March, 2002 but the money was not released. **The Commission recommends**



that the Ministry of Tribal Affairs should sanction funds for the construction of hostels for ST boys and girls and also ensure that adequate funds are provided by the Administration to meet the expenditure on food, books etc for the inmates. The Administration has approached the Ministry of Home Affairs for enhancement of hostel expenditure from the existing rate of Rs. 200/- p.m. per hosteller to Rs. 600/- p.m. This should be agreed to by the MHA.

## **Polytechnic**

**4.3** There is one polytechnic working at Khanvel with a capacity of 60 seats each for diploma courses in civil, mechanical and electric engineering and 30 seats each for diploma in electronics communication, computer and information technology. 117 seats are reserved for ST students but it is found that only 75 ST students were studying. Out of them, 60 were admitted in electronic engineering, 7 each in civil and mechanical engineering and 3 each in computer course.

**4.3.1** It was represented that ST students studying in 11<sup>th</sup> and 12<sup>th</sup> standard at Rakheli and Dudhani were not able to perform their science practicals because the necessary equipments was not available in the schools. It was demanded that either equipments for science experiments should be provided at these schools or the students should be provided hostel accommodation at Silvassa to avail of this facility. The Administration should make efforts to ensure that the seats reserved for STs are filled up by eligible candidates which would require strengthening of science stream education at the high and higher secondary schools education.

## **Health**

**4.4** IMR in DNH was 61 in the year 2001. It was found during a visit to PHC in Mandeni that the diseases mostly prevalent were skin diseases due to unhygienic conditions. Emergency patients are sent by PHC to Silvassa hospital. No sweeper has been posted for the last one year. At PHC Mandeni Patelads,

there was no clerk, driver, pharmacist and peon. There is water shortage also.

**4.4.1** There is a District Civil hospital, 1 CHC, 6 PHC, 3 dispensaries, 1 mobile health dispensary and 36 sub-centres. Free medicines and health services are provided. The Govt. Of India has prescribed relaxed norms for establishment of CHCs, PHCs & sub centers in the tribal areas. **It is found that there is a shortfall of one CHC, one PHC and 4 sub centers. The Commission recommends that the shortfall should be overcome during the 10<sup>th</sup> Plan period.** The tribal representatives informed that in Civil Hospital named the Vinoba Bhave Civil Hospital at Silvassa, specialist doctors are not attending the tribal patients and they are forced to go to private hospitals for minor operations while the Govt. doctors are conducting private practice. **The Administration should investigate the matter and take suitable action.**

### **Reservation of seats in educational institutions**

**4.4.2** Govt. of India has reserved 43% seats for STs in various courses like Medical (MBBS, BDS), Degree & Diploma Pharmacy & Engineering (Degree & Diploma) and other teaching courses like PTC, D.Ed., C.P.Ed. courses. 4 seats are reserved for DNH Territory by the Govt. of India in the medical colleges for the candidates who are domiciles of DNH. The Administration has not indicated how many ST students were selected against the seats reserved for them in various courses. The tribal representatives who met the Commission demanded that the quota of the reserved seats in Medical Colleges should be raised to 8 and that reservation should also be provided in the PG course to overcome the shortage of specialist doctors. **The Commission recommends that Government of India should consider the demand of reservation for PG course for DNH Territory and those who are admitted against the reserved quota should execute a bond that they will do 5 years of service in the Union Territory.**

### **Anganwadis**

**4.5** There are 138 Anganwadis functioning in the Union Territory. Under the

programme of ICDSs, Anganwadi, the main functions taken up are supplementary Nutrition, Immunization, Pre-Primary Education, Health Checkup, Nutrition and Health Education and Referral services. 138 Anganwadi workers and 142 Anganwadi helpers are working.

### **Water Supply**

4.6 The Administration has stated that STs suffer from water-borne diseases to a considerable extent. There is no filtration plant to provide potable water in Silvassa, Dadra and Khanvel (main villages). The Administration has informed that though 96 water supply schemes are operated but only 36 villages are covered. The Administration intends to equip all water supply schemes with water purifying additives injecting apparatus for supply of drinking water. In Mandoni zone there is no scheme of water supply to the villages of Chisidrani and Vasanda. In a number of villages of Dundani zone, water supply scheme does not exist. During the summer months in many Panchayat areas water is supplied by tankers.

### **Sanitation**

4.7 DNH receives heavy rainfall during monsoon season. No sewage system exists. Solid wastes are disposed of by dumping. Industrial wastes are major problem to the health of the local people.

### **Electricity**

4.8 DNH does not have its own power generation plants and gets power from the Central Power Sector Station located in the western region. 96% of the total supply of 40 megawatt is consumed by the industries. Many tribals have constructed their small *kaccha/pacca* houses on their own land without obtaining permission from the competent authority and they are not being provided electric connection for want of occupancy certificate. **The Commission feels that relaxation may be given in issue of occupancy right certificates and electric connections.**

## Housing

4.9 The earlier scheme of constructing 182 houses in clusters for the STs in villages of Naroli, Dadra, Vasona and Chichpada along with basic amenities like drinking water, sanitation and pre school education was abandoned as the STs like to live at their place of work. Under IAY scheme 940 houses were constructed by giving a subsidy of Rs. 2,20,000/-. There is another scheme of renovation of houses by giving a grant of Rs. 1,400 and loan of Rs. 600/- for purchase of Mangalore type of tiles.

## Roads

4.10 It was presented by the tribal representatives that the construction of state highway through villages has resulted in destruction of their properties and lands. **It is suggested that the Administration should prepare by-pass roads for villages affected by State highway to divert the heavy traffic and save the properties and lands of the tribals.**

## NGOs

4.11 The Commission visited Short Stay Home for Women and Girls at Khanvel run by Bharatiya Adim Jati Sevak Sangh. The short stay home situated in a rented building is providing useful service to the tribal women and girls by giving them shelter in the home and efforts are made to send them back to their homes after counselling the parties concerned. **The Commission recommends that Administration should allot a piece of land and give adequate financial assistance to Sangh for construction of a short stay home.**

4.11.1 The Bharatiya Adim Jati Sevak Sangh had submitted a proposal to the Ministry of Tribal Affairs for starting a residential school for 100 ST students at Khanvel on 22<sup>nd</sup> May 2001. The Ministry had asked for a report from the Administrator, DNH. The Secretary to the Ministry of Tribal Affairs had written a letter in July, 2001 to Administrator, DNH to send the inspection report in respect of the proposal submitted by the Sangh. The case is pending for the last two years. **The Commission recommends that the Administrator, DNH should expedite their report to the Ministry of Tribal Affairs so that they can**

proceed further in the matter. In this connection, the Administration must take into account that there is a great need for more residential schools in DNH because it is very difficult for the tribal children living in far away villages to reach the schools during the rainy season. At present, there are only two residential schools, one Govt. school and other private in Khanvel area.

**4.11.2** The Commission also visited a hostel being run by Vanvasi Kalyan Ashram (VKA) at Khanvel which is assisted by the Administration. There are 110 ST students in the hostel. The Administration is spending Rs. 220/- per month on ST students in their hostels but it was surprising to find out that they have sanctioned only Rs. 57,000 per annum to VKA which comes to about Rs. 52/- per month per inmate for 10 months. VKA is spending Rs. 400/- p.m. per hosteller. The Administration has proposed to the Ministry of Home Affairs that they should be allowed to spend Rs. 600/- per inmate per month. When the Administration feels that the amount of Rs.220 is inadequate to meet the expenditure of a student in their hostel, they should atleast sanction Rs.220/- to the voluntary agency which is managing the hostel. **The Commission recommends that the Administration should enhance the scholarship rate for the hostel inmates to bring it at par to what they are spending on the inmates in the hostels run by them and as and when the rates of inmates for government hostel are increased, the voluntary organizations running hostels for ST students should be given increased rates of scholarships for hostellers.**

### **Fair Price Shops:**

**4.12** 78 fair price shops are functioning in DNH. Wheat, rice and kerosene oil are distributed through fair price shops. 13484 BPL card holders are given 25 Kg of rice per month at the rate of Rs. 6.00 per Kg, 10 Kg of wheat per month at the rate of Rs. 4.65 per Kg and 10 Litres of Kerosene oil per month at the rate of Rs. 9.50 per Litre. Under Antyodaya Anna Yojana scheme (AAY) same quantity of rice, wheat and kerosene oil is given to 2, 420 persons at the price of Rs. 3, Rs. 2 and Rs. 9.50 respectively. Under Anna Purna scheme, 380 persons are given 10

Kgs. of wheat or rice free per month. The number of STs who received benefit under these programmes is not known.

**4.12.1** During the visit to Amboli Panchayat, the Commission found that in Amboli Patelad there were 1,716 BPL, 550 AAY and 57 under Anna Purna card holders. Out of 7 shops running in the Amboli Patelad, 4 shops were being run by STs and three by persons belonging to other communities. During the course of the meeting with the villagers, the Commission was informed that supply of rations by the fair price shops is not regular and the tribals have to visit these shops every now and then to get their food grains and kerosene oil etc. **The tribal representatives further informed that rice under AAY is seldom available to poor ST persons and they are forced to purchase rice at higher rate. They also do not get the prescribed quantity of kerosene oil and are compelled to purchase it from the open market at higher rate. The Commission recommends that Administration should ensure supply of commodities to the card holders regularly.**

## **Services**

**4.13** 10.45%, 10.26%, 43.46% and 67.39% STs are employed in services and posts in Groups A, B, C & D respectively. ST representatives informed that in recruitment/promotions, the local tribals are not appointed and the reservation principle is not being followed strictly. About 800 daily wagers working in PWD, Forest and other departments have not been regularized. It was alleged by the voluntary agencies that without ascertaining the validity of caste certificates, teachers were appointed.

## **5.0 General Recommendations**

The Scheduled Tribes formed a majority (62.25%) of population in 2001 in the Union Territory of Dadra & Nagar Haveli. The percentage of ST population in DNH in 1971, 1981 and 1991 was 86.89, 78.82 & 78.99 respectively. 14 villages were submerged due to construction of Madhuvan Dam. The compensation given to the tribals was so small that they were not able to buy land near their

new settlement. On account of various developmental schemes, there was great demand of land near Silvassa. The non-tribals were able to find ways to get possession of tribal lands at very low price. The nefarious activities of money lenders and traders have forced the tribals to surrender their land to them. The rapid industrialization that is taking place in the DNH surrounded by Gujarat & Maharashtra, the influx of non-tribals employed in industries due to income tax and sales tax exemptions and easy availability of power will change the demographic picture in the coming years. The lure of money has resulted in STs obtaining no objection certificate for conversion of their agricultural land to non-agricultural use to the tune of 14,225 hectares. Although the total area converted into industrial use is 220,19 hectares. This means that the STs are ready to cash on the demands of industries in search of land for setting up their plants. The Commission during its tour met a large number of tribal men and women, who narrated their woeful experiences in not getting the due money from the middle men / industrialists, although they have handed over the possession of their land and are facing income tax proceedings. The Administration has imposed on the industries the condition that 80% of the employees shall be recruited locally. But this will automatically not mean that the interest of STs who constitute more than 62% of the UT population will be correspondingly protected in the matter of their placement in the industries. The 'non-tribal local residents' who are from other parts of the country, being more articulate have already cornered the major chunk of employment opportunities and left the STs high and dry. The Commission, therefore, recommends that the Administration should take following steps to safeguard the social and economic interests of STs:

1. **Setting up of a Counselling unit for guiding the STs before permission is granted by the Collector for conversion of agricultural lands for non-agricultural use.**
2. **The Counseling unit should be attached to the land registration**

office to make the STs understand the implications of land transfer, not to hand over possession of land unless full payment is received by them, investment of funds in a proper manner for their economic development.

3. The Administration should provide and strictly enforce that atleast 80 percent of the recruitment by the industries should be filled up by the STs domiciled in the U.T. of DNH and the industries not fulfilling their obligation may be given time to do so, failing which they should be closed.
4. In all the Government schools, science stream should be introduced with supply of necessary equipments and appointment of qualified teachers. The proposed Arts and Commerce College should also impart teaching in science subjects.
5. Adequate number of hostels should be constructed with enhancement of expenditure on food, books etc. in all Government hostels and the voluntary agencies should also be given necessary financial help on the same pattern.
6. The *Teram* and *Chorti* plot holders should be given inalienable and heritable rights over the lands, they have been cultivating since the time of Portuguese rule and extended necessary help under various agricultural and rural development programmes. The President-cum-Chief Counsellor of District Panchayat and Sarpanches should be associated in identifying the plot holders and grant of cultivable rights to them.
7. A Committee consisting of Administrator, Collector, CEO, Panchayats, Director DRDA and President-cum-Chief Counsellor of District Panchayat and MP should be formed to discuss, formulate and watch the implementation of all developmental and regulatory laws.



**Appendix - I**

**List of non-officials who met the Commission in Dadra & Nagar  
Haveli at Silvassa on 24.06.04**

<b>S.No.</b>	<b>Name in Full</b>	<b>Address</b>
1.	MOHAN S. DELKAR, M.P.	UNION TERRITORY OF DADRA & NAGAR HAVELI
2.	KESHUBHAI V. PATEL	PRESIDENT DISTRICT PANCHAYAT
3.	MISS C.S. DELKER	VICE PRESIDENT
4.	RAMESH B. PATEL	D.P. MEMBER
5.	CHOWDHARY DEVAJI N.	D.P.MEMBER, MANDONI
6.	V.R. THIARYA	MEMBER
7.	URMILABEN N. PATEL	RUNBHA SARPANCH
8.	BABITABEN R. PATEL	SILVASSA SARPANCH
9.	SUCKHABEN M. DHILOO	KILVANI SARPANCH
10.	BHARATI JAIN	GHAHARA SARPANCH
11.	PRABHUBHAI S. PATEL	RUKHDI
12.	M. N. VIAT	
13.	ANITABEN B. SURUM	KHUVEL D.P.
14.	ARUNABEN F. PATEL	D.P. DODARA
15.	LALITA D. PATEL	SARPANCH NAROLI
16.	PATEL PRAVINBHAI K.	MEMBER OF DIST. PANCHAYAT, SILVASSA
17.	LUKUNUBHAI A. TUMER	DUPEEL SURPANCH
18.	SHRI PATLIYABHAI K. RADIA	MEMBER OF DIST. NAROLI
19.	ASHOKBHAI P. PATEL	DADRA PANCHAYAT MEMBER
20.	CHANDU V. PATEL	C.P. SARPANCH, SILVASSA

**Appendix - II**

**LIST OF OFFICERS WHO ATTENDED THE MEETING HELD AT SILVASSA,  
UNION TERRITORY OF D&NH ON 24.06.2004**

<b>S.No.</b>	<b>Name</b>	<b>Designation</b>
1.	SHRI ARUN MATHUR, IAS	ADMINISTRATOR, DD & DNH
2.	SHRI J.K. DADOO, IAS	COMMISSIONER & SECRETARY (FINANCE) DD & DNH
3.	DR. RANBIR SINGH	COLLECTOR, DNH
4.	SHRI RICHARD D'SOUZA	CONSERVATOR OF FORESTS
5.	SHRI S.S. VAISHYA	DMHS, DD & DNH
6.	SHRI R.N. SHARMA	ADM/RDC, SILVASSA
7.	SHRI K.S. MEENA	DIRECTOR (S.W.)
8.	SHRI G.R. PRASAD	G.M. SC/ST & OBC CORPN. AND P.A.S.O.
9.	SHRI R.J. MINSTRY	EXECUTIVE ENGINEER, III (IRRIGATION)
10.	SHRI JACOB YOHANANAN, EXECUTIVE ENGINEER - I	EXECUTIVE ENGINEER - I (BUILDING)
11.	SHRI M.K. KOCHUMAN	EXECUTIVE ENGINEER, II (ROAD)
12.	SHRI Q.S. DESAI	DEVELOPMENT & PLANNING OFFICER
13.	SHRI R.C. PATEL	PRINCIPAL, I.T.I.
14.	SHRI L.M. CHATE	S.D.S.C.O. - I
15.	SHRI P.H. VASHI	S.D.S.C.O. - II
16.	SHRI N.H. PATHAN	SUPERINTENDENT (COLLECTORATE)

17.	SHRI K.L. ROHIT	MAMLATDAR
18.	DR. J.M. RAO	C.M.O./C
19.	DR. V.K. DAS	MEDICAL SUPERINTENDENT
20.	SHRI N.R. SHAH	STATISTICAL OFFICER
21.	SHRI JOHN	ASSTT. SECRETARY (FINANCE)
22.	SHRI R.B. CHAUHAN	A.R.C.S.
23.	SHRI R.N. ROHIT	C.D.P.O.
24.	SHRI MOHAMMAD ALI	C.O.P.
25.	SHRI SANTOSH KUMAR	D.C.F. (WIDE LIFE)
26.	SHRI A.D. NIGAM	D.C.F. (TERRITORIAL)
27.	SHRI S.A. PAWAR	DY. DIRECTOR (AGRICULTURE)
28.	SHRI H.P. PAWAR	DY. DIRECTOR AGRICULTURE
29.	SHRI A.R. PATEL	LABOUR ENFORCEMENT OFFICER
30.	SHRI B.R. TAMBELL	EXECUTIVE ENGINEER (ELECTRIC)

**Provisions of Rule 17 of the Dadra and Nagar Haveli Land Revenue Administration Rules, 1972 regarding transfer of land and restriction**

17. **Transfer of occupancy:-** (1) A person who intends to transfer any occupancy in agricultural land shall make an application to the Collector, provided that no such application shall be necessary where:-

- (a) the land is being mortgaged in favour of the Government or cooperative society or a bank for raising a loan for a purpose connected with the cultivation of the land; or
- (b) the land is being sold in execution of decree of a Civil Court or for recovery of arrears of land revenue or Government dues recoverable as arrears of revenue.

(2) On receipt of such application the Collector may, subject to the provisions of sub-rule (4) and (5) and after such enquiry as he may deem necessary, permit the transfer if he is satisfied that the transaction is bona fide, or refuse to permit the transfer for reasons to be recorded in writing.

(3) The Collector shall subject to sub-rule (2), permit the transfer only in a case where the transfer will not contravene the provisions of any law (including rules made thereunder) for the time being in force and any of the following conditions is satisfied, namely:-

- (a) The land is being sold, gifted, exchanged, leased or assigned in favour of a person who bona fide requires the land for an approved non-agricultural purpose.
- (b) The land is being sold, gifted, exchanged, leased or assigned in favour of an industrial undertaking which requires the land for an

agricultural purpose directly connected with the industrial operation carried out by such undertaking.

- (c) The land is being sold, gifted, exchanged, leased or assigned in favour of an educational charitable or public religious institutions.
- (d) The land is being sold, gifted, leased or assigned in favour of a Co-operative Farming Society.
- (e) The land is being sold in favour of an agriculturist and the vendor is either permanently giving up the profession of agriculture or is permanently rendered incapable of cultivating the land personally.
- (f) The land is being given in gift whether by way of trust or otherwise and such gift is made bonafide in favour of a member of the occupants family.
- (g) The land is being exchanged –
  - (i) with land of equal or nearly equal value held as occupant and cultivated personally by a member of the same family; or
  - (ii) with land of equal or nearly equal value situated in the same village with the object of forming a compact block or with a view to have better management of the land.
- (h) The land is being leased by a person under disability in accordance with the provisions of section 32 of the Dadra and Nagar Haveli Land Reforms Regulation, 1971.

(4) Where the transferor is a member of the Scheduled Castes or the Scheduled Tribes and the transferee is not a member of such Castes, or tribes, the Collector shall not permit the transfer unless he is satisfied that the consideration for the transfer is adequate and that the transfer will not be against the interest of the transferor.

# Report on Daman & Diu

## INTRODUCTION

1. Goa, Daman and Diu was liberated from the Portuguese rule in 1961 and on attaining statehood by Goa, Daman & Diu became a Union Territory in May, 1987. Daman is 193 Km from Mumbai and is surrounded by Dist. Valsad of Gujarat State on three sides. Diu is located at the southern most tip of Saurashtra near Veraval and is about 760 Kms away from Daman. The demographic indicators are given below:

	Daman	Diu
Area (in sq. Kms)	72	40
Total population (2001 Census)	1,13,989	44,215
ST population	13,881	116
%age of ST population to total population	12.18%	0.26%
Sex ratio (F/1000 M)(2001 Census)	591	1,117
Sex Ratio 0 –6 years (2001 Census)	906	959
BPL families	182	3
Names of important STs	Dubla Dhodia Varli Naikda	Siddi
Literacy	Total ST	64.63 71.82

2. Siddi tribals reside in Diu only. There are no other STs. STs are in majority in six villages in Daman, namely, Zari, Naila Pardi, Deva Pardi, Kathiria, Bhamti and Pariyari. The major ST in Daman is Dubla (8,963) which comprises approximately 80% of ST population. The next major tribes are Dhodia (1,505), Varli (812) and Naikda (75). Dhodia tribe resides mainly in Zari village and Varli tribe mainly in Varliwad of Jampore village.

3. The Commission comprising of Shri Dileep Singh Bhuria, Chairman and members Dr. B.D.Damore and Shri S.K.Kaul visited Diu on the 22<sup>nd</sup> and 23<sup>rd</sup> June, 2004. At Diu on 22<sup>nd</sup> June, the Commission visited the houses of Siddi

tribals at Ghogha in Diu town and met the non-tribals. On 23<sup>rd</sup> June, Commission met the Administrator and District officials and fishermen at Diu.

## DAMAN

### Tribal Sub Plan (TSP)

4. In Damam TSP has been implemented w.e.f. 2<sup>nd</sup> Oct, 1976. Various schemes implemented by the TSP cell during the year 2003-04 and proposed during 2004-05 are indicated below:

Table – I

(Rs. in lakhs)

Name of Sector	2003-04 Actual expenditure		2004-05 Proposed outlays	
	Total (U.T.)	Flow to TSP	Total (U.T.)	Flow to TSP
<b>1) Agriculture &amp; allied sectors</b>				
i) Crop Husbandry	32.78	1.66	45.00	-
ii) Animal Husbandry	18.40	-	18.00	4.50
iii) Dairy Development	-	-	2.00	2.00
iv) Minor Irrigation	10.51	0.51	15.00	4.50
v) Power	1300.30	9.99	1044.00	10.00
<b>2) Education</b>				
i) General Education	295.30	49.84 (%)	353.00	63.50 (%)
ii) Technical Education	145.12	10.00 (%)	149.00	10.00 (%)
iii) Sports & Youth Services	10.98	-	10.00	-
iv) Art & Culture	16.36	0.99	17.00	6.00
v) Medical & Public Health	282.85	11.00	290.00	18.00
vi) Water Supply & Sanitation	208.40	3.60	390.00	20.00
vii) Housing	83.00	6.00	87.00	6.00
viii) Welfare of SC, ST & OBC	18.10	4.83	17.85	10.00
ix) Community Development	144.50	4.50	219.00	9.50

## Flow to Tribal sub Plan (TSP)

5. The table below indicates the UT Plan outlay and flow to TSP.

### Outlay and Expenditure under UT Plan and Tribal sub Plan

Table No. II

(in crores)

Year	U.T. Plan		Tribal Sub Plan		%age of Cl.4 to Cl. 2	%age of Cl.5 to Cl. 3
	Outlay	Expenditure	Outlay	Expenditure		
<b>IXth Plan (1997-2002)</b> 1	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
1997-98	27.71	27.00	1.97	1.97	7.11	7.30
1998-99	33.39	31.86	1.40	1.39	4.19	4.36
1999-00	36.60	36.22	1.35	1.35	3.69	3.73
2000-01	41.12	39.79	1.20	1.17	2.92	2.94
2001-02	42.19	41.27	1.19	1.19	2.82	2.88
<b>Xth Plan (2002-2007)</b>						
2002-03	44.92	44.72	1.20	1.20	2.67	2.68
2003-04	45.46	45.25	1.05	1.04	2.31	2.30

6. It will be seen from Col. 6 of the above table that Administration never provided 12% of the total UT plan outlay for the Tribal sub Plan as envisaged in the TSP strategy. In fact there is a distinct fall in the percentage of money provided for TSP and during the years 2002-03 and 2003-04, the outlay provided for TSP was only 2.67 and 2.31 percents respectively. **The Commission recommends that 12% of the Plan outlay must be provided for TSP.**



## **Forest and land**

7. 186 hacs. of land is classified as forest out of which 23 hacs. has been declared as reserve forests. The remaining 163 hacs. is proposed to be declared as reserve forests. It is understood that there is a legal dispute about this as villagers were getting MFP and firewood etc. for their domestic consumption from this land. According to 1991 census, 6.97%, 14.32%, 0.58% and 78.13% of STs were working as cultivators, agricultural labourers in household industries and other workers respectively. Most of the STs are working in industries.

8. After the Portuguese left Daman, all the land owners were given occupancy rights. Some land owners had given their lands to tenants, most of whom were tribals. These tenants have been given class II occupancy rights and cannot transfer their lands to any person without the permission of the Collector.

## **Education**

9. There are 35 primary, 11 middle, 13 secondary and 4 higher secondary schools. Out of these, 8 primary, 4 middle, 2 secondary and 1 higher secondary school are located in areas with tribal concentration. Out of 540 teachers employed in the schools only 21 teachers belong to STs; 18 in primary schools and 3 in secondary schools. The Administration is running under TSP, two Ashramshalas for tribal boys in the age - group of 8-15 years. The Administration has not furnished the number of tribal students who are attending the schools. All the students are provided free textbooks, stationary and two sets of uniforms. Cash incentives are also given to the parents of tribal boys and girls studying in classes I to X and remedial coaching is also provided. In addition, one year job oriented training is imparted to tribal students at TTI in various trades like carpentry, cutting, tailoring, metal turning and welding at the secondary stage of education and are given a monthly stipend of Rs. 300/-. Under Special Central Assistance, job oriented computer training was introduced in 1995-96 and 54 ST students were trained upto the year 2003-04.

## **Industrial Training Institute and Polytechnic**

10. There is one ITI, one Polytechnic and one degree college in Daman. There is no degree level professional college in the UT. Out of 140 seats in ITI, the number of ST students was only 11 in 2001-02, 20 in 2002-03 and 14 in 2003-04. All trainees at ITI are provided free training and stipend of Rs. 100/- per month. The ST students are given an additional amount of Rs. 50 per month. It is noticed that in the ITI as against 16 seats available for admission to the course of computer operator and programming assistant, no ST student was admitted to this course during 2001-02 and only 1 in 2002-03 and 2 in 2003-04. Similarly, there was no student in 2003-04 in the trades of electronics, welding and plastic processing. The position in regard to the number of ST students studying in the Govt. Polytechnic was dismal. Out of 33 seats, there was no ST student during the year 2001-02 in the three trades in which training is given in the Polytechnic. In the years 2001-03 no ST student was in the mechanical and chemical engineering trades. In 2003-04, 2 ST boys each, were admitted in mechanical and chemical engineering courses. **The Commission recommends that the UT administration should take steps to give coaching to ST students studying in the high schools and higher secondary schools in the subjects of science and mathematics so that they can be admitted to ITI and Polytechnic.**

## **Medical and Engineering seats**

11. 2 seats each are allotted to the UT by the Govt. of India for admission to MBBS, BDS, BHMS, Architecture, B.Pharm., courses and 17 seats for engineering and 10 for Diploma courses. During the year 2001-02 only one ST student was admitted against allotted seats in the BDS course and none against the quota of allotted seats for various courses during the years 2002-04. **It is**

therefore quite clear that Administration has to make strenuous efforts to motivate ST students to go in for science stream in the higher secondary schools so that they qualify against seats allotted to UT in various degree and diploma courses.

### **Electrification**

12. The UT Administration is undertaking under the TSP a programme of electrification by streetlights on village roads. During 2002-03, 0.05 km of electric lines were provided.

### **Housing**

13. The UT Administration is giving assistance for construction and repairs/renovation of houses. 27 ST persons were assisted for construction of houses and 12 ST persons for repair/renovation of houses during 2002-03.

### **Drinking water**

14. During the years 1993-94 to 2002-03 water connections were provided to 2120 tribal houses. In 2002-03, three bore wells with hand pump were provided in villages of Pariari, Dabel and Kachigam. In 10<sup>th</sup> Five Year Plan, 29 bore wells are proposed to be provided to seven villages.

### **Dadra & Nagar Haveli and Daman-Diu SC, ST, OBC and Minorities Financial and Development Corporation Limited**

15. The Corporation was set up in 1993 and provides assistance for setting up small scale industries, transport, procurement, storage and supply of agricultural produce etc. Loans are provided to tribals at 6% rate of interest. During the years 1999-2004, 22 ST persons in Daman and 2 ST persons in Diu were given loans.

## **Health facilities**

16. Three mobile dispensaries are functioning which visit all the villages at least once in a week. 5 sub centers are functioning in tribal areas.

## **Economic Activities**

17. Fishing is the main primary economic activity. Financial assistance is provided to fishermen for purchase of small fiber boat, outboard engine, fishery requisites etc. Out of 29 and 21 beneficiaries during the years 2002-03 and 2003-04 respectively , only one SC/ST beneficiary in each of these years was helped. All fishermen/women engaged in fishing business are insured for a sum of Rs. 50,000/- for death & Rs. 25,000/- for partial disability. 100% premium is borne by Government of India. Fishermen are also given assistance (maximum upto Rs. 40,000/-) for construction of houses and upto Rs. 20,000/- for repairs to their houses. No ST person was given assistance in the later mentioned scheme during the years 2002-04. Separate figures of ST persons helped under the former scheme has not been furnished by the Administration.

## **DIU**

### **Economy**

18. Siddis numbering only 116 is the only tribal community living in Koliwada and Ghogha in Diu town. In Diu, Tribal sub Plan was not started due to miniscule ST population. The main economic activities revolve around fishing and tourism. During the visit of the Commission at Diu, a 60 metres long fishing/dry dock platform constructed at a cost of Rs. 18.35 lakhs was inaugurated by the Chairman. There are five such platforms already existing. These dry dock platforms are useful to the fishermen for berthing of fishing vessels, loading the essentials in the boat such as ice, kerosene, diesel when they go for fishing and

unloading the fish catch, drying the fish, weaving the fishing nets and other allied activities relating to fishing.

19. During the course of the meeting with the fishermen, the Commission met a number of fisherwomen who narrated their pitiable condition. Their husbands along with their boats were detained by Pakistan authorities when they inadvertently crossed into Pakistan waters. This matter has been taken up by the Union Territory Administration with the Ministry of External Affairs.

20. Under the 20 point programme, 15 families were allotted house sites and they have constructed their houses. There were complaints that electricity and water connections has not been provided to two houses. Government Hospital in Diu and Primary Health Centre at Ghoghla are within 500 mtr radius of the tribal settlements. Free health services are provided in all these hospitals. 10 persons are employed in Govt. service, including 7 males and 3 females, 3 persons in shipping line, 2 persons own autorickshaws, 1 news paper agent and some are working as fishermen and drivers. The major problem of the educated Siddis was lack of employment. **The Commission met one girl who is studying in the 1st year B.ed. course and the administration agreed to consider her case sympathetically when she completes her course for a suitable employment.** There were a number of young boys and girls who have passed matric/higher secondary schools and searching jobs. **The Commission recommends that these boys and girls should be motivated to join ITI for getting suitable employment.**

## **21. Recommendations:**

- (i) The Administration should allocate 12% out of the UT Plan outlay for TSP and take steps for focused attention for all round development of STs.**
- (ii) Data on the implementation of several developmental programmes belonging to SC/ST are clubbed together and ST**

**beneficiaries are not tabulated separately which should be done for all schemes.**

- (iii) It is necessary to draw a systematic plan to improve the educational attainment of ST students by giving them additional coaching in subject like Maths, Science and English so that they can take advantage of reserved seats for securing admission in degree and diploma courses.**

# State Report on Goa

## Introduction

1. Goa lying on the west coast of India is situated between the borders of Maharashtra and Karnataka. The State was liberated from Portuguese rule of 451 years on 19 December, 1961 alongwith the present Union Territory of Daman & Diu. It became the 25<sup>th</sup> State of the Indian Union when it was conferred the Statehood on 30 May, 1987 and Daman & Diu were delinked from it to be declared a separate Union Territory of the Indian Union.

1.1 The Commission undertook a tour of Goa from December 30, 2003 to Jan 1, 2004 for an on the spot study of the problems of STs. The Commission met the officials and tribal NGOs and other tribal representatives and had wide range and useful discussion with them at various places in the State.

## 1.2 Goa at a glance

1. Area	:	3.702 sq. kms.
2. Revenue Distts. (No.)	:	2
3. Revenue Talukas (No.)	:	11
4. No. of inhabited villages	:	360
5. Main towns	:	7
6. No. of important beaches	:	9
7. Languages spoken	:	(i) Konkani, (ii) Marathi, (iii) Hindi, (iv) English and (v) Portuguese
8. Total population	:	13.48 lakh (2001 census)

9. ST population

Census Year	No.	%age of total
1991	376	0.32
2001	566	0.042

10. Sex Ratio (General)

Year	Ratio
1991	969
2001	892

11. Literacy rate

Year	%age
1991	NA
2001	NA

1.3 With the delinking of Daman & Diu district from Goa in 1987, no ST community was left in the State as all of them were notified as STs in relation to Daman & Diu. However, a negligible number of STs were left out and not notified as such in Goa. It was only as per the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 (Order 10 of 2003) that three communities viz, Kumbi, Gawda and Velip were notified as STs. **The State Government should undertake a rapid survey and estimate the population of STs to help in drawing up developmental programmes for STs.**

### **Tribal sub Plan**

2. On account of their small number, the State Govt. has not formulated any strategy for the development of STs.

### **Protective Measures**

3. 5807.70 hectares have been declared as Revenue forests in 8 villages – Paton, Tudor, Potran, Bati, Cumbari, Vilonia, Portram and Viliena I. However, formal enquiries have been completed in respect of 5623.16 hecs. An additional 324.70 hecs. has been declared as unclassified forest in the Sanguam range.



## **Wild Life Sanctuaries**

4. The State Govt. have declared wild life sanctuaries within the protected forests, (i) Madei Wild Life Sanctuary ( Area 164.21 sq. kms) (ii) Natraveli Wild Life Sanctuary (Area 154.82 sq.kms) and (iii) Natevali Wild Life Sanctuary ( Area 56.23 sq. kms). The declaration of sanctuaries are for protecting, propagating wild life and environment.

4.1 A number of tribals represented to the Commission that the local tribal residents were not at all consulted while declaring such areas as wild life sanctuaries. Though these organizations were one with the govt in protecting the flora and fauna and environment of the wild life but they consider that the on - going mining activities consequent to the grant of mining leases by the State Govt. posed a greatest threat to the wild life. The sanctuaries alone would affect 43 villages affecting a population of 16,000 which includes tribal population who are depending on their livelihood through collection of minor forest produce (MFP).

4.2 The Commission recommends that the State Govt. should take adequate steps to protect the interests of the tribals. The provision of Section 24(2) C of the Wildlife Protection Act, 1972 may be invoked which allows the inhabitants the right of a participatory model of conservation by their involvement.

## **House sites to STs**

5 The State Govt. should make suitable provision in the Land Revenue Code for allotment of house sites to the houseless STs and financial assistance preferably under Indira Awas Yozana for construction of houses.

## **Education**

6. The State Govt. should identify areas and establish hostels for ST students so as to minimize drop outs and improve retention by grant of various incentives.

## **Vocational Training**

7. **The State Govt. should start pre employment schemes for placement of STs in the various industrial units.**

## **Disposal of municipal waste in tribal areas**

8. At present the municipal waste is being allowed to be disposed of in the village Bendurdem of Kepem Taluka. **The Commission recommends that the Govt. should look into the complaint of the tribals who met the Commission to ensure that discharge is not allowed to be dumped in the tribal village as well as in Curca village in Tiswandi Taluka which is inhabited by 90% tribals.**

## **Irrigation**

9. In a coastal State like Goa where floods and cyclone stimulate silt to come down from the catchment areas cause severe damage to the agricultural land ecology. The provision of irrigation facility not only ensures full time employment in the agricultural sector, it also makes available drinking water in the villages who are quite often faced with drinking water shortage.

9.1 The State Govt. has not formulated a separate irrigation scheme for tribal farmers as the "ST population in Goa is very few" according to the State Govt. **The Commission feels that since the development of STs is a constitutional responsibility, they should be provided assured irrigation facilities, how so ever, small their number may be.**

## **Tourism**

10. Due to its idyllic location, natural scenic beauty, abundant greenery, attractive beaches, temples and churches with distinctive style of architecture, colourful and lively feast and festivals and, above all, hospitable people with a rich cultural milieu, the State has earned considerable amount of foreign exchange relating to tourism. 20 percent of the State population earn their livelihood directly or indirectly through tourism related activities.

10.1 The important beaches of the state are Abjuna, Colva, Arambol, Vagator, Calangute, Miramar, Dona Paula, Agonda, Palalem. The ancient Geevottam partagal *Math* noted for Vedic studies, lies in the vicinity of a sanctuary.

10.2 **The tribals who live close to the beaches, sanctuaries and architectural sites should be financially assisted to establish shops and restaurants to take advantage of the flourishing tourist industry.**

## **Goa Mediclaim Scheme**

11. The State Govt. introduced Goa Mediclaim Scheme in Jan., 2000 to provide special medical facilities in reorganized hospitals outside and within the State in super specialities for which facilities are not available in the Govt. hospitals of the State. All permanent residents of Goa figuring in the Voters List or holding permanent Ration Card, including minor dependents, whose family income does not exceed Rs. 50,000/- per annum, shall be eligible for the medical facilities under this Scheme.

11.1. **The Commission feels that this is a unique scheme and its publicity in vernacular language may be given to the STs so that they can avail of this scheme as and when needed.**

## **Social Security Scheme**

12. Under the Goa Dayanand Social Security Scheme financial assistance is provided to the vulnerable sections of society. The first phase of the scheme shall cover beneficiaries from communities of Toddy Tappers/Coconut Pluckers/Rickshaw Drivers/Taxi Drivers/Motor Cycle Pilots/Fishermen (Traditional)/Agricultural Labourers/Hamal/Bus and Truck Drivers/Bus Conductors and Bus/truck Cleaners, Senior Citizens and those presently covered under the Dayanand Smriti Niradhar Madat Yojana, the Scheme of Financial Assistance to young Widows, and the Scheme of Grant of Family pension to the Old, Destitute and the Handicapped Persons for blindness, hearing special speech impairment.

**12.1 The Commission feels that this scheme would also benefit the STs in view of their low profile occupations. The State Govt. should do well to give wide publicity of the scheme among the STs.**

### **Reservation of posts and services for STs etc.**

13. The State Govt. has constituted a vigilance cell on in September, 1999 under the Director General of Police for investigation of social status claims of STs. The Vigilance Cell with Dy. SP Crime Branch (CID), PI Crime Branch (CID) and PI (ACB) shall function under the charge of S.P. (CID). A Scrutiny Committee has also been constituted for verification of caste certificate (social status certificate) issued by the Dy. Collector and the Sub-Divisional Magistrates consists of Secretary (Social Welfare), Director Social Welfare and a member to verify caste certificates issued by the competent authority.

**13.1 The Commission feels and expects that the State Govt. must ensure that no bogus certificate is issued to counteract the lure for admission to education institutions and for posts and services in the State and Central Govt. and grant of education benefits/other economic incentives to the STs.**

# State Report on Gujarat

## Part I

### Introduction

1.1 Gujarat state which was earlier part of bilingual State of Bombay came into existence as a separate state in May, 1960. The State is situated on the west coast of India. It is bounded by the Arabian sea in the west, by the states of Rajasthan in the north and north-east, by Madhya Pradesh in the east and by Maharashtra in the south and south-east. The state has an international boundary with Pakistan at the north-western fringe and the two deserts, one north of Kachchh and the other between Kachchh and the mainland Gujarat are saline wastes. The state has a long coast-line of about 1600 kms. longest among all states of the country.

### 1.2. Statistical profile of the State

1.2.1. (a) Area	1.96 lakh sq.kms.		
(b) TSP area	0.29 lakh sq. kms. (15.01%)		
1.2.2. Administrative units	Number		
Districts	25		
Tehsils	226		
Towns	242		
No.of inhabited villages	18,618		
No.of Gram Panchayasts	13,330		
1.2.3. TSP			
(1) Integrated Tribal Development Projects	-	9	
(2) Modified Area Development Approach Pocket	-	1	
(3) Clusters	-	4	
(4) Pockets	-	16	
(5) Primitive Tribal Groups	-	5	
(6) Inhabited villages	-	5,884	
1.2.4. Population (in lakhs)		<u>1991</u>	<u>2001</u>
Total		413.10	505.97
ST		61.62	74.81
		(14.92%)	(14.79%)
1.2.5. ST in TSP	-	50.89 (82.58%)	
1.2.6. Dispersed STs	-	10.73 lakhs (17.42% of ST population)	
1.2.7. Percentage of decadal growth	Total	<u>1991</u>	<u>2001</u>
	ST	21.19	22.48
		27.08	21.19
1.2.8. Population below poverty line (1998 DRDA) - 8.46 lakhs			
Percentage Rural - 29.11, Urban 36.66 (STs) (NSS figures)			
1.2.9. Sex ratio	Total	<u>1991</u>	<u>2001</u>
	ST	926	933
		971	977

### 1.2.10. Literacy rates

	STs		Total	
	1991	2001	1991	2001
Male	48.25	-	73.13	-
Female	24.20	-	48.64	-
Persons	36.22	-	60.88	-

1.2.11. (a) Reserved seats for STs

**Vidhan Sabha**      **Lok Sabha**

26 (2002)      4 (2004)

(b) Elected against unreserved seats

1 (-do-)      1 (-do-)

### The Scheduled Tribes (STs)

1.3. The state had 29 listed ST communities as per Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. The ST population of Gujarat being 37.74 lakhs (1971 census) rose to 37.57% as a result of the Constitution Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 on account of removal of area restrictions. In other words, the percentage of total population increased from 13.99% to 14.07% respectively. As per the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002, notified on 8<sup>th</sup> June, 2003, the number of 29 ST communities in the State has been reduced by three. The names of the delisted communities are: **Koli, Paradhi, Vaghari-all from district of Kachchh.** Further, against entry number 9 of the list, Dodhi has been inserted at the end which would now read as 'Dodhia-Dodhi'. In entry No.26 after Siddi, Badshan has been inserted to read as 'Siddi-Badshan' and three more entries have been added.

### Scheduled Areas

2.1. The Scheduled Areas under 5<sup>th</sup> Schedule in Gujarat were originally declared in 1950 and have been specified by the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977 (Constitution Order, 109) dated 31/12/1977, after rescinding the 1950 Order. The need for re-specification of the scheduled areas in 1977 arose due to conforming the scheduled areas with the TSP areas on account of the implementation of the new strategy of TSP launched in 1975-76 – 5<sup>th</sup> Five Year Plan. The State Government has yet to submit a proposal to the Government of India, Ministry of Tribal Affairs for additional areas to be included in the Scheduled Areas. The Commission during its visit were given representations by various voluntary agencies and tribal representatives for inclusion of the following areas in the list of Scheduled Areas:

1. Danta and Hamirgadh tehsil of the Banaskantha district.
2. Sankheda tehsil of Baroda district.
3. All villages of the MADA pockets i.e. Choriwad, Karoli, Jambughoda and Choriyasi.
4. Cluster of Kathola, Mora, Govindi, Vadali, Bharpur, Ankleshwar, Uttara, Bhatgam, Rahej, Olpada, Palsana, Kamrej, Amod, Ganver, Sisodara Ganesh and Amirgadh.

In so far as point No.1 is concerned, these two tehsils were recommended by the State Government to Dhebar Commission and this Commission recommends that all these areas should be included in the proposal that the state government has yet to submit to the Ministry of Tribal Affairs for inclusion in the list of Scheduled Areas.

## **Tribes Advisory Council (TAC)**

**3.1.** The Government of Gujarat constituted TAC on 19 August, 1960. The TAC consists of 20 members. The Chief Minister is the Chairman. The Chief Minister is the Chairman of the TAC while the Minister of Tribal Development is its Vice-Chairman. The members are appointed by the Government in consultation with the Governor. The Governor nominates members other than representatives of STs under the TAC rules. The Chief Secretary to the State Government and Secretary to Governor are not associated as members of the TAC.

**3.2.** The State Government has informed that it does not consider it imperative to consult TAC before enacting any legislation affecting the interests of tribals living in the Scheduled Areas. The State Government also feels that there is no scope for the members of the TAC to take initiative in highlighting issues affecting the advancement of the interest of the STs, *suo motu*.

**3.3.** As regards the preparation of Annual Reports on the Administration of Scheduled Areas, it has been found that the administrative reports are not in any way different from the annual administrative reports of any department of the State Government. These reports, as they should, do not reflect the working of various protective safeguards like land alienation, money-lending and working of excise policy in the Scheduled Areas. The working of the various provisions of the Gujarat Panchayats (Amendment) Act, 1998 also do not find any mention in the administration report on the Scheduled Areas.

**3.4** The Commission recommends that the members of the TAC should be invited to suggest agenda items for discussion, and all legislations affecting the interests of STs should be discussed by the TAC so that ST MLAs can give their views and suggestions before a law is enacted and or amended if need be. Further, it recommends that a small cell should be created in the Governor's Secretariat to ensure that the Annual Report to be submitted by the Governor to the President indicates not only what the Tribal Development Department has done but also what other wings of the government are doing or propose to do in future. The Report should highlight the steps taken for peace and good governance including the working of protective safeguards like Gujarat Panchayats (Amendment) Act, 1998, land alienation, money-lending, etc. and the problems of migration, regularization of pre 31.12.1993 tribal settlers in forests. The Annual Administrative Report should have a chapter on the action taken report (ATR) on the important issues discussed by the TAC in the previous meetings.

## Protective measures

### Land alienation

4.1. The Commission had asked the State Government whether any evaluation has been undertaken regarding the implementation of the alienation laws in their question NO.3 to the questionnaire in the chapter on Land. It is surprising that the Tribal Development Department gave a reply that no evaluation has been carried out. However, the Tribal Research and Training Institute, Gujarat Vidyapeeth had conducted studies on the problem of land alienation from time to time. The first study on the problem of land alienation was conducted by the Institute at the instance of the Ministry of Home Affairs in one village each in the districts of Surat, Vadodara and Panchmahals. The second study was conducted by the then Director, Shri R.P. Lal of the Institute in 1988 in 25 villages in all the tribal districts excluding Dangs and 1240 households belonging to different tribal communities were covered under the survey. Another study on land alienation was conducted by SETU, Ahmedabad in 1998-99. The fourth study was made by Centre for Social Studies, Surat in 2001 sponsored by the State Tribal Development Department. The fifth and the latest report of the study made by the Institute in 2003 has been made available to the Commission. In this report, the Institute had given 40 case studies of alienation in Pardi and Umargam talukas of Valsad district and 21 case studies from Amirgadh and Danta talukas of Banaskantha district. The cases mentioned in the case studies relate to various ingenious methods adopted by the non-tribals to take possession of tribal lands.

4.1.1. The Commission made efforts to meet the tribals whose lands had been alienated/taken possession by non-tribals mentioned in the case studies and intimated the names of tribals and non-tribals in advance to the Collector, Banaskantha to ensure that the concerned persons meet the Commission at Ambaji. However, not a single tribal and non-tribal person was brought by the district administration to the meeting place. Therefore, at the meeting of the Commission with the Collector and officers at the district headquarters, the Superintendent of Police was given another list of tribals and persons mentioned in the case studies and the persons concerned appeared before the Commission. During interrogation the facts stated in the case studies were corroborated but the revenue officers could not explain how the lands of the tribals had gone out of their hands to the non-tribals in violation of the laws against alienation. It was quite clear during the course of the discussion in the districts that the Collectors do not initiate *suo motu* action in alienation cases for investigation.

4.1.2. These case studies were brought to the notice of the Chief Secretary by the Commission and he promptly "directed that Revenue Department must enforce laws against alienation of lands belonging to tribals. The law is very clear, it relates to title and aspects of title such as possession. Non-tribal



cannot be in possession of tribal land even though on record land has not been transferred to the non-tribal. Secondly, Tribal Development Department has to give districtwise break up of all the various cases researched by TRI and R.D. shall ask Collectors to take immediate action. To bring these cases to logical conclusion, C.S. also suggested that in case where the non-tribal appeals to the higher authority. R.D. should consult the Tribal Development Department and have good quality legal resources to protect the tribals and ensure implementation of laws in right spirit". In this context the Chairman of the Commission suggested that the Gram Sabha be given power as contemplated in PESA Act. Administration would become much easier then because Gram Sabha would know pretty well where non-tribals are occupying or controlling tribal land. The Commission hopes that the Revenue Department will ask the district authorities to make enquiries in all alienation cases for suitable action.

### **Princely States**

4.1.3.1. During Moghul period the land was in abundance and Bhils were living in forests, leading a prosperous life. When the Moghuls were able to bring under their control several native states in Rajputana, some Rajput chiefs came to Gujarat and defeated Bhil chieftains in many battles. The tribals had to run away and settle in hills. The economic degeneration and relative isolation of tribals took place between the 12<sup>th</sup> and the 16<sup>th</sup> century. The states of Baria, Naswati, Chhotta Udepur, Rajpipla, Vansda and Dharampura etc. in tribal region were established by the Rajput chieftains and the Bhils left these areas to settle in interior forests. The Gaikwad after establishing their control, invited Patidars in Kheda who cleared forests and settled down in tribal areas of Baroda in South Gujarat. The Dublas of Valsad and Surat, Vasavas of Bharuch and Rathwas of Baroda traditionally cultivating lands were rendered agricultural labourers and Patidars became legal owners of the land. Parsis, who came in 15<sup>th</sup> and 16<sup>th</sup> century to the tribal areas settled in rural south Gujarat and became land owners and Dublas became their bonded labourers.

### **British policy**

4.1.4. The problem of land alienation was so deep-rooted in the tribal areas that as early as in 1901, the British Government incorporated section 73-A in the Bombay Land Revenue Code 1879 prohibiting transfer of occupancy held by the tribal cultivators and in areas where survey settlement was not done without permission of the competent authority. In Dahod Taluka, 58% Khalsa land was declared inalienable. The repeated famines during the first half of the 19<sup>th</sup> century from 1901 to 1947 forced tribals to mortgage their land to non-tribals.

## Agricultural labourers

4.1.5 Gujarat has witnessed rapid alienation of tribal land since its formation in 1960. The table given below indicates decrease in the percentage of tribal cultivators and increase in the percentage of agricultural labourers as well as in other vocations. The increase in agricultural labourers clearly indicates that land is passing out of their hands and they are compelled to work as agricultural labourers and work in other vocations for their sustenance.

Table - I

Year	Percentage of ST Cultivators	Percentage of ST Agricultural labourers	Percentage of ST in Other vocations
1961	59.18	31.09	9.73
1971	48.34	42.33	9.33
1981	45.94	40.10	13.96
1991	45.70	39.19	15.11

During the British rule, the tribals were brought under political control and the construction of roads facilitated the entry of non-tribals into the tribal areas and consequently the non-tribal money lenders, merchants, forest contractors and government officials started exploiting the tribals. The British Government introduced Raitwari system under which the tiller of land became owner of the land and the tribals who had mortgaged their land were rendered landless. Like the Gaikwads, the Britishers settled farmers of Kheda district in Panchmahals district to increase their land revenue. The following points require attention to understand how alienation of tribal lands continued after the creation of Gujarat state.

## Unsurveyed areas

4.1.6. Out of 32 tribal talukas covered under TSP area in the state, lands in about 16 talukas were treated as surveyed and settled and so tribal lands of about half the TSP areas were without any restriction on alienation, and the tribal lands were freely alienated under pressure of circumstances or due to underhand dealings of the interested parties. There was no legal provisions whatsoever to prohibit alienation of tribal land in these 16 talukas. Section 73-A will be applicable to unsurveyed and unsettled areas if there is a publication of government notification to that effect. These areas were governed mostly by the ex-princely states and merged/integrated with Indian Union in the year 1948. There was practically no restriction on alienation of tribal land during the period of more than 12 years from 1948 to 1961 until the state Government issued notification applying Section 73-A to ex-princely states covering areas of 16 talukas. It is also noticed that the administrative machinery to detect alienation was established only in 1977 by creating 5 Units headed by Deputy Collectors.

## Tenancy rights

4.1.7. In 1973, Gujarat state amended Bombay Tenancy and Agricultural Land Act, 1948 under which –

- (a) In no case shall a tenancy be terminated for personal cultivation and non-agricultural use by the landlord, if the tenant is a member of the Scheduled Caste or Scheduled Tribe (Section 31B[4]).
- (b) Surrender of tenancy rights in favour of landlord has been barred. All surrenders can be made only in favour of the State Government and such land will vest with the State Government free from all encumbrances for disposal according to the provisions of the Act in accordance with the priority list.

Before the above amendments came into force, the landlords had right to terminate the tenancy of tribal tenants on the ground of personal cultivation or non-agricultural use of land upto a specified period. The information from the State Government is available only with regard to 14 tribal talukas and one tribal pocket about the lands lost by tribal tenants for personal cultivation by landlords and lands surrendered in favour of landlords from which it seems that 3,317 tribals voluntarily surrendered 3,203 hectares of land and 1,450 tribals lost legal right over 2,095 hectares of land for personal cultivation by landlords. Thus, a total of 4,767 tribal tenants lost 5,298 hectares of land on the above two counts and were, therefore deprived of becoming deemed purchasers. The figures if available from all the tribal talukas would indicate that the land lost by the tribals would be much higher and this could have been prevented if the amendment had been done earlier than 1973.

## Allotment of surplus land

4.1.8. The Gujarat Agricultural Ceiling Act, 1960 had made a provision that a person belonging to a ST shall have precedence over other persons for the allotment of land declared surplus by payment of an occupancy price equal to the amount of compensation to the landholder whose land has been declared surplus. The amount of compensation of cultivated land ranges from 80 to 200 times the assessment of the land, which the poor tribals are unable to pay back. **The Commission recommends that concessional occupancy price at the rate of six times the assessment should be charged to the ST allottees and for this purpose interest free loan shall be given to be recovered in 12 annual equal installments and the remaining occupancy price should be met by the Government.**

#### 4.1.5. Fragmentation

4.1.9. Fragmentation is a serious problem in the tribal villages as different parcels of lands held by a tribal landholder in a village are generally situated at different places and the fertility of each parcel of land differs. Therefore, each and every heir of a deceased landholder prefers to have his share by sub-dividing each parcel of land with differences in the fertility of the soil. But the names of all the heirs of deceased are shown against each parcel of land under joint possession though the position on the ground is different. In the record of rights, therefore, there appears to be no fragments, while on the ground the position is otherwise. **The only reasonable solution appears to be to persuade the different heirs to manage the cultivation of such lands jointly and to share the expenditure involved and divide the produce of the lands among themselves. This is the only way in which the position at the ground level and in the records can be retained undisturbed.**

#### Consolidation

4.1.10. The consolidation of the holdings of the tribal villages is difficult because of undulating and hilly terrain and large varieties of soil is observed that the consolidation in the tribal villages has not been successful. The work of preparing the records of rights as far as the tribal villages are concerned is also very complex. During the time of ex-princely states, they used to take forced labour commonly known as 'Veth' from every landholder called *Khatedar*. The tribal preferred to keep all his land in one *khata* only. This was one of the reasons why all tribal lands were entered in the name of the eldest male heir of the family. The practice of demanding forced labour does not exist at present but the custom of primogeniture persists and the heirs of a dead person maintain a joint *khata* in the name of the eldest brother, while cultivating their share of land for personal benefit separately. Whenever a tribal has to alienate his land to a money-lender, due to ban on land alienation, the entry into the concealed transaction with his creditor are not reflected in the records of rights. The staff of the revenue department, who have undertaken the resurvey and revision survey in the tribal areas ignore the existing partitions of parcels of land separately cultivated by each heir. **The Commission feels that suitable steps have to be taken to ensure that the record of rights actually reflects the position on the ground.**

#### Land acquisition

4.1.11. In all the large-scale irrigation projects, tribals in the state have been the losers of their land as these projects are generally located in hilly and rocky tribal tracts. The tribal lands are compulsorily acquired and they are rendered almost landless and homeless. The fruits of irrigation go to the people living in downstream areas in the plains and who are usually the non-tribals.

## **Alienation laws**

**4.1.12.** The State Government added section 73-AA, 73-AB, 73AC and 73 AD giving additional powers to Collectors who could disapprove the transfer of lands of tribals in the names of non-tribals. The salient features of the various alienation laws\* are as follows:

1. 73-A Stay on powers to transfer
2. 73-AA Ban on transfer of land from Tribals to tribals and from Tribals to non-tribals.
3. 73-AB Hypothecation of land to Government/Bank/Cooperative society allowed and in case of default in repayment of loan, land can be sold to a non-tribal only with the sanction of the Collector.
4. 73-AC No legal/constitutional support can be availed through Civil Court in such matters.
5. 73-AD Bans registration of documents relating to transfer of land belonging to ST unless sanctioned by the Collector under Section 73-A or Section 73-AA.

Despite these legal provisions, non-tribals have found a variety of ways to get around the law, to take advantage of the tribals' vulnerability and acquire control over their land.

### **Cases registered under Sections 73A, 73AA**

**4.1.13.** After the passing of Bombay Land Revenue (Gujarat Second Amendment) Act, 1980, the Revenue Department of Gujarat has started documenting districtwise registered cases under Sections 73A and 73AA. According to statistics# of the Revenue Department, during the years 1981-1997, a total of 39,622 cases were registered for transfer of land under Sections 73A and 73AA. Out of these, 33,537 cases were cleared in favour of tribals, while 4,116 cases were decided against them. As a result of the applications decided against the tribals, 6,887.44 acres of land was alienated with the permission of the Collector. During the same period, a total of 2,289 applications were received for land transfer and out of these, in 869 cases permission was granted, while in 1,256 cases, the permission was not granted. Moreover, 1,969 cases were pending involving an area of 7,897.80 acres.

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\* Appendix I

# Appendix II & III

No data are available about land restored under the provision of 73-AA from the Revenue Department. The Commission was not furnished the required information.

### **Present challenges**

4.1.14. The growth of market-oriented agriculture in Gujarat has increased the demand for land to produce cash crops like cotton, sugarcane, tobacco, etc. and simultaneously, has also increased the value of land and made it marketable. Initial industrial development in the state, which was intensified with the implementation of the New Economic Policy in 1991, created more and more demand for land and natural resources of tribal areas. The Government of India has been pursuing a policy of checking concentration of industries in metropolitan areas and encouraging dispersal of industries to backward areas of the country. Under implementation of New Economic Policy, Government of Gujarat offered several incentives to encourage entrepreneurs to establish industrial units in tribal areas. Since 31<sup>st</sup> March, 1983, "scheduled" areas of Gujarat are eligible for concessional finance in addition to central subsidy for establishing industries.

4.1.15. As a result of the commercial orientation of agriculture, industrial development in tribal areas and various multipurpose and major irrigation projects in the "scheduled" areas, tribals have been losing ownership rights over their land. Land and forest are two important sources of livelihood for tribals. After independence, tribal land continues to pass into the hands of non-tribals on a large scale. The process of land alienation has victimized the tribals in the following ways:

- \* Moneylenders and rich tribals take over possession of land of poor tribals for recovery of debts;
- \* Tribal land is auctioned, legally by Credit Co-operative Societies and banks to recover dues. The auctioned land is purchased by non-tribals as well as by rich tribals;
- \* Apart from alienation of land to private persons, the Government has acquired substantial tribal land for various developmental projects.

4.1.16. **The Commission recommends that the State Government should enact a separate legislation to cover alienation of tribal lands and its restoration incorporating the following suggestions:**

1. **Alienation of tribal lands all over the State should be prohibited.**
2. **Alienated tribal lands should be restored to the tribals removing the bar of limitation.**
3. **Admission by the tribals against their own interest should be made inadmissible evidence in court proceedings regarding the tribal lands.**

4. In all cases relating to tribal lands, an officer not below the rank of Mamlatdar should be joined as a party to safeguard the interests of the tribals.
  5. Non-tribals who take possession of tribal land in contravention of legal provisions should be imprisoned and fined.
  6. Whenever a tribal does not agree to take back possession of his land, such land should be vested in the State and should be allotted to a tribal who is landless or marginal cultivator and belongs to the same village.
  7. No document regarding transfer of tribal land should be accepted for registration by the Registrar/Sub-Registrar unless a gazetted officer identifies and gives a certificate to the Registrar that the transferee is a tribal.
  8. In tribal areas if a non-tribal wants to sell his land, he should only sell it to landless tribal or a tribal having marginal holding. The tribal should belong to the same village.
  9. In areas covered by tribal talukas/pockets, if a non-tribal is found in possession of a tribal land, it should be restored to the tribals under the presumption that he or his predecessor had acquired that land through transfer from tribal landholders, unless the contrary is proved. This will help in detecting concealed cases of land alienation.
  10. Transfer of land from tribal to tribal should only be allowed by the State Government in special circumstances.
- 4.1.17. The Commission further recommends that on the administrative side, the State Government should take the following steps:
1. The area of high incidence of land alienation in each district should be identified and the Collector concerned should take urgent steps for suitable action in the restoration of alienated land.
  2. The highest incidence of land alienation is around the industrial and growing urban centres and areas of intensive economic activity. Special teams should be constituted for identification of alienated lands in such areas and its restoration in a time-bound period to be completed within 6-12 months.
  3. Tribal Research Institute should organize peripatetic training camps in the tribal areas to make the tribals aware about the laws regarding alienation of land. Voluntary organizations should also be actively involved in organizing such camps.
  4. Alienation of land and indebtedness are inter-related. The credit facilities should be extended to the tribals for productive and consumption purposes in their villages by co-operative societies/banks.
  5. Officials of the revenue department who are in collusion with the non-tribals to deprive the tribals of their land should be dealt with sternly.

6. Provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 should be invoked against non-tribals who forcefully take possession of tribal lands. This provision has not been used so far, which can instill fear among the non-tribals who grab the land of the tribals.
7. Record of rights of tribals on land must be prepared and complete by the end of Tenth Plan.
8. In respect of 14 villages of Umargam taluka which were earlier part of Maharashtra, revenue records are still lying with Maharashtra Government causing hardship to the tribals as they are not able to obtain financial assistance from the banks.

### **Money lending**

4.2. STs have been exploited in many ways. Money lenders continue to be one of the instruments of exploitation. In earlier days, the barter system was prevalent. Tribals had hardly any need to incur debt even for non-productive purposes. After the introduction of money economy, the tribal has to pay in cash for purchase of his daily consumption goods like salt, clothes, foodgrains, seeds, manure etc. and needs money for social functions like marriage, death and festivals. Often he owes the debt of his father or grandfather. The tribal is in the grip of the money lender but he cannot do without him because the money lender helps him to meet his requirements at all odd hours. The moneylender is usually a local non-tribal resident who speaks tribal language and maintains social relationship with the tribal. The burden of debt is particularly heavy in Khedbrahma, Fatepur and Jhalod talukas. These are the areas where they raise only one-crop and face constant scarcity conditions. The rates of interest charged by moneylenders are very high-much more than 18% allowed officially. "Thus, a tribal is born in debt, he lives in debt and he dies in debt." All that tribal produces in his farm is sold off to the money lender at low prices towards the settlement of his mounting debt. The Bombay Money Lenders Act 1947 came into force on 31<sup>st</sup> October, 1947 and at that time Gujarat was the part of the Bombay State. After the formation of Gujarat State, the Bombay Act was made applicable and in 1963 Gujarat Amendment Act – 44 was passed which is in force.

4.2.1. The Tribal Research and Training Institute, Gujarat Vidhyapith made a study in 2003 of 96 respondents from 24 villages; 8 villages from 2 Talukas each of the districts of Sabarkantha, Dahod and Valsad districts were selected. The main findings were as follows:

- The houses of the respondents were kutcha in which they also kept their cattle.
- 39% of the respondents were illiterate and 29% had attended primary schools, 14% middle schools, 9% high schools and 8% vocational training.



Most of the families had debt ranging from 1-12 years.

- Debts were usually taken for social customs, irrigation requirements, education of the children, buying of animals and repayment of old debts.
- They also borrowed money from the Co-operative Banks and relatives.
- The moneylenders do not accept land as mortgagage because Section 73 AA of Gujarat Land Revenue Code prevents a tribal to sell or mortgagage his land and the moneylenders, therefore, prefer to keep ornaments as mortgagage which are not recorded in the books.
- Most of the tribals migrate after monsoon and work on farms getting 1/5 and 1/6 of the shares out of total produce.
- They work as masons and labourers, in cities and roads and in marble mines and at these places of work they get half the prescribed minimum wages and due to fear of the denial of labour work they accept less payment at the place of work.

**4.2.2 The Commission recommends that the machinery to check the nefarious activities of money lenders should be strengthened and punishment meted out to money lenders who are doing illegal transactions. The Commission was informed that 15 cooperative officers appointed in tribal talukas to inquire into illegal money lending are not performing their duties. At the same time, it is necessary that a comprehensive scheme of advancing production and consumption loans is drawn up so that tribals can get loans at moderate rates of interest in their villages from the Co-operative Societies. It is also suggested that after examination, a legislation may be enacted to write off all the loans taken by the tribals. The Commission elsewhere in this report laid stress that irrigation facilities must be provided to the tribals so that they can grow at least two crops in a year which will save them from money lenders as well as stop their migration during the lean agriculture season. At the place of work in the cities and road sides, the migrant labour stay under the open sky with no toilets and supply of potable water. Govt. should ensure that migrant labourers are provided basic amenities and get minimum prescribed wages. Help of voluntary agencies should be taken for this purpose.**

## **PESA ACT, 1996**

- 4.2 The Gujarat Panchayats (Amendment) Act, 1998 provides after sub-clause (ia) in sub-section (5) in clause (a) of Section (9) that wherever the population of STs is less than 25% in a Gram Panchayat in the Scheduled Areas there would be no reservation for STs for the post of Chairperson. The State Government has used for the first time the powers of the Governor under sub-para (1) of Para 5 of the Fifth Schedule to the Constitution to make this amendment in the provisions of PESA Act, 1996 passed by Parliament. It is understood that there are 175 villages in the Scheduled Areas which have ST population less than**

- 4.3 **25%. The Bhuria Committee and Parliament were fully aware that on account of migration of non-tribals in the Scheduled Areas, the demographic picture has changed and it is, therefore, all the more necessary that the Chairperson should be ST at all levels of Panchayati Raj bodies so that the interests of the tribals are safeguarded.** There are many other provisions in the State Act, which are not in line with the provisions of the PESA Act.

### **Definition of Village**

4.3.1. Under section 4 (a) PESA Act, 1996" a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs" and the collectivity of people living therein as the Gram Sabha. In Section 7 of the GPs Act, 1993 it is provided that "the competent authority may recommend any local area comprising a revenue village or a group of revenue villages, or hamlets forming a part of a revenue village " to be specified as a village to the Governor provided that "the population of such local area does not exceed fifteen thousand". In Gujarat Act No. 5 of 1998 the following proviso has been added to sub-section (l) of Section 7 of the GPs Act, 1993.

"Provided that while making recommendation in respect of a local area in the Scheduled Areas it shall be ensured that the local area shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with the traditions and customs".

4.3.2 It was however learnt that there is no change made in the list of villages after Gujarat Act No. 5 of 1998 came into force. Thus the discretion to notify that 'village' lies with the Governor who is guided by administrative considerations and one or more revenue villages continue to be designated as a 'village'. The PESA Act, 1996 begins with the community instead of a formal unit like a revenue village and the collectivity of people living therein as the Gram Sabha. Gujarat Legislature has no doubt made provision for specification of the 'village' on the lines of PESA Act, 1996 but this has not been operationalised with the result that the 'Gram Sabha' which is the basic building block of the entire institutional superstructure and the 'village' as a formal entity for the convenience of administration is not functioning in the Scheduled Areas of Gujarat. **The Commission recommends that the rules under the proviso should make it clear that "the people living in a habitation or a group of habitation or a hamlet or a group of hamlets may have the final say about the fact whether they constitute a community under Section 4 (b) of the PESA Act and therefore have a constitutional right to manage their own affairs as a Gram Sabha".**

## **Powers of the Gram Sabha**

**4.3.3.** The PESA Act, 1996, under Section 4 (d) envisages that "every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution". The State Act under Schedule IV, Section 4(3) (a) has repeated these words but replaced the word 'competent' by the word 'endeavour'. The plenary powers of the Gram Sabha are contained in Section 4(d) of the Extension Act and through it in the Constitution. They have not come by way of delegation or devolution. Parliament has recognized the fact that "the Gram Sabha is competent". **Thus the use of word 'endeavour' is a violation of the Constitution. This needs rectification by the State Legislature. It is also suggested that powers and functions of the Gram Sabha in the Gujarat Panchayats Act must be clearly mentioned as in Schedules, I, II & III for village panchayat, taluka panchayat & district panchayat respectively.**

## **Community resources**

**4.3.4.** It appears that the State legislature was worried that Gram Sabhas will automatically demand jurisdiction over the community resources and therefore they have not spelled out what is meant by community resources. The Madhya Pradesh law after reproducing the plenary powers of the Gram Sabha have added a new provision empowering the Gram Sabha "to manage natural resources including land, water and forests within the area of the village in accordance with its traditions and in harmony with the provisions of the Constitution and with due regard to the spirit of other relevant laws for the time being in force". This is the right way to recognize the rights of the tribals on the resources in the entire habitat in which they live. The management of natural resources has remained vested with the State and its agencies, now stand transferred to Gram Sabha fully. It is now for the State and its agencies to help the Gram Sabha in the management of the natural resources in accordance with its traditions.

**4.3.4.1** In some of the recent initiatives participatory approaches for the local community and users have been selectively added which have included formation of local groups/organizations and laying down their responsibilities and entitlements. **PESA Act, has envisaged a major role of Gram Sabha in the management of natural resources in the Scheduled Areas. In the process of natural resource management, survival needs of poor tribals are to be recognized as a high priority area, for strengthening community participation. The most urgent need of the poor is that of alternative means of livelihood during lean seasons with agriculture being the mainstay in peak seasons. Options for supporting seasonal livelihood strategies**

through natural wealth creation, planned by village panchayat with support from the local

department or voluntary organization can make better management of natural resources and strengthen the base for community participation in such management. The government functionaries of the concerned departments should provide technical assistance for efficient management, protection and development of natural resources. Gram Sabha is an institution for self-government. A Gram Panchayat's status is not only of an institution for self-government but also a community organization erected at the grass-root level. It has to work for the local community and not only be an agency to deliver developmental programme and services with Government programme funds; their role in natural resource management cannot be wished away.

### **Dispute resolution**

4.3.5. As mentioned above, the Gram Sabha is competent to settle dispute under their customary mode of dispute resolution. It is learnt that there was provision for the Conciliation Panch in the Gujarat Panchayat Act, 1961 but Gujarat Panchayat Act, 1993 is silent about it. The impression among the ruling elite and the administrators that there is nothing on the ground regarding customary mode of dispute resolution is wrong. Even today, the tribals settle many of their disputes in accordance with their traditional practice of dispute resolution. The various studies conducted by TRI, Ahmedabad have indicated how the traditional panchayats are settling disputes.

### **Ground realities of the implementation of plans, programme etc.**

4.3.6. Section – 4(e), i, ii & iii of PESA Act and Section 4(3)(b)(i) and (ii) and Section 12 (1A) of the Gujarat Panchayats Act, 1993, Provisions made in the PESA, Act lay down that Gram Sabha shall approve the plan, programmes and projects for social and economic development before such plans etc. are taken up for implementation, identification of beneficiaries under the programmes and "social audit" of expenses incurred by the village panchayat have been transcribed in the GP Act, 1993. However, plans continue to be made at the state and district levels and implemented through the line departments. The main criticism is that neither adequate funds nor trained functionaries have been placed at the disposal of Gram Sabha/Village Panchayat for implementation of schemes.

### **Acquisition of land**

4.3.7. Section 4(i) of PESA Act, provides for only 'consultation' with the Gram Sabha or the Panchayat at the appropriate level before making the acquisition of land in the Scheduled Areas for developmental projects and before rehabilitation

of persons affected by such projects. Under Section 132A(a) & (b) of the Gujarat Panchayats Act, 1993 'consultation' with only taluka panchayat is necessitated prior to acquisition of land and rehabilitation of affected persons. The word 'consultation' has always been misinterpreted and misused by State authorities while acquiring land under the land Acquisition Act, 1894. Development projects are still a major threat to tribal population. **If the consultation is limited to Taluka Panchayat, the present position of acquiring tribal lands will continue to affect the economy of the tribals in the Scheduled Areas. It is suggested that the State Government should make a provision to consult the Gram Sabha also by making amendment to this effect in the G.Ps Act, 1993 under Sub-clause (i) of Clause (5) of the Fifth Schedule to the Constitution through a notification to that effect to be issued by the Governor under the PESA Act.**

### **Management of Minor water bodies in the Scheduled Areas:**

4.3.8. Section 4(j) of PESA, Act has assigned the planning and management of minor water bodies to Panchayats at the appropriate level. The Gujarat Panchayat Act, 1993 has under Section 99, Schedule I, entry 7(k-i) made it a duty of village panchayat to make a reasonable provision for planning and management of minor water bodies in the Scheduled Areas provided it has funds at its disposal. In this connection, it may be pointed out that smaller and medium tanks are treated by the Village Panchayat as a source of income and ignore even the nutritional needs of the tribals. **It is, therefore, appropriate that the minor water bodies (tanks) should be assigned to the Gram Sabha and the higher tier Panchayati Raj bodies should provide necessary technical support to the Gram Sabha for the better management of these tanks.**

### **Minor minerals in the Scheduled Areas:**

4.3.9. PESA Act, under Section 4(k)&(l) envisages that "the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for mining minerals in the Scheduled Areas" as well as "for grant of concession for the exploitation of mining minerals by auction". The Gujarat legislature has not given this power to gram Sabha or appropriate panchayat. There is a Central legislation viz. Mines and Minerals Regulations and Development Act, 1955. Gujarat, it is understood had notified in 1996 Gujarat Minor Mineral Rules, Schedule I & II. The provision of the PESA, Act is simple. Any law to the extent it is inconsistent with the provisions of the Extension Act "shall continue to be in force until amended or repealed by a competent legislature or other competent authority, or until the expiration of one year from the date on which this Act receives the assent of the President". The President had given his assent to PESA, Act on December 24, 1996. Therefore, all laws to the extent they are inconsistent with the provisions of the PESA Act, are deemed to have become inoperative with effect from 24.12.1997. Therefore,

**the Gram Sabha can start exercising their legitimate claim and all actions taken by the State Government under their existing Act/Pules will be null and void.**

**Powers of Gram Sabha & the Panchayats to function as institutions of self-government in respect of certain items:**

**4.3.10.** PESA Act, under Section 4(m) envisages sharing of responsibility between the Panchayat at the appropriate level and the Gram Sabha in the Scheduled Areas in respect of seven items, namely, (i) all affairs concerning excise (ii) the ownership of minor forest produce, (iii) prevention of alienation of land and restoration of unlawfully alienated land of a Schedule Tribe (iv) management of village markets (v) control over money lending (vi) control and supervision over institutions and functionaries in all social sectors and (vii) preparation of local plans etc. "to enable them to function as institutions of self-government". The Gujarat Legislature has assigned the responsibility to the Village Panchayat in respect of 4 items mentioned above under Section 4(m)(i), (ii), (v) and (vi) of the PESA Act. In regard to item (iv) the GPs Act, 1993 has made provision that the village panchayat will establish and manage village markets. In so far as item (iii) relating to prevention of the alienation of land is concerned, the District Panchayat instead of the Collector will exercise the power and in respect of item (vii) Taluka Panchayat will exercise control over the local plans and resources for such plans. The State laws should be made consistent with the PESA Act.

**4.3.11.** Section 4(m)(ii) of PESA, Act endows the Gram Sabha and the appropriate Panchayat with "the ownership of MFP". Section 11(5)(a) and (b) of the Gujarat Panchayats Act, 1993 vests in the Village Panchayat minor forest product found in the forest situated in the jurisdiction of the village and sale proceeds of the MFP shall be paid into and form part of the village funds. Under Gujarat Minor Forest Produce Trade Nationalisation Act, 1979, Gujarat State Forest Development Corporation (GSFDC) had monopoly for *Timru* leaves, *Mahuda* seeds and all types of gums as far as collection, processing and marketing of these products are concerned. From 2000-01, collection activity of MFP from Scheduled Areas has been transferred to Panchayats as mentioned above. In 1999 season, 41.83 lakhs mandays of employment was generated and the tribals earned about Rs.69.60 per day as mentioned in the Report of TSP for the year 2000-01.

**4.3.11.1.** In the year 1998, when the Gujarat Legislature vested the MFP in the village panchayats, there was no effective infrastructure with the panchayats and the Gujarat Government allowed GSFDC to continue the collection, processing and marketing of MFP for one year and the Corporation made a profit of Rs.1.00 crore. In November 1999, the State Government decided

that taluka/district Panchayats should make arrangements for the collection, transport, storage, purchase and sale of MFP in consultation with the GSFDC and co-operatives connected with MFP collection and that MFP collectors are paid the proper collection charges timely at the prescribed collection rates.

4.3.11.2. During 1999-2000, the income from sale of MFP, district-wise was as under:

<u>S.No.</u>	<u>Name of the District</u>	<u>Sale (in Rupees)</u>
1.	Godhra	8,57,58,193
2.	Sabarkantha	1,52,12,005
3.	Baroda	64,14,066
4.	Surat	43,89,848
5.	Dang	20,68,777
6.	Narmada	18,54,467
7.	Dahod	16,91,366
8.	Navsari	14,74,754
9.	Valsad	7,12,876
10.	Bharuch	5,44,919
		<u>12,01,21,271</u>

Out of the sale proceeds amounting to Rs.12.01 crores, the net income was Rs.6.50 crores which was credited to the fund of District Panchayats.

4.3.11.3. GSFDC has been working for the collection and marketing of MFP since 1976. Now that the village Panchayats are vested with the MFP, the role of GSFDC at the state and district levels should be to render technical advice to taluka panchayats in processing, value addition, storage and marketing of MFP. The mindset of the Forest Department and GSFDC needs to be changed to consider relationship with tribals as symbiotic rather than treating them as intruders. They should create a database to forecast MFP crop prospects, publicize the same among the tribals and arrange training to tribals on different aspects related to MFP. In order to increase the overall volume of business in MFP, it is essential that market for MFP products are created and existing markets expanded in such a way that the overall realization to the tribal increases. The State Forest Department should sponsor research through research institutions for a market oriented research on value addition to the MFP products and in creating markets for new products to be promoted.

4.3.11.4. Officers of GSFDC are not very enthusiastic about the transfer of MFP to the village panchayats and did not render timely advice to the taluka/district panchayats or report the matter to the Forest Department that during the year 2000-01 out of 87 units 39 units of the *timru* leaves were not sold due to the difficulties created by vested interests. This matter should be investigated. It is the duty & responsibility of GSFDC to guide and help the taluka/district panchayats to ensure a reasonable return to the tribal, working out a rational relationship between the procurement and the market end-price. The amount credited to the district panchayat fund after the sale of MFP should be disbursed to the MFP collectors.

**4.3.11.5. Normally, the MFP is collected either from the individual holdings of the tribal or from the reserve forest. But the jurisdiction of Gram Sabha/ Village Panchayat is not co-terminus with the zones of the Forest Department (such as beats, sections, Ranges). A functional arrangement has to be worked out to avoid the overlapping of all the jurisdictions.**

**4.3.11.6. There is another important point which needs discussion. Joint Forest Management (JFM) is being implemented in Gujarat and one of the objectives of this programme is to activate the village communities in forest-based activities. A village level committee or a mandal is formed consisting of village community members to implement the JFM programme. A representative of village panchayat will serve as one of the members of the Committee or mandal. The village panchayat itself may become a committee or a Mandal for the purpose of JFM. It was reported that not a single village panchayat is responsible for JFM in the Scheduled Areas due to lack of motivation from forest authorities. Thus the power endowed to the Gram Sabha and village panchayat under PESA, Act has been rendered null and void due to the powers given to the committees formed under JFM. It is therefore, necessary that all the rights of MFP produces should be vested with the Gram Sabha, which should be converted into a JFM committee or mandal and the income earned by sale of MFP should be deposited in the village fund and not in JFM committee or mandal and distributed to the collectors. JFM committee should function under Gram Sabha in the Scheduled Areas. The Forest Deptt. has set up 700 Van Mandalies to develop and protect the forests. The Forest Deptt. was expected to pay only 25% of the yield from thinning as share to the local people which has been increased to 50% from March, 2000. Tribals demanded that this needs to be enhanced to 80% and this money should be deposited in the village fund for distribution to the m.f.p. collectors.**

**Prevention of land alienation in the Scheduled Areas and restoration of any unlawfully alienated land of a Scheduled Tribe:**

**4.3.12. Section 4(m) (iii) of PESA, Act has assigned the power to prevent alienation of land of a ST to the Gram Sabha and the Panchayat at the appropriate level to function as institutions of self-government. The Gujarat legislature has amended the Bombay Land Revenue Code, 1879 and instead of the words "the Collector" the words "District Panchayat" has been substituted. It is necessary that the village Panchayat should be made custodian of land records necessitating the revenue authorities to seek Gram Sabhas approval before incorporating mutations so that it can safeguard the interests of the tribals as envisaged under PESA Act. The Gram Sabha should be informed about all litigations relating to land issues. This alone will help in realizing the objective of the amendment made in the Bombay Land Revenue Code 1879.**



## **Village Markets:**

**4.3.13.** Under Section 99, Schedule – 1 in the sphere of Public Works, item (3)(i) of Gujarat Panchayats Act, 1993, it is the duty of village Panchayat in its jurisdiction to make reasonable provisions, so far as the funds at its disposal will allow in the matter of “establishment and maintenance of markets”. PESA, Act endows the Gram Sabha and the appropriate Panchayat with the power to manage village markets by whatever name called. **In the Scheduled Areas Hat Bazar (Village market) occupies a pivotal place in tribal economy. Suitable amendments will be necessary in the Weights and Measures Act so that the Gram Sabha has the legal authority to deal with the traders at Hat Bazars and exercise vigilance on market transactions. The Village Panchayat/ Gram Sabha should also be empowered under the relevant laws to cover the activities of Marketing Societies in the Scheduled Areas of the State to curb the irregular and unfair practices of the traders.**

## **Control over Money lending:**

**4.3.14.** Section 4(m)(v) of PESA Act, envisages that the Gram Sabha and the appropriate Panchayat will be endowed with “the power to exercise control over money lending to the Scheduled Tribes”. The Gujarat Legislature has amended the Bombay Money-Lenders Act, 1946 by inserting Section 17A that “no money lender shall lend any money to a member of the Scheduled Tribe residing in a Scheduled Area of the State.....without previous sanction of the village panchayat of that village”. Money-lenders are responsible for many illegal activities relating to land, mortgage of jewellery etc. and exploitation of tribal women in the Scheduled Areas. **To save the tribals from the nefarious activities of money-lenders, the Commission recommends that the registration of private money lenders should be stopped. Money lenders should have a license and inform the Panchayat about how much loan they have advanced to the tribals. Credit institutions like Banks, Cooperative Societies etc. also give loans for various purposes but sometimes the illiterate tribals are not fully aware about the implications of the clauses attached to the disbursement of these loans. At times, the position on paper in respect of receipts and payments of money may be at variance with the actual transactions claimed by the tribal. A provision should therefore, be made that such liabilities, if it is established that there was no mala-fide in the dealings on the part of the tribal, should be liquidated.**

## **Control over institutions and functionaries in all social sectors:**

**4.3.15.** Section 4(m) (vi) of the PESA, Act envisages that Gram Sabha and appropriate Panchayat should be endowed with “the power to exercise control over institutions and functionaries in all social sectors” to function as institutions of self-government. The state legislature has assigned the power to the village Panchayat by adding entry 11 in Schedule 1 to Section 99 of the Gujarat

Panchayats Act, 1993. It is suggested that the Gram Sabha as envisaged under PESA, Act should exercise complete control over institutions and functionaries including primary Agricultural Co-operative Societies working in the village. This would ensure proper utilization of funds and adequate output of work by the functionaries.

**Control over local plans and resources over such plans including tribal sub-plans.**

**4.3.16.** The PESA, Act envisages that the power to control over local plans etc. should be exercised by the Gram Sabha and the appropriate Panchayat. The State legislature has given this power to Taluka Panchayat under Section 130, Schedule 11, Part1, by adding entry 5(e) in the Gujarat Panchayats Act, 1993.

**4.3.16.1.** The State Government vide Resolution NO.TAP/1092/1928/CHH, dated 3<sup>rd</sup> September, 1997 is implementing New Gujarat Pattern for the Tribal sub-Plan. (on the lines of the Maharashtra Pattern) 80 percent of the outlay of each Department is earmarked for the schemes to be formulated and implemented at the District level and the schemes for remaining 20% amount are formulated and implemented by the State level Agencies. A State level Planning Board is constituted for the planning of Tribal sub-plan at the State level and 'District adivasi Vikas Mandal' at the district level for the formulation of schemes, implementation and coordination of 80 percent of outlay allocated at the district level. **In Gujarat, the Project Administrators of the ITDP have been vested with administrative and financial powers of heads of departments. He should equally be made responsible for pursuing and reviewing implementation of the protective and anti-exploitative measures designed to improve the lot of the tribal. The Project Administrator should have the status of an Additional Collector. The existing guidelines relating to local plans and the resources for such plans including tribal sub-Plans need to be revised and modified to the extent of involving the Taluka Panchayats to exercise control.**

**4.3.16.2.** The time has now come to put this matter on a sound basis with an intelligible string of command flowing from top to bottom with the 'Gram Sabha' exercising control over local plans and resources for such plans including tribal sub-Plans and an equally intelligible and decipherable picture of accountability. The PESA, Act has indicated in clear terms that Gram Sabhas will approve the plans, programmes and projects for socio-economic development before the village panchayat will implement them, identify the beneficiaries under these programme and issue utilization certificate to the village panchayat. **Thus even at the stage of formulation of plans including tribal sub-Plans, the Gram Sabhas have to be involved to break with the past model of formulation of schemes at State / District / Taluka levels to ensure a proper and healthy development and optimal utilization of funds for social and economic**

**development of the Scheduled Tribes in the Scheduled Areas. In the past fifty years, India has a centralized planned economy in which development was a top down process. The Panchayat system in the Scheduled Areas is an attempt to do just the opposite; it envisages to initiate development through a bottom-up process.**

## **Migration**

**4.4.** As indicated in the earlier paras on account of small holdings, lack of irrigation facilities, the STs are compelled to migrate to work in the agricultural sector as labourers in sugarcane cutting, work related to paddy, wheat, grass cutting, cotton plucking etc. In non-agricultural sector, they work as labourers in construction work. Both males and females work in agricultural sector and go to work in major cities of the state and in many villages in Gujarat particularly central and south Gujarat. Most of the tribal migration takes place within the State but some of the tribals also go to work in the neighbouring States.

**4.4.1.** Around 50,000 migrants of Dangs district migrate every year for work in the sugarcane fields. About 25,000 tribals are working in the agricultural sector in central and south Gujarat area. The tribal migration is highest from Dangs and Panchmahals districts. Sugarcane cutting and the construction work attract large number of tribal migrants. **It is observed that the tribal migration is increasing from year after year and that between the years 1955-56 to 1974-75, the migrant labourers increased by more than 350%. Another study on tribal migrant labourers from Dangs and Panchmahals districts revealed that in many villages in Dahod district almost all the families have to migrate in search of work.**

**4.4.2.** The migration takes place after the sowing season is over when the monsoon is about to start. The economic condition of the tribals becomes precarious at this time of the year and they are compelled to go out in search of work. Most of the migrants are able-bodied young men and women. Majority of them are illiterate, mostly belonging to lower social groups among the tribals such as Bhils. The proportion of migrants is very little among the higher social tribal groups like Chaudharies, Vasavas, Dhodiyas, Patelia, Kukana, etc. The migrants' children also go along with their parents. A study conducted by a voluntary organisation indicated that out of 140 construction workers in Ahmedabad, majority of them were from Panchmahals. 66% of the labourers were from the age-group between 16 to 30 years. 74% workers were illiterate and 94% were married. 44% respondents were having land less than 2 hectares whereas 52% had 2 to 4 acres of land. **A point worth notice is that 84% of the respondent farmers did not possess irrigation facilities.**

#### 4.4.3. The main reasons for seasonal migration are

1. The tribals get very less income from agricultural sector due to infertile, hilly, rocky and unirrigated land.
2. The land-man ratio is less than ½ hectare in some cases.
3. Indebtedness of the tribals compels them to earn money by migrating to areas in search of agricultural and non-agricultural work.
4. There is no alternative employment available in the villages.
5. The institutional finances from bank cooperatives etc is not available for unproductive consumption purpose and the procedure also for getting loans is very cumbersome.
6. The various programmes for helping the tribals below poverty line have failed.
7. The pattern of tribal migrants shows that the educational facilities from the areas where they migrate are inadequate.
8. STs get only one single crop in a year. The message of green revolution has not reached in tribal areas and the health facilities are also unsatisfactory.

4.4.4. The voluntary organisation has studied the conditions of the migrated labourers in Ahmedabad city and found that 57% of tribal migrants are staying under the sky. 82% of the labourers do not get the benefits of the drinking water facilities and 99% labourers do not have common latrine facilities at the working places. 97% of the workers have to purchase fuel specially in the cities. 90% of the labourers do not get regular supply of water for bath. 90% of the workers work for more than 8 hours in the day and for this extra work they are not paid money. The voluntary organisation which had conducted the survey formed the construction workers union and was instrumental in getting the tribal wages worth to the tune of Rs. 3.90 lakhs. The contractors do not pay them regularly and keep a part of the payment in hand so that the workers may not leave the work. The same position holds good for the sugarcane workers. The awareness regarding their legal rights are absent among the tribal migrants. They are not aware about the minimum wages prescribed by the Government.

4.4.5. The Commission recommends that the State Government should ensure that the contractors in the rural and urban areas should provide proper accommodation with adequate supply of potable water, health care, education facilities and payment of minimum wages to migrant labourers, which should be monitored by the TRI, Ahmedabad.

#### **Tribal sub-Plan (TSP)**

5.1. The Government of Gujarat appointed a Secretaries' Committee to study the Maharashtra Pattern of Scheduled Tribe Development. The Government after considering the report decided as follows:

- (a) To earmark 17.57% of the outlay of the State's Annual Development Plan every year for TSP. This decision was to be implemented w.e.f. 1997-98.
- (b) The Planning Department shall allocate a definite amount which will be not less than 17.57% of total State plan outlay every year for the TSP.
- (c) The responsibility to finalize the sectoral, outlays and schematic outlays under the TSP will be that of the Tribal Development Department who will undertake this exercise in consultation with each Administrative Department.
- (d) After deciding the inter-sectoral, sub-sectoral and schematic outlays under TSP, the Tribal Development Department shall communicate the break up of outlays to be provided for TSP to all concerned Administrative Departments.
- (e) The Tribal Development Department after discussion with all the concerned Administrative Departments should ensure that the schemes proposed to be included in the TSP are in a real sense useful for the tribals.

According to this policy decision, powers as to which of the schemes should be included in the TSP would vest in the Tribal Development Department.

- (f) The percentage of outlays to be provided for Tribal Development under the TSP for tribals in ITDP areas (i.e. the Tribal talukas, MADA pockets and clusters) and for those tribals outside the tribal area – dispersed tribals (i.e. in the rest of the State) should be around 90% and 10 respectively.
- (g) Maximum number of schemes under the TSP should be for implementation at district level and out of the total outlay 80% or more should be made available for such schemes. The District Annual plan is finally sanctioned by the Planning Department. On the same lines, the District Annual TSP should be finally sanctioned by the Commissioner Tribal development.
- (h) As indicated in the above paragraphs the Tribal Development Department should take necessary steps for inclusion of all sector-wise development programmes and all outlays provided for TSP and finalize the process of formulation of State's TSP. The Tribal Development Department will also take steps to present before the Legislative Assembly the consolidated demands for inclusion of all outlays in the Budget Estimates. The condition of non-divertibility of TSP funds as it exists now would continue hereafter also.
- (i) Education and health are two important aspects which should be taken care of in tribal areas on priority basis. Backwardness should be the criteria for allocation of funds in these two sectors.

## 5.2 Flow to TSP

Table -II

Table showing Annual State Plan & Flow to TSP

(Rs. in crores)

Year	Annual State Plan*	State Flow to TSP	Expenditure #	% age of 3 to 2	%age of 4 to 2
1	2	3	4	5	6
1990-91	1451.00	152.17	153.11	10.49	10.55
1991-92	1750.00	188.63	201.64	10.78	11.52
1992-93	1875.00	220.69	195.43	11.77	10.42
1993-94	2137.00	234.75	239.77	10.99	11.22
1994-95	2240.00	258.23	241.53	11.53	10.78
1995-96	2610.00	321.91	283.32	12.33	10.86
1996-97	3388.00	371.62	369.19	10.97	10.90
1997-98	4500.00	524.50	561.18	11.66	12.47
1998-99	5450.00	700.86	633.13	12.86	11.61
1999-00	6550.00	883.48	851.88	13.49	13.01
2000-01	7600.00	944.06	875.35	12.42	11.52
2001-02	7200.00	613.35	474.65	08.52	06.59
2002-03	7600.00	888.18	622.24	11.69	08.19

\* State Tribal Sub-Plan document 2002-03 page-32

# State reply to Commissions Questionnaire

**5.2.1** It will be seen from the above table that the State Government was never able to allocate 17.57% of the State's Annual Development Plan for the TSP areas and the expenditure was less than the percentage prescribed by the State Government. Although, the population of the STs in 1991 was only 14.92, higher allocation was suggested to make leeway for accelerated development of the tribals. The imbalance in the development of the tribal areas vis-à-vis the non-tribal areas has to be bridged as early as possible. **In this connection, the Commission would like to recommend the following formula evolved by the Government of Maharashtra to ensure that higher allocation of funds are allocated under the TSP strategy.**

$$\text{Total Tribal Sub-Plan outlay of the State} = \frac{X + Y}{2}$$

Explanation in the above formula, the letters 'X' and 'Y' shall be construed as follows:-

- (i)  $X = \frac{\text{Total geographical area of the state under Tribal Sub-Plan X size of State's Annual plan for that year}}{\text{Total geographical area of the state}}$
- (ii)  $Y = \frac{\text{Total population under Tribal Sub-Plan X size of State's Annual plan for that year}}{\text{Total population of the state}}$

**5.2.2.** The Commission recommends that Government of Gujarat should follow the Maharashtra formula to ensure that higher allocations are provided for the TSP areas.

### Administrative setup

**5.2.3.** The Principal Secretary to the Government of Gujarat in Tribal Development Department (TDD) is responsible for carrying out all the developmental activities pertaining to tribals. TDD ensures necessary administrative and budgetary control for various developmental schemes and endeavours to secure departmental coordination for the effective formulation and implementation of the Sub Plan Programme. There are 12 Project Administrators to monitor all developmental schemes under the TSP. Vigilance Officers at district level are entrusted with the job of executing welfare schemes of the tribals. Project Administrators are stationed at Palanpur, Khedbrahma, Godhra, Dahod, Ahwa, Bharuch, Rajpipla, Songadh, Vansada, Mandvi, Chhotaudepur and Valsad.

### Nucleus Budget

**5.2.4.** With a view to meeting the urgent needs and requirements of project areas, the idea of earmarking some amount out of the total allocation of the tribal area sub-plan for a particular area as nucleus budget has been adopted. The P.O.s of ITDPs have been delegated powers to sanction any schemes of urgent and crucial nature to bridge missing links from the nucleus budget on the advice of the committee of direction, the total cost of which should not exceed Rs.10.00 lakhs. Above the limit of Rs. 10.00 lakhs and up to 20.00 lakhs the power to sanction rests with Tribal Development Commissioner. Beyond 20.00 lakhs sanctioning power has been given to Principal Secretary, T.D.D.

## **Gujarat pattern of tribal development – A new innovative pattern**

**5.2.5.** One of the long-term objectives of the tribal development programme has been stated as improvement of quality of life in tribal areas. This requires adequate outlays, reshaping and redesigning of the programmes and making the delivery system effective. To meet the above goals, new concept of Gujarat Pattern was launched in the year 1997 by the Government of Gujarat. Earmarking Rs. 200.00 crores out of Tribal Area sub-Plan as discretionary fund to be placed at the disposal of Tribal Development Department to frame programmes/schemes suited to local tribal needs through District Adijati Vikas Mandals headed by Guardian Minister of the district and Project Administrator of the concerned district being Member Secretary.

**5.2.6.** The Commission observed that the Project officers were not able to coordinate with officers of various departments to ensure that effective measures are taken in the field of health, education and rural development. They do not take any notice of land alienation that is taking place in the tribal areas. This point was discussed at the meeting with the Chief Secretary who suggested that the tribal development department "should engage Project Officers to become area managers in a holistic sense like Collectors are. C.S. also suggested that supervisory officers from Health, Education and Rural Development should get inputs from the Project Administrators when they write ACR's of their line functionaries in TSP areas. T.D.D. should work with G.A.D. to formalize a new system which will make this possible." The Commission hopes that the State Government will try to implement the suggestions made by the Chief Secretary to ensure that the Project Officers are able to play a meaningful role in the all-round development of the tribals. The Commission further recommends that administration for tribals should be comprehensive and useful, combining development, regulatory and public distribution system to be effective at the level of project administrators. The Commission also recommends that Tribal Commissioner should be a senior I.A.S. officer who can guide the field officers.

## **PRIMITIVE TRIBAL GROUPS (PTGs)**

**5.3.** The Government of India has recognized five PTGs in Gujarat state, namely, viz. Kotwalia, Kathodi/Katkari, Kolgha, Padhar and Siddi. Particulars of their population, literacy rate as per survey conducted by the State Government in the year 2001, districts where they are concentrated and the activities in which they are mainly engaged is given in the table below:



**Table - III**

S.No.	Name of Primitive Tribal	*Population (%age in bracket)	Literacy (%)	Districts where concentrated	Activities in which engaged
1	2	3	4	5	6
1.	Kolgha	40998 (40.74)	26.09	Surat, Valsad	Small land holders, Agricultural labourers
2.	Kotwalia	21 374 (21.24)	26.098	Surat, Valsad, Dangs, Bharuch, Navsari	Bamboo work, basket making, gathering MFP and work as landless labourers
3.	Padhar @	21180 (21.05)	26.09	Ahmedabad, Surendra Nagar	Work as labourers, digging roots in monsoon and fishing
4.	Kathodi	10 546 (10.48)	11.12 (as per 1981 census)	Surat, Dangs, Sabarkantha, Narmada	Cut trees and make charcoal as Agricultural labourers and forest labourers
5.	Siddi @	6541 (6.50)	26.08	Junagadh, Bhavnagar, Amreli, Porbandar	Cultivation and cattle rearing, work as landless labourers

@ Padhar & Siddi PTGs live outside the Scheduled Areas of Gujarat.

\* Pollution as per 2000-01 survey conducted by the State Government.

5.3.1. Literacy-wise Kathodis are at the bottom with a combined-male and female literacy rate of 11.12% while the literacy rate of other communities is more or less equal, at about 26%. Most of these tribal groups are landless labourers eking out their livelihood by bamboo work and basket making, collection of minor forest produce (Kotwalia), cutting trees as forest labourers and making charcoal (Kathodi), agricultural labour (Kolgha), fishing and labour during monsoon season, cultivation and cattle rearing (Siddi) and labourers, digging roots as a food item (Padhar). It was also understood that Siddis are more vocal and articulate in getting the benefits of various schemes. This was so due to their lateral mobility. Some of them are working in the police, education and different district level departments.

5.3.2. The State Government has been implementing several programmes for the rapid educational and economic development of the Primitive Tribal Groups. These relate to schemes covering stipends, hostels, schools, horticulture-cash cropping, milch-cattle, housing schemes etc. The State Government had utilized Rs. 280.19 lakhs in the ITDP areas and Rs. 118.19 lakhs outside ITDP areas during 2002-03 and proposed to utilize Rs. 325 lakhs in ITDP areas and Rs. 125 lakhs outside ITDP areas for the development of primitive tribes during 2003-04. The Commission found that the Ministry of Tribal Affairs, Govt. of India had released Rs.3.00 crores during 2001-02 for the development of the PTGs. However, the Commissioner, Tribal Development informed in August, 2003 that this money was released to them in January, 2004 only.

## **Padhar**

**5.3.3.** The Commission had an interface with the Padhar community at Limbdi on 22 January 2003. They complained that due to setting up of a Bird Sanctuary at Nil Sarovar, 42 kms from Limbdi village, they had been denied the age-old practice of fishing from the Sarovar. This has adversely affected their livelihood. The Commission took up the matter in the meeting with the Chief Secretary and it was agreed to allow fishing to these communities as a relaxation to the normal practice as they were practically landless and fishing would assure them their means of subsistence. The Commission further recommends that Padhars should also be given fishing rights in various other dams in Surendranagar district, helped financially and imparted technical know-how to derive the benefits of tourism facilities that are being encouraged in and around the dams. It is also suggested that hostel facilities for school and college going students should be provided.

## **Kotwalia**

**5.3.4.** The Commission found that the State Govt. has constructed 20 *Pucca* housing units for Kotwalia PTG in 2 rows facing each other in village Mangrol of Vansada taluka. A separate toilet block has also been provided. The Commission strongly feels that building separate enclosure for toilets may not be a good idea. The Gram Savaks should motivate them to have bath-room and hygienic kitchen to begin with. The Kotwalia families had deserted their houses as the houses were not built according to their life styles. The Kotwalias are used to living in separate housing units. Some of them are still living in the old houses made of bamboo walls and roof tiles.

**5.3.5.** The forest department was giving them only 50 dry bamboo sticks as against their entitlement of 800 as per government resolution. The Kotwalias need green bamboo as these alone facilitate weaving of baskets and other allied material, whereas the dry ones could be used for making huts only. The Commission recommends that the Kotwalia families should be given green bamboos as per entitlement so as to ensure them employment at home for atleast 3-4 months in a year. The bamboos may be given in 3-4 instalments as stocking 800 at a time may pose practical problem for these families. Kotwalias should be given training in weaving quality baskets and allied products through short term training course by master craftsmen so as to enhance their income. There was no arrangement for marketing of their manufactured products through govt. sales emporia and private network. The Commission recommends that the State Govt. should address itself to this vital area with a view to increasing the purchasing power of the Kotwalia community so that they are not cheated by the private traders.

**5.3.6.** 25 Kotwalia families of Champawadi village of Songarh taluka (Surat) visited by the Commission on 21.12.03 had left their village to work as labourers. It was understood from the Project Officer that 19 families were reportedly doing agricultural labour work while 6 were engaged in cutting sugarcane. **Seven destitute Kotwalia women of the village should be given pension by the concerned department as they were penniless and required social security.**

### **Siddi**

**5.3.7.** The Gujarat Tribal Development Department has been implementing a scheme for economic development of Siddi PTG through a Pilot Project for development of horticulture and animal husbandry through Bharat Agro Industries Foundation (BAIF) in four batches in Junagarh district beginning 1993 as given below:

<u>Year</u>	<u>Villages covered</u>	<u>No. of families</u>	<u>Budget (Rs.in lakhs)</u>
1993-97	01	12	7.66
1995-99	04	49	10.67
1996-2000	05	50	10.00
2001-04	07	25	5.50
<b>Total</b>	<b>17</b>	<b>136</b>	<b>33.83</b>

**5.3.8.** Under the scheme each family is given one acre of land to plant 40 Kesar mango plants, 250-300 forestry-fodder trees on the border of the orchard, one cross bred cow or buffalo, 10-15% contribution of the family in terms of labour and kind and periodic training programmes including study tours. 5690 mango grafts, 3400 coconut trees, 71,170 forestry trees, 136 agricultural implements and 85 buffalos were provided. BAIF was instrumental in starting 82 SHGs for women and 12 for men which had inculcated saving habit and group activities and setting up of small self employment ventures like *Masala shops, flour mills* etc. A number of families were settled on land with technical and project support. The Commission visited one such village and found that a well was also dug. The programme resulted in high rate of survival of fruit and forestry trees /plans and the annual income of the families increased from Rs. 2000 to Rs.20,000-25,000 per annum. SHGs of women had a saving corpus of Rs.2,15,910 which was being utilized for advancing credit to the needy.

**5.3.9.** The Commission recommends that the BAIF should be assisted to help other PTGs to cross the poverty line. As almost all PTGs are BPL families, the Govt. should give free grains to the PTGs as per a Supreme Court direction. Gujarat, Tribal Development Cooperative Corporation (TDCC), BAIF and similar other voluntary agencies associated with the PTGs development should also be actively involved with the formulation and development of PTGs through periodic meetings.

### **BPL Card**

**5.3.10.** The Commission observed that Padhars and Siddis were not issued cards as directed by the Supreme Court. This point came up for discussion at the meeting with the State Chief Secretary who desired that BPL cards should be issued to all PTG households.

## **Administrative arrangements**

**5.3.11.** In order to give a focus to the development of PTGs, the State Government has created the post of Director, PTGs with necessary subordinate staff under the Commissionerate of Tribal Development. There are two project officers, seven extension officers working in the six ITDPs having population of PTGs at Ahmedabad, Surendranagar and Junagarh which are outside the TSP area besides this, 19 Gram Sevaks have also been appointed at village level in all the six projects as well as in other areas outside the projects for implementation of various programmes. **The Commission feels that the Directorate of PTG under the Commissionerate of Tribal Development needs to focus itself only on the PTGs and no other work as this alone would ensure faster development of PTGs.** The Commission was informed that the TRI, Ahmedabad had conducted studies on Dubla, Halpati, Talavia, Dangi Bhil and Warli communities and the State Government has recommended to the Government of India that Dubla, Halpati and Talavia should be declared as PTGs. This proposal of the State Government should be considered by the Government of India as these communities still lag far behind the rest of the ST communities. The proposal in respect of Dangi Bhils and Warlis as and when received from the State Government should be considered for their inclusion in the list of PTGs.

## **Development of dispersed tribals**

**5.4.** Of the 61.62 lakhs STs in State, dispersed tribals constitute 10.73 lacs or 17.42% of the total ST population as per 1991 census. The State Government has estimated that as per 2001 census, their population is 13.41 lacs or 17.37% of the total population. The State Government issued orders that 4 percent of the budget under normal plan of the State from each of the Head of Department should be earmarked for the dispersed tribals. The infrastructural development in the areas, where dispersed tribals reside is looked after under normal State Plan allocation and more emphasis is placed on individual beneficiary and family oriented economic development programmes. These programmes also cover the grant of benefit of reservation in educational institutions and services and grant of stipends and scholarships for admission to pre-matric and post-matric educational institutions.

**5.4.1.** As adequate benefits compared to the tribals living in tribal areas were not received by dispersed tribals and to bridge the gaps in development between both areas, Government have introduced a Nucleus Budget for dispersed tribals by which the local and urgent needs for the dispersed tribals can be met immediately. In the year 1989-90 for the first time, an allocation of RS.49.00 lakhs for dispersed tribals under nucleus Budget was made against which Rs. 48.00 lakhs were spent for various community development schemes and for family oriented economic programmes.

level, schemes upto Rs 0.50 lakh can be sanctioned by concerned/project Administrator /DDO/ Collector immediately withj or without consulting the Direction & Advisory Committee the dispersed tribals are entitled for 50% assistance in the form of subsidy under family oriented development schemes and for several schemes of community development 90% assistance can be given and if it is necessary schemes of 100% assistance may be sanctioned with the prior approval of Tribal Development Commissioner.

5.4.3 The development programme for dispersed tribal for the year 2002-03 envisaged total outlay of Rs. 4270.70 lakhs including Rs. 3948.08 lakhs of State flow from various sectoral programmes under normal State Plan and Rs.322.62 lakhs of assumed Special Central Assistance from Government of India. Out of total provision, the outlay of Rs. 250.00 lakhs was earmarked for Nucleus Budget for the development activities including family oriented economic programmes for dispersed tribals, so that individual tribal families may improve their living standards and join the mainstream of society.

5.4.4. The Commission in their tour in the State from 15<sup>th</sup> December to 23<sup>rd</sup> December, 2003 met dispersed tribals including 2 PTGs namely Siddi and Padhar in the districts of Kachchh, Jamnagar ,Porbandar, Junagadh,Bhavnagar and Rajkot which are all coastal districts. The socio-economic life styie and the problems of the inhabitants of the areas are not skin to the tribals living in the scheduled area districts. The Commission had an interface with the special problem faced in the game sanctuary and national park of Junagadh district, which is the abode of the world famous Gir Lion. The Commission held discussions with the district level officers, representatives of voluntary agencies and tribal leaders and saw some activities meant for them in order to have a closer appreciation of the problems faced by these communities.

### **Education**

5.4.5. Due to opening of more primary schools within the reach of all the villages, the enrolment of students has no doubt increased. However, the percentage of dropouts among STs was reported to be in the range of 70-80% at secondary stage. The Commission could not come across a single degree holder among the 7 tribal groups living in the Rajkot zone, despite 54 years of planned economic development. The reasons range from inadequacy of incentives like pre-matric stipends which are paltry and not disbursed on time. For instance, the stipends/post-matric scholarship for the year 2003-04 had not been disbursed till January,2004. It also came to notice that even through the Commissionerate of Tribal Development had sanctioned post-matric scholarship and sent the remittance to the colleges for disbursement to ST Students, these were yet to be

disbursed by the colleges. Thus the post-matric ST students quite often lose interest in studies due to the inability of their parents to meet the high cost of education and drop out from the colleges. **The Commission recommends that post-matric scholarships should be disbursed regularly in three instalments - in the beginning of the term, June-July, November-December and at the end of the term March-April.**

**5.4.6.** The state tribal development department is running 26 Montessori schools (Balwadis) in the 7 districts of Rajkot zone, through voluntary agencies at a total cost of Rs.5.58 lacs. The average cost per Balwadi works out to Rs.2,146/- p.a. which is inadequate. **The Commission recommends that as the Balwadi schemes of the TD Department caters to the small children, it should be merged with the ICDS Anganwadi scheme for 0-6 year age group children and pregnant and lactating women being run by the women and child development department.** There is no justification for the tribal development department to duplicate the scheme. **The Commission also strongly feels that the Anganwadi scheme can lay a strong foundation among the neglected tribal children to facilitate their entry into elementary school. The big advantage of Anganwadis is that nursing and the lactating mothers are also beneficiaries of Anganwadis and they would certainly motivate their wards to go in for elementary education.** The Commission appreciates the State Government scheme to give opportunity cost of Rs.400/- per month for 10 months in a year to the parents of tribal children for sending them to primary classes. This scheme should also be given the desired publicity. **The Commission notes with satisfaction that due to scattered nature of location or tribal petapadas (hamlets), the State Government is giving bicycles to the ST students under Vidhya Sadhana and Sarasvati Sadhana schemes to increase the enrolment at secondary and higher secondary level of education among the tribal students.**

### **Economic Upliftment:**

**5.4.7.** Due to dispersed nature of settlement of the tribals in the Rajkot zone, the Government has been laying emphasis on individual family oriented economic development programmes in contrast with TSP areas where area development approach is largely advantageous to the STs. These programmes include drinking water, including hand pumps, uniform for school children, small and cottage industries, agriculture, animal husbandry, poultry, training in different trades etc. **The Commission feels that looking to the centuries of neglect of dispersed tribal groups who are inarticulate due to their scanty population and educational backwardness, the present strategy of providing only 4% of the budget of each department for their development as envisaged by the State Government is highly inadequate.** The Commission also feels that the dispersed tribals deserve at least 10% of the total annual kitty with weightage to be given to schemes of economic development. **The present system of replication of all the general schemes for the dispersed tribals needs to be suitably revised as these tribals are landless and unskilled workers.**

**5.4.8.** The development of coastal region through fisheries cooperatives and port trusts like Kandla, Porbandar, Somnath etc. in a big way should also ensure due share to the dispersed tribals by way of organizing fisheries cooperatives for them with state support. Similarly the port trust can also engage the unskilled tribal workers by ensuring that there is no discrimination in their recruitment.

**5.4.9.** Maritime sector of Gujarat is an engine of growth and is flush with jobs both skilled and unskilled. The State Government of Gujarat and Union Ministry of Shipping have to play a complementary role in creating additional avenues of employment for the tribals. The State Government should identify special requirements of skills for various skilled jobs in consultation with the port trust managements for training at institutes located close to the port trusts. The management of port trust should actively be associated with the training institutes so that training programmes are tailored to the special needs of the port trust. **The Commission would like to mention that in response to its suggestion, the Kandla Port Trust management had agreed to set up a typewriting training centre for STs of the area with a view to providing jobs to the unemployed tribal youth. Commission recommends that all unemployed secondary pass ST students of the Rajkot zone should be identified and given training for placement with the port trusts on priority basis.** To sum up, the road map for employment in the maritime sector should take into account the interests of the dispersed tribals of the zone so that the constitutional commitment to the STs is discharged faithfully and honestly.

## **Part II – Economic Sector**

### **Forests**

**6.1.** There are 21 sanctuaries and 4 national parks including one Marine National Park in the State. There has been no relocation of tribals from the sanctuaries and national parks so far. The National Forest Policy of 1988 lays down that the forest dwellers in and around the forests will have the first right on forest produce for their bonafide use. MFP is also allowed to be collected and sold to authorized agents. However, the recent amendment in Wildlife (Protection) Act 1972, Section 29 has drastically altered the situation and the Forest Department has restricted collection of MFP from the sanctuaries and national parks only for bonafide use and not for commercial use. This will have adverse impact on forest dwellers and on their socio-economic life. It is estimated that the total budget of average tribal family draws to the extent of nearly 50% in case of landed tribal family whereas for the landless tribal family the contribution of MFP would be anywhere between 80 to 90% of their annual budget.

## Regularization of encroachment on forest lands

6.2. The State Government sent a proposal in 1994 for conversion of 207 forest villages into revenue villages. Subsequently, the State Government has informed the Govt. of India that there are only 178 forest villages which are to be converted into revenue villages. The Commission regrets to note that the conversion of forest villages into revenue villages is hanging fire since 1984 with no concrete results. The Central Government has again reiterated in their communication, dated 05.02.04 addressed to all the State Governments that the forest villages should be converted into revenue villages. The Central Government has to obtain the approval of the Supreme Court after fulfilling all the requirements and this delay on the part of the State Government to furnish the necessary declarations has delayed the confirmation of the hereditary rights to the forest dwellers who are suffering for no fault of theirs. **The Commission expresses its anguish at the state of affairs and hopes that the concerned authorities would do the needful immediately.**

6.2.1. In Gujarat, Jagirdari Nabudi Dhara came into force in 1953. Accordingly, all the Jagirs were compensated and forest rights continued to remain with the the Jagirdars resulting in indiscriminate cutting of forests. The decreed land was sold by them to the tribals from 1953 onwards. The tribals developed the land, dug wells but in 1973 the State Government acquired the private forest alongwith the decreed land, which was earlier sold to the tribals by the Jagirdars. 1804 persons have been allotted 1308 ha. of land who have been made encroachers on their own land. These cases pertain mostly to the districts of Banaskantha, Sabarkantha and Panchmahals. During the visit of the Commission to Shamlaji (Banaskantha), it was found that the tribals of Bornala, Od, Vasaya, Jampudi, Panchmahudi, Jab Chitriya, Anasol, Nana Kanthariya, Lusadya, Sabran, Mota Kanthariya, Abhapur and Mehru villages did not have ownership rights of land which was in their occupation since 1953. They were allegedly being harassed by the forest officials. **The Commission recommends that their cases should be settled expeditiously and till such time, this is not done, they should not be displaced.**

## Pre 1980 tribal forest dwellers

6.3. The Navsari District Forest Division has settled 4886 tribals on 11479.75 hectares of land so far but 395 applications from tribals for their settlement on land are still pending with the Collector, Navsari due to want of supporting evidence for use of land by them for generations. The Commission thinks that the cases of tribals who have been living in the forest for generations prior to 1980 can be resolved through simplified method of verification like proof of a bore-well dug by the tribal or old trees grown by them or a hut built long time back prior to 1980 as evidence and on the spot inquiries from the elders in the village.

6.3.1. Out of 305 persons of 30 villages in Danta taluka in Bansakantha district who are cultivating forest land outside the sanctuary area, a total of 141-54-09 ha. of forest area has been given to 181 persons according to Government of India's letter dated 02-08-2000. The *Sanads* of this land have already been issued by the revenue department to the eligible persons while the 124 persons do not qualify for regularization of their encroachments as they are already having the land in excess of 8.00 acres.



**Table - V**

**Cultivations inside sanctuary area:**

Name of the Taluka	No. of villages	No. of persons	Area under cultivation (ha.)
Danta	47	997	765-94-12
Palanpur	1	47	35-61-00
Amirgadh	17	392	239-57-00
<b>Total</b>	<b>65</b>	<b>1436</b>	<b>1041-12-12</b>

6.3.2. 1436 persons of 65 villages who are cultivating the forest land inside sanctuary area before 1980, the State Government has to prepare a suitable package for their relocation outside sanctuary area.

6.3.3. In Amirgarh, tribal people of about 68 villages are living for decades in Balam area. The Forest Department is planning to declare this area as Wild Life Sanctuary. It is not known whether the Forest Department has taken necessary steps as required under the Wild Life (Protection) Act to consult the tribals. A large number of tribal families will be evicted and the Commission feels that unless the rehabilitation plans drawn up in consultation with the tribals are ready, they should not be evicted under any circumstances.

6.3.4. There are 75 villages with ST population in the periphery of a sanctuary in Dediapada, Narmada District. These tribals have no facility of drinking water, school, health care, fair price shop, etc., as it is a restricted area under the Forest (Conservation) Act, 1980. The Govt. of Gujarat has prepared a scheme, under which such tribals who want to be relocated, may vacate and will be suitably rehabilitated.

6.3.5. Of the 1200 Padhar PTG families out of 2800 families living in Limbdi Taluka were dependent on fishing from Nilsarovar which has now been declared a bird sanctuary. Consequently they have been denied fishing and deprived of the right to livelihood. Commission is of the view that fishing rights should be given to the tribals.

**Table-VI**

**Unauthorised cultivations after 1980:**

Name of the Taluka	No. of villages	No. of persons	Area under cultivation (ha.)
Danta	68	1086	744.47
Amirgadh	32	522	582.44
Palanpur	1	37	52.39
Dantiwada	2	17	16.82
Vadgam	1	10	15.40
<b>Total</b>	<b>104</b>	<b>1672</b>	<b>1411.52</b>

6.3.6. The Forest (Conservation) Act was passed in 1980. The Ministry of Environment and Forests issued guidelines for regularization of encroachments after ten years in September, 1990. In so far as pre-1980 encroachers are concerned, state government has been taking action during the last decade but the matter has not been wholly resolved. In so far as post-1980 encroachers are concerned tribal dwellers who are in continuous occupation of forest lands since 31-12-1993 are to be regularized on the basis of instructions issued by the Ministry of Environment and Forests on 05-02-2004 and the tribals

will have heritable and inalienable rights over such lands. The Government of Gujarat has estimated that 46,519 ha. of land was under encroachment during post 1980 period and they have evicted encroachers from 16,063 ha. of land. Now the position has changed with the issue of a policy letter issued by the Ministry of Environment and Forests. The Commission recommends that within a time frame of one year given by the Government of India, the state government should make earnest efforts to obtain the clearance from the Ministry of Environment and Forests and issue pattas to the forest dwellers, who were in continuous occupation of forest lands upto 31.12.1993.

**6.3.7. The Commission is happy to note that teak trees in the Dangs district which dot the landscape have become a source of vibrant capital for funding, loaning and issuing of advances to the STs who are using these funds for educational and economic developmental programmes.**

**6.3.8. In 1964 Gujarat Government decided to set up a hill resort at Saputara in Dangs district. At that time, there were 56 huts and 41 tribal farmers were cultivating land on lease. All these tribals were evicted and moved to Navagam village at a distance of 0.3 km. from Saputara. Their huts were demolished and 463 acres of land was taken over by the Government and the entire Saputara was declared a notified area. The displaced tribals were paid monetary compensation ranging from Rs.5,000 to Rs.73,000 but it is understood that only a small portion of the money reached the tribals. The land was allotted to more than 20 hotels owned and run by non-tribals from outside Dangs and Gujarat. The displaced landless STs cultivate patches of forest land in and around Saputara and are treated as encroachers and lands cultivated by them have not been regularized. Population of Navagam has risen to 1500. All the retail-outlets and shops which have come up in Saputara are owned and run by non-tribals. The displaced tribals cannot vote for the Gram Panchayat, Taluka and Zilla Panchayat elections as Navagam village does not have an elected Panchayat and is also not recognized as a part of the nearby Malegaon Gram Panchayat. Saputara is emerging as a tourist spot in Gujarat and it should be the responsibility of the state government to ensure that the STs also derive adequate benefits of this fast emerging tourist industry in their district. The Commission recommends that all the 41 displaced ST families who are cultivating forest lands should be given pattas and STs of the district should be allotted shops and given loans for setting up of hotels, shops etc. at Saputara. As the Dangs district comes under the Scheduled Areas, it is mandatory on the part of the non-tribal owners of hotels and business houses to spend at least 20% of their profit on the development of the STs. (Samata vs. the State of A.P. & others).**

### **Maliki trees**

**6.4. The strength of Dangs district lies in its rich forests of teak trees. In 1970, the protected forest-land which was under cultivation of tribals was regularized and it was decided that the ownership of trees which were on these lands would remain exclusively with the State Government. In 1984, the State Government decided that 20% of the income generated through harvesting of trees standing**

on the farm lands of the tribals would be given to them. In 1995, this was increased to 50% and in 1997, 100% of the net income generated after deducting the expenditure of timber cutting, logging and selling of timber. A tribal land holder was also allowed to harvest either 50% of total trees or 10 trees whichever is less under certain terms and conditions. One of the conditions was that they must plant 3 times more trees than what they cut at a time.

6.4.1. It is understood that on an average, a teak tree fetches Rs.20-25 thousand and the annual flow of money to the STs is to the tune of Rs.6.00 crores. The tribals were basically in debts and their loans had turned into bad debts and, therefore, no new bank loans could be given to them. The State Government by involving bankers, forest officers, development officers and the co-operative sector evolved a scheme under which the tribals can offer maliki trees as a co-lateral security for any bank loan by a guarantee from the District Forest Officer. This has enabled the tribals to use the banks loans for purchase of pumps-sets, construction of wells, higher education of their children and construction of houses etc. The Commission was happy to see Wadi cultivation through water conservation in some villages in Dangs district and funds for such projects have come through maliki cutting of the trees.

6.4.2. The cutting of the trees from the reserved forests, logging etc. is a labour oriented work and generates employment of 93,000 man-days which provides wage labour to the tune of Rs.75 lakhs as well as 8,500 man days, in the transportation of timber from field to depots giving Rs.7 lakhs as wages to the tribals and Rs.18 lakhs to the truck owners of the Dangs district.

6.4.3. Migration is a big problem because of the fact that out of 5.80 lacs h.a. of land available for cultivation only 4,455 h.a. has assured means of irrigation. 5,195 h.a. of land can be provided irrigation by construction of check-dams, recharging ground water, lift irrigation. **The Commission, therefore, recommends that the first priority of Dangs administration should be to harness the irrigation potential to ensure that 5,000 h.a. of land can be irrigated. Side by side the programme of dairy development has to be activated so that people are engaged for looking after the milch cattle and in supplying milk to Village Milk Co-operative Societies.**

#### **Minor Forest Produce (MFP)**

6.5. The Commission observed that the net profit out of sale of the MFP after defraying cost of procuring and selling MFP is not given back to the tribal collectors of MFP. **At the meeting with the Chief Secretary, the Commission pointed out that as in the case of sugar and milk cooperatives, the tribal collectors should get the net profit made out of the sale of MFP. The Chief Secretary appreciated the suggestion and said that initially when a tribal brings forest produce, he may be paid an advance and after the sale process**

is completed and accounting is done, the surplus money may be again distributed back in proportion to the material collection made by particular individual/family. The Commission hopes that the Forest Department will implement the suggestion made by the Chief Secretary.

## Irrigation

### Displacement

7.0. 7 Dams including Kadana, Panam, Hadaf, Ukai and Mahi etc; have displaced tribals and the benefit of irrigation facility has gone to the districts of Kheda, Nadiad, Ahmedabad, etc. The Commission found that the Project Officers of the concerned ITDPs were not having the details of tribals rehabilitated as well as package of rehabilitation grant given to them and those still to be rehabilitated.

7.1. The tribals, who were displaced by the Panam, Hadaf and other projects in the Panchmahals District, were rehabilitated in the year 1981 on the land given by the District Revenue authorities, which was cultivated by the tribals but in 1984 it was declared to be meant for Forest Department. At present, these tribals are utilizing the land without the title of the land and may be evicted any moment. **The Commission recommends that the dispute between the Revenue and Forest Department should be settled and the tribals who were rehabilitated in 1981 by the Revenue Department should be conferred with ownership rights.**

### Sardar Sarovar Project (SSP)

7.1.1. ST persons of Madhya Pradesh and Maharashtra who have been displaced and are being settled in SSP have also been added in the Schedule to the Constitution (Scheduled Tribes) Order, 1950 vide the Constitution (SCs & STs) Orders (Amendment) Act, 2002 (No.32 of 2002). Their names are : (i) Bhil, Bhilala, Barela, Patelia; (ii) Tadvi Bhil, Bawra, Vasave & (iii) Padvi.

7.1.2. According to the information furnished by the State Government in reply to the questionnaire, it is found that 40,963 families have been affected by the SSP in Madhya Pradesh, Gujarat, Maharashtra involving 240 villages fully and 4 villages partially. The particulars of tribal and non-tribal families displaced and rehabilitated by the SSP are given in the table below:

**Table - VII**  
**PAF's of SSP resettled in Gujarat**

S.No.	State	ST PAFs	SC PAFs	Other PAFs	Total
1.	Gujarat	4646	10	28	4684
2.	Madhya Pradesh	3557	285	1140	4982
3.	Maharashtra	762	-	6	768
	Total	8965	295	1174	10434

7.1.3. The package adopted by the Government of Gujarat for the resettlement of PAFs is based on the concept of 'land for land'. Each PAF which had more than 25% of land holding acquired for the project has been made eligible for a minimum of 2 has. of agricultural land. Further, every co-sharer of original land holding, every landless agricultural labourer and even encroacher of govt. or forest land is also eligible for 2 has.

of agricultural land. Apart from this other basic community facilities like schools, dispensaries, drinking water supply, irrigation facility, roads etc. have been provided to the settlers. The State Government is reported to be rehabilitating the PAFs with a human face for minimizing the negative aspect of displacement.

**7.1.4.** The Commission (after a wide range of discussions at Kewadia colony (Narmada) with the tribal representatives and their NGOs) could find that the displacement and rehabilitation of tribal families, particularly from the state of Madhya Pradesh has not been a pleasant experience despite the grievance redressal mechanism. Their displacement is no doubt far away from their cultural moorings and life styles. The Commission was informed that their rehabilitation has not taken into consideration their cultural traditions, system of worships and beliefs. **The Commission recommends that the State Government should have a fresh look at the entire gamut of rehabilitation and ensure that the displaced families are rehabilitated in compact blocks of land so that the tribals should not be made to believe that they are being acculturated into the mainstream, which is dissimilar to their ethos and beliefs.**

**7.1.5.** Ukai dam was completed in 1972. The Commission was informed that 15,632 families (now 40,000) were displaced from 171 villages and submerged 5,500 acres of land. They were allotted 3 or 4 acres of uneven and infertile land, far from their villages without irrigation and infrastructure facilities. The condition of these oustees is pathetic and they are compelled to work as migrant labourers on the lands of affluent farmers who are receiving irrigation facilities from the dam. To meet the genuine demands of the displaced persons for providing irrigation facilities in Mangarol, Mandvi, Sonagadh, Uchhal, Nijar and Sagabara there are three alternatives. First alternative is to construct a canal on right bank of Ukai dam; second, the water of Amli dam may be augmented from Ukai dam and third, construct a canal from SSP for irrigation. **The Commission recommends that the State Government should conduct feasibility studies and undertake action to ensure that the displaced persons get benefit of irrigation from SSP.**

## **Irrigation schemes**

**7.2.** The fruits of green revolution have not reached the tribal areas, despite abundance of water resources. 25% of land is under irrigation in Gujarat whereas in tribal areas, it is around 13-14 percent. Land being undulating requires special type of irrigation models for tribal areas. Irrigation in the interior tribal villages is almost absent. The major hydroelectric projects in Gujarat have displaced tribals from their habitats but the irrigation and drinking water facility from such projects has benefited the non-tribal districts of Kheda, Nadiad and Ahmedabad. Some of the major projects are Kadana, Panam, Hadam, Ukai, Mahi, Hathmathi, Mevo Yojana (Sabarkantha district) Parvati Galab project in Pachmahals district, etc.

**7.2.1.** Due to non-availability of water the tribals are forced to migrate en masse to Vadodara, Rajkot, Jamnagar districts or places as far as Kandla Port and other ports in the state for unskilled manual jobs. **The Hathmathi, Jalgarh Meso Yojana established in 1960 denied drinking water to the tribals of Sabarkantha district on the plea that the tribal villagers live in scattered *Petaparas* (hamlets) even though the pipes supplying water to non-tribals pass through their hamlets. The Commission**

brought this to the notice of the Chief Secretary in the meeting held at Gandhinagar on January 15, 2004 who issued spot instructions to the concerned department that this was against the 1986 policy of the State Government to provide drinking water to all *petaparas*, through which the pipes pass. The Commission is happy to note that prompt action has been taken by the State Government by inviting tenders of laying down of pipelines, underground tanks, etc.

**7.2.2.** The tribal regions of Gujarat normally get good rainfall and have intensive networking in the form of rivers and rivulets but unfortunately the run-off water is very high, which means there is great potential in the form of water harvesting and judicious utilization of harvested water. Fortunately some voluntary agencies like the N M Sadguru Water Development Foundation, Choshala (Dhod) has installed hundreds of community life irrigation schemes in Dhod district which are being well managed by the tribals. As a result of the efforts made by the Foundation, the tribal farmers have now opted for advanced technology of drip sprinkler, irrigation in their horticulture and floriculture plots.

**7.2.3.** The life irrigation technology is feasible and cost effective in the tribal regions. Water from Narmada canal and Kadana dam can easily be tapped for tribal areas in Dahod. At present water from Kadana, Meshvo Vatrak and Hathmati dams is being provided to the Nadiad, Kheda, Anand and Ahmedabad and part of non-tribal areas of Sabarkantha and Banaskantha districts. Now some area would be further irrigated by the water from the Narmada Dam. There are no places in Dahod, Meghraj, Bhiloda, Vijaynagar, Danta and Amirgadh tribal areas where big dams can be constructed. The only way to provide irrigation to these areas is to supply water from these dams which will be possible now because of additional supply of water from Narmada Dam. The Gujarat Government has a plan to fill up these dams except Kadana by the water of Narmada Dam during the flood period and later on this water would be supplied to the non-tribal areas. In other words, the non-tribals will have additional supply of water. **The Commission recommends that the additional water available for the Narmada Dam should be utilized for irrigating tribal areas in the districts of Panchmahal, Sabarkantha and Banaskantha as a first priority by undertaking feasibility study for construction of higher level Kadana canal which should solve the problem in the three districts.** Another source of irrigation and drinking water is community lift irrigation scheme, which is possible subject to availability of electricity. While non-tribal regions excel in the industries, trade and commerce, the tribal regions can outsmart them in production of vegetables and horticultural crops and their traditional food items like minor millets etc through irrigation as there is great scope for it provided the State and Central Governments accord the highest priority to the availability of electricity in the tribal regions of Gujarat. **The Commission recommends that the State Government if higher level canal is not feasible, the State Government should prepare a package of programmes by various methods of irrigation – check dams, tanks, inter river linkage and recharging of wells for tribal areas. The Commission has observed that the acreage of land holdings among STs has gradually decreased and it is, therefore, imperative to provide assured means of irrigation so that the tribals are able to get two or three crops and undertake growing of fruit trees.**

**7.2.4.** The Commission has observed that the tariff system of electricity is without any rationale during drought years when the lift irrigation schemes are non-operational. The rules should be amended to waive payment of electricity charges for such periods of distress by the tribals. **The Commission, therefore, recommends that pattern of tariff for tribal regions should be leased unit meter based with the condition that during non-operational period the minimum charges will not be levied. The Commission also found that at some places the tribals are sent huge electricity bills after six months making it difficult for them to make the payment of the bills. The Gujarat Electricity Board (GEB) should issue monthly bills to allow them to make the payment at the nearest post office or the rural bank.**

## **Electrification**

**8.0** Cent percent villages in the state were electrified by the year 1988-89. However, the electrification of tribal *petaparas* has been taken up under the TSP scheme and till 2002-03, 7216 *petaparas* had been electrified. 2418 *petaparas* remain to be electrified as on 31/3/2003. The norms of electrification of tribal *petaparas* have been relaxed and beneficiaries have been given one point wiring with connection. **The tribals complained at many places that domestic connections were disconnected de to non-payment of bills.**

## **Mining**

**9.0** There are 39 marble mines in unclassified Forest areas lying in four villages close to Ambaji, Banaskantha district. 44 leases were given for prospecting marble. The TRI, Gujarat Vidyapith, Ahmedabad has mentioned in a study report of 1988 that several cases of tribals whose lands were acquired by non-tribals by fraud and forgery and without any proper compensation to the tribals for mining. The Commission wanted to interview such tribals in the presence of the District Collector but they did not turn up due to fear of reprisal by the vested interests. There are in all 47 cases of tribals whose land was taken over by non-STs through unfair means. Moreover, this being a scheduled area, the land of the tribals could not pass into the hands of non-tribals. Appropriate action may be taken in the matter.

## **Rail & Road connectivity**

### **Pradhan Mantri Gram Sadak Yojana (PMGSY)**

**10.0** PMGSY is a 100% centrally sponsored scheme launched w.e.f. December, 2000 to provide total connectivity to all unconnected habitations with a population of 500 and more with all weather roads by the end of the Tenth Five Year Plan (2007). The guidelines lay down that habitation of 1000+ are to be taken up first, followed by habitations of 500-999, 250-499 population and upto 250 in tribal areas. **The information furnished by the Rural Development**

**Department Government of India reveals that there are no eligible habitations of 250-499 population in Gujarat, which appears to be incorrect. The Commission came across 59 habitations in 250-499 population category particularly in the district of Navsari, ITDP area which could not be covered by the PMGSY during 2003-04. The number of habitations with 500-999 population is 2306 located in the tribal belt as reported by the Union Ministry of Rural Development.**

## **Rural roads**

**10.2** The state government has also implemented construction of rural roads in the tribal areas under different programmes. In Navsari, out of 245.80 kms. village roads, 24 all weather roads measuring 46.80 Kms. have been completed in tribal areas till 2003-04 covering 24 habitations while roads connecting 11 habitations estimated to cost Rs.136 lakhs are under construction. There are still 74,54,035 unconnected habitations having 10,000, 500-999, 250-499 and up to 250 tribal population respectively in Navsari district which need connectivity. 119 tribal habitations in 57 revenue villages in Chota Udepur ITDP of Vadodara district are held up due to inability of the Forest Department to give clearance for construction of roads passing through forest land. 8 proposals covering 3 talukas of Jetpurpavi, Chota Udepur and Kawan effecting 8 villages are also held up due to stringent interpretation of the provisions of the Forest (Conservation) Act and the Wild Life (Preservation) Act.

**10.2.1.** The various programmes under which these roads have been undertaken are under Article 275(1), NABARD, New Gujarat Pattern and TSP besides PMGSY with a road length of 650.31 Kms. out of which 506 Kms. pass through tribal areas of Valsad district and would benefit 3,09,892 persons, most of them would be tribals. The Commission was informed that money is not sanctioned under Article 275(1) for construction of bridges for laying all weather roads. **The Commission recommends that roads which benefit tribals living in or around the game sanctuaries and National parks etc. and passing through forest largely benefit the tribal population and should be built and maintained by the Forest Department. The State Government should provide funds to the Forest Department for this purpose. The Commission also recommends that the maintenance of village roads should be the responsibility of the contractors for the first five years like PMGSY roads and subsequently the maintenance job should be entrusted to the Gram Panchayats. The State Government should place sufficient funds at the disposal of the Gram Panchayats for maintenance of roads benefiting tribals. Further, if construction of a road is sanctioned under Article 275(1), it should also provide for construction of bridges.**

## **Railways**

**10.2.2.** The Scheduled Areas of North Gujarat are not well connected by railways. There is a metre gauge rail line from Himmatnagar to Khedbrahma. If this rail line is converted into broad gauge and connected to Abu Road which is on the broad gauge, it would improve accessibility to the STs of Bhiloda, Vijaynagar, Khedbrahma of Sabarkantha district and also provide a link to the tribal areas for Southern Rajasthan.

## **Agriculture**

**11.1.** Agriculture is the mainstay of the tribals. After the British took control of the forests, the tribals lost their command over forest resources which hitherto



provided them food security during the lean agriculture seasons. Due to entry of non-tribals in the tribal areas and loss of land as indicated in the paras on land alienation, the number of agricultural labourers increased. A study in Dahod by N.M. Satguru, Water and Development Foundation has shown that the seasonal migration was as high as 50-70% but with consistent efforts made to provide irrigation facilities it came down to 10%.

**11.2.** Provision of irrigation facilities leads to all-round development of the tribal economy particularly in the fields of agriculture, horticulture, dary and other ancillary activities relating to agricultural development. There are some success stories in certain tribal districts on account of efforts made by the State to provide irrigation facilities to the command areas lying in the tribal belt. For instance Karjan reservoir project in 4 talukas of Bharuch and Narmada districts covering 209 villages, a canal network of 44,932 hectares has been created with a potential of 51,000 hectares of land.

**11.3.** The State Government has targeted to include 4,10,218 land holders belonging to STs who together operate 9,30,799 hectares of land. These tribal cultivators constitute 10.85% of the total number of land holders in the state and the area of land operated by them constitutes 9.40% of the total land cultivated in the State. Agriculture services include agriculture extension, innovative programmes, agricultural marketing, subsidy to weaker sections and energy development for which the State Government had earmarked an outlay of Rs.7,950 lakhs for the year 2003-04. These programmes also include drip irrigation system, supply of organic manure, bio-fertilizer. Due to poor availability of irrigation facilities, fragmented land holdings and lack of financial resources, agriculture alone cannot provide whole time employment to the tribals. It has to be combined with other related avocations like horticulture, animal husbandry, dairy farming, fisheries etc. The Commission recommends that the State Tribal Development Department and other related Departments like animal husbandry, irrigation, dairy development, fisheries, horticulture etc. must prepare a comprehensive package of programme for the development of tribals. The services of dedicated voluntary agencies like N.M. Satguru, Water and Development Foundation, Dahod, Bharat Agro Industries Foundation (BAIF) etc. should be utilized for preparing a package of programmes and for their implementation, the availability of funds should not stand in the way as the outlays from the State Plan, SCA, Rashtriya Sam Vikas Yojana (RSVY) should be dovetailed and utilized depending upon the specific needs of each tribal community.

## **ANIMAL HUSBANDRY**

**12.1.** Cattle population is quite large in tribal areas of Gujarat. According to livestock census 1997 - 27.08% of the livestock population, 58.38% of the poultry population is found in the tribal areas of the State. Animal husbandry provides gainful employment to the unemployed tribal youth and women. This can apart from providing supplementary income, also contribute to overall health improvement of the family by availability of milk, eggs etc. to them. Although State Government has programmes for production of livestock products in the form of milk and milk products, wool and eggs, the normal programmes for improving local cattle breeds and the coverage of the population by this method has been quite minimal.

**12.2.** The Commission was informed that the number of cattle population is almost at par with the human population in the tribal district of Dahod. 90% of the cattle are unproductive and unhealthy due to insufficient fodder and malnutrition. The large number of unproductive cattle population and uncontrolled grazing were reported to be the most important reasons for degradation of all productive areas in Dahod district. The areas of Dahod district like most other tribal areas of the State are drought-prone and the cycle of drought is repeated after every 4-5 years, resulting in crop variations and drying up of water resources of both rivers and built-reservoirs. The situation has become serious for the people as well as their cattle. The migration of tribal population in search of jobs leaves the cattle at the mercy of nature in a State like Gujarat which is famous for white revolution.

**12.3.** Outlays have been made in the TSP 2003-04 for veterinary services and animal health, cattle and buffalo development, poultry development etc. Under the scheme of animal husbandry, a total provision of Rs. 949.93 lakhs has been made for these schemes, a major chunk has been earmarked for veterinary services and animal health. Under nucleus budget Rs. 150 lakhs has been provided. There is no provision for development of sheep and goat.

**12.4.** The Commission recommends that keeping in view the fact that the cattle population in the tribal areas is quite preponderant with dimly low yield of milk, there is need to step up the provisions for cattle and poultry development. This would also ensure supplementary employment and income to the tribal families through proper networking for the dispersed tribal groups. A number of tribal communities like Rabaries, Maldaries etc. are well known for keeping large herds of sheep and goats but with the scarcity of fodder and restrictions imposed by the cultivators, there is need to start a special fodder development programme for these groups on the lines of village fodder farms started for cattle and buffalos.

**12.5.** The RSVY which has been approved by the Planning Commission for a few tribal districts like Dahod in the State would aim at transforming the economy of the district by storing and using runoff water around 77234 MCFT, the present utilization being only 13,707 MCFT (at 15%). The increased supply of water would make available water for drinking and irrigation purposes and ultimately improve the cattle programmes aimed at extension of the white revolution to the tribal districts. **The Commission feels that special attention should be paid to agriculture, horticulture and animal husbandry activities by setting up of dairy cooperative units in order to stabilize the socio-economic condition of tribals. Such programmes can help in reduction of poverty and out-migration of tribal families to Surat, Ahmedabad, Indore, Ratlam, Mumbai, Jamnagar, Rajkot etc. for work.**

## **Fisheries**

13. The tribal areas have about 1.60 lakhs ha. of water sheets which includes six big reservoirs viz. Ukai, Dharoi, Pana, Kadana and Madhuban about 120 medium, minor reservoirs and about 1,000 village ponds. There are 17 fish seed farms for fish seed production and fish seed rearing. There are six training centers and about 600 tribals are imparted training every year. About 157 tribal co-operative societies with 29,529 tribal members are functioning. Except the six big reservoirs, all others are reserved for tribal co-operatives and are given to them at upset price without tenders. **During the course of tour, many tribals wanted that fishing rights should also be given to the tribals for fishing in the big reservoirs.**

## **Part-III – Social Sector Education**

14. State Government has given high priority to educational development of STs. The State is financially assisting/running of 456 Ashram schools by voluntary organizations in which 26,445 boys and 26,417 girls were studying as on 31<sup>st</sup> March, 2003. 89 post basic Ashram schools for boys and girls from classes 8 to 10 run by the voluntary agencies are also financially assisted by the State Government. 100% salary grant, as well as maintenance grant for the Ashram schools and post basic Ashram schools is also given together with a monthly grant of Rs.450 per inmate for 10 months. The State Government gives grant in aid for running 935 hostels. 22 secondary schools for boys and 15 for girls. 75 higher secondary schools in addition to 17 residential schools for boys and 9 residential schools for girls are run in the ITDP areas. Scholarships are also given to tribal students to cover examination fees, free supply of books, stationery, uniforms and free boarding and lodging facilities are provided in hostels and Ashrams. ST girls not getting post SSC scholarships from Govt. of India due to income criteria are given scholarships under State funds. Students studying in ITI are given scholarships of Rs.10,000 annually. Primary education is imparted in the mother tongue of the tribals. It is reported that the use of tribal languages yields better results in educating tribal students. The State Government has introduced Vidhya Lakshmi Schemes under which a bond of Rs.1,000 is issued to each girl child admitted in standard I and it will be released when the child completes her study up to 7<sup>th</sup> standard and ST girl students in standard 8<sup>th</sup> are given free cycle. To meet the educational needs of children migrating along with their parents who go to work in the cutting of sugarcane and in construction work, Village Education Committees (VEC) have been set up which select local educated girl or boy as instructor to start an alternate school for 20 children. The school has flexible timings and location. Teaching material is provided by DPEP and the teacher is imparted training periodically. It is reported

that 28,000 children are at present attending such alternate schools of which 14600 are girls. There is no difference between the curriculum of schools run by the State Government and the Education Department.

### Drop-out rates

14.2. The drop out rates are very high in the tribal areas. The following table indicates drop out rate of tribal students from 1993-94 to 1996-97:

**Table – VII**

No.	Year	General			Scheduled tribes		
		Boys	Girls	Total	Boys	Girls	Total
For Std. 1 to 5							
1	1993-94	40.38	49.84	44.63	55.61	69.68	60.94
2	1994-95	34.94	41.10	37.71	52.68	68.77	59.84
3	1995-96	33.45	40.01	36.93	51.31	66.07	57.97
4	1996-97	32.72	39.74	35.40	49.65	64.25	55.50
For Std. 1 to 7							
1	1993-94	57.91	67.84	82.68	69.57	77.60	73.20
2	1994-95	51.17	55.52	53.11	68.07	76.46	71.86
3	1995-96	49.22	53.85	51.29	67.05	75.49	70.88
4	1996-97	48.19	51.17	49.65	66.25	74.22	69.96

The reasons for the high drop out rates are shortage of teachers and classrooms, lack of toilets facilities for girls, non-availability of upper primary sections, need for children to work or look after siblings, migrating parents-sugarcane and construction workers, social restriction on educating girls, uninteresting curriculum, outdated teaching methods and inadequate teaching/learning material and near lack of laboratory equipments.

14.2.1. The State Government has taken a number of steps to arrest the drop out rates. The State had opened two-teacher training centres for tribal areas. Classrooms are constructed by Village Construction Committees and even Government has taken up a programme for construction of girls' toilets in upper primary schools. About 6000 lower primary schools had been upgraded in the 9<sup>th</sup> Five Year Plan.

14.2.2. The Commission observed that

(1) though enrolment of ST students at primary stage has increased, it was noticed that their dropouts even after 30 years of TSP strategy range in the realm of 70-75%, despite various interventions. There is need for starting buffer classes for failed middle and secondary students to enable them to clear the Board Examinations. The existing English teachers of Ashramsals are not well qualified to enable the children to face competitive examinations.

(2) the teachers posted in the tribal areas are mostly drawn from outside the tribal area. The number of tribal teachers is not adequate. The unemployed graduate STs are not employed as teachers and given in-service training. Anganwadi is a platform for education. The present norms of opening of Anganwadis does not take into account the fact the tribals are living in hamlets, which are scattered on a large expanse.

(3) a suggestion was made by NGOs and tribal leaders that in order to improve attendance of teachers in primary schools in the scheduled areas a sub-cadre of tribal teachers should be created. They should be given tribal allowance and free accommodation so that they are able to devote themselves wholeheartedly to schools.

(4) the Govt. of Gujarat has refused permission to the voluntary agencies to start granted schools and has instead sanctioned non-granted schools for which the voluntary agencies, starved of funds have to meet expenditure related to teachers' salary and other administrative expenditure. This policy has adversely affected the interests of the ST children of the scheduled area. The Commission observed that one self financing professional college for Primary Teachers Course (PTC) was charging a whopping amount of Rs.31,000/- per annum towards tuition fees in the scheduled areas, which is beyond the reach of poor tribals.

(5) during the Commission' visit one PTC college had only 4 ST trainees out of 50. The reservation for STs in the educational institutions is 15%. The Govt. has centralized admission to Primary Teachers' Certificate course. However, the ground position is that a few ST boys and girls have taken advantage of the scheme and the benefit has gone to outsiders leading to shortage of tribal teachers who are in great demand in the tribal areas.

(6) payment of pre-matric stipend and post-matric scholarship has not been made till January, 2004 according to complaints made by the tribals and NGO's, who met the Commission at various places during tour. It was also demanded that the payment of the stipend should be timely and revised upwards keeping in view the escalating costs.

(7) the Govt. of Gujarat announced to start a Sainik School for STs in Shamlaji of Sabarkantha district. Accordingly, money was allocated and the land acquired. However, since last 4 years, the School has not yet been started. **The Commission notes with regret that undue delay has taken place in the construction of the building and recommends that the persons responsible should be severely dealt with. The Commission hopes that the school will start soon.**

(8) School education is without vocational bias with the result that the tribal students are not able to get jobs in the upcoming industrial enterprises.

**14.2.3.** The Commission during its tour observed that a large number of vacancies of teachers were lying vacant in the tribal areas. The Commission was also given to understand that the selection of students for PTC colleges is done on a statewide basis. During the interaction with the voluntary agencies, it was found that there are only one or two institutions such as Bhil Seva Mandal, which are running a PTC college in tribal areas. However, very few ST students are sent for training to the PTC college run by Bhil Seva Mandal and the Commission was given the feedback that there is no point in running PTC college in tribal areas if it is not able to produce sufficient number of qualified tribal teachers. The vacant post of teachers in the tribal areas can be filled up if sufficient number of tribal students enter PTC colleges established in the tribal areas so that after completing their training they would be able to serve in the tribal areas. This point was discussed with the Chief Secretary who directed the representative of the Education Department that all posts must be filled by mid Feb. 2004 by recruitment of local tribal candidates in the tribal areas. He further stated that selection of candidates for PTC colleges for institutions located in tribal areas should be on a different footing as a reservation is a district wise concept and no purpose will be served if students coming out of PTC college do not work in the respective areas. It is hoped that the clear directions given by the Chief Secretary will be followed so that the posts of teachers in the tribal areas are filled. The Commission further recommends that 3 granted science stream schools financed on cent per cent basis should be opened in each of the tribal tehsils.

## **Health**

**15.** In Gujarat, the tribal population lives in *Petapadas* (hamlets), which are spread over a large expanse. The public health infrastructure is almost non-existent near the tribal habitations and therefore, quick accessibility to health services still remains a dream for the tribals living in the scheduled and tribal areas. Reports of high incidence of malnutrition, infant and maternal mortality in the tribal areas are a hard reality. The tribal districts are very low as against the overall Human Development Index (HDI) of the State, which is at 114, but Dahod district (71% tribals) has HDI at 40. The HDI of most developed non-tribal district of Gandhinagar is at 192. According to a recent study undertaken in 2001, 14 out of 33 tribal talukas have no facility of Government/Panchayat hospitals in any village of these 14 talukas.

## **Special diseases**

**15.1.** Special diseases prevalent in the tribal areas of the state, most of which have been officially eradicated under various national disease control programmes are still afflicting the STs of the state. The sickle cell anaemia (SCA), tuberculosis, diarrhea, malaria, STD, mumps, pneumonia, cataract and

other eye ailments, silicosis, skin diseases like fungus infection, iron deficiency, goiter, AIDS, yaws, water borne diseases associated with consumption of drinking water with the high fluoride, nitrate, chloride, iron content and urinary tract disorders are some of the diseases still posing a health hazard to the tribals. It has also been noted during the tour that at many places the tribals and livestock live together in the same tenements, which accounts for occurrence of many diseases.

### **Sickle Cell Anaemia and Goitre**

**15.1.1.** The Commission was informed during its tour to Navasari and Surat districts that the sickle cell anaemia (SCA) is a serious threat to most of the tribal communities in Gujarat. This fatal disease in Gujarat has its 2<sup>nd</sup> largest population in India. It has no cure except counseling and taking the precautionary measures like avoiding marriage between persons with traits of this disease. The ICMR found the prevalence of SCA in Valsad district among Dhodia, Konkna and Patelia STs during a study conducted by them recently. This disease affects 20-30% of the tribals in south Gujarat particularly, the Chaudharis, Gamits, Vasavas, Halpaties etc., in central Gujarat, the prevalence of the traits of the disease are present in around 30% of the tribal population. In Chhotta Udepur ITDP, out of 62,551 and 16,680 new OPD cases, 2,094 and 680 cases were examined for sickle cell traits and 616 and 160 were found positive during 2002 and 2003. To arrest SCA, it is necessary to screen all persons specially the children attending schools and colleges up to the marriageable age so that the cases in which the SCA traits are noticed; they could be counseled properly not to choose a partner who has the same traits. This requires examination of blood samples in large numbers. Some good work is being done by voluntary agencies in this regard. The Commission recommends that the Central Government should come forward to bear the entire cost of a programme of setting up of labs and appointment of doctors and treatment of patients who suffer from SCA.

**15.1.2.** The occurrence of goitre disease due to deficiency in the intake of iodized salt was reported to be as high as 35 per thousand in south Gujarat. It appears very strange in the context of fact that the state produces more than 70% of the country's salt but the tribals in some parts are afflicted with Goitre. The State Government has informed that to curtail goiter disease salt is being distributed at subsidized rate of Rs. 0.50 per kg from May 1999 through fair price shops in ITDP areas. For implementation of this programme an outlay of Rs.130 lakhs was provided during the year 2003-04. The Commission recommends that Sickle Cell Anaemia and Goitre should be controlled on a war footing in the tribal areas.

## Health Centres

15.2. The entire health care programme is being implemented by the primary health care system, which has developed as a 3 tier system and is based on the following population norms, which are slightly differential in favour of tribals, for valid reasons:

Table-VIII

Centre	Population	Norms	Staffing Pattern
Sub-Centre (SC)	5,000	3,000	MPW(M), MPW(F), LHV
Primary Health Centre (PHC)	30,000	20,000	MO + 14 Paramedical and other Staff + 4 – 6 indoor beds
Community Health Centre (CHC)	1,20,000	80,000	4 Medical Specialist (Surgeon, Physician, Gynecologist and Pediatrician) and 21 Paramedical Staff with 30 indoor beds, one OT, X-ray unit, Labour room and laboratory facility.

15.2.1. Conceptually a sub-centre covers an area of 26.24 sq. kms., PHCs – 190.70 sq kms. and CHCs – 788.79 sq. kms. in the state. The Centre for Social Sciences, Surat has found in a study that the population covered by PHCs is 28,200 against the norm of 30,000 for general population but it is still 25,300 against the relaxed norm of 20,000 for tribal areas. The position is also similar for sub-centres. The Commission has, however, found that the health facilities are highly inadequate in the tribal districts as would be seen in the table below:

Table – IX

Districts	No. of Centres		Requirement of SCs for PHC	Average in the district
	PHC	SC		
Banaskanta	10	70	6	7
Valsad	41	330	6	8
Navsari	35	281	6	8
Panchmahals	31	178	6	6
Sabarkanta	25	169	6	6
Narmada	21	135	6	7
Vadodara	40	217	6	5 ½
Dangs	7	47	6	7
Surat	28	87	6	3

15.2.2. It would be seen that the average number of SCs is more than the required norm of six in respect of 5 districts of Valsad, Navsari, Dangs, Banaskanta and Narmada while it is as per norm only in Panchmahals and Sabarkanta districts. In respect of Surat and Vadodara it is only 3 and 5 ½ respectively against the norm of six, may be because these are highly industrially advanced districts.



**15.2.3.** Similarly, each CHC is a referral hospital for four PHCs. For Valsad there is only one CHC for 41 PHCs, it is 5 PHCs each for Banaskanta and Navsari districts, 7 PHCs each in respect of Narmada and Dangs districts, 8 PHCs in Vadodara and 6 in Panchmahals districts. In Surat district alone, it is less than the norm of 4 PHCs. 30 mobile units are functioning in the tribal districts. **The Commission recommends that there is strong case for provision of mobile vans as it is very difficult for the tribal patients to reach the health centres for treatment during emergency and may be considered seriously by the State Government.**

### **Vacancy position**

**15.3.** Available information could be had for PHCs of Valsad, Narmada and Vadodara districts which showed 15 vacancies of MO (1). Post of MO(1) of all the CHCs of Navsari and Panchmahals districts were full while 43% of the paramedical posts were lying vacant. 75% of the sub-centres in the tribal district of Valsad had no *safai karamcharis*. The Commission was informed that the nurses in the sub-centres of Vadodara district do not stay in the staff quarters, which adversely affects the health of the tribals. The PHC, Dharampur has no surgeon and nurse. Even the Ayas and ward boys were hired on daily wages. It was pointed out by the tribal representative and NGOs that the tribal patients have to trudge to taluka head quarters for medical treatment involving avoidable time and money spent in doing so.

**15.3.1.** 44 posts of Superintendent Class-I, 24 posts of Medical Officers Class-II, 10 posts of Staff Nurse Class-III, 46 posts of X-Ray Technician Class-III, 43 posts of Laboratory Technician Class-III, 40 posts of Jr. Pharmacist Class-III were vacant and efforts are being made to fill up the vacant posts of Medical Officer by conducting walk in interview and on adhoc basis. **There should be one male and one female health worker in each sub-centre. It is surprising to note that not a single male health worker has been appointed in 1514 Sub-Centres.**

### **Training of Nurses**

**15.4.** The Government proposes to start nursing schools at Dahod, Valsad and Rajpipla and Ahwa in the tribal areas and seek help of voluntary organizations to start nursing school at Baruch. **The Commission would like the State Government to open more nurses' training schools in tribal areas for training of tribal female nurses with a view to curb truancy by non-tribal nurses. Another advantage of posting local tribal nurses is their accessibility to the local population as they would be in a position to converse with them in their local dialect.**

## **Position of buildings**

**15.5.** 3 PHCs and 43 SCs of Narmada district have no buildings of their own and are functioning in rented buildings. 6 buildings of PHCs of Narmada district and 3 of Panchmahals districts were reported to be under construction at the time of the tour. The Commission found that the civil hospital (CHC) Valsad was very small. There is a backlog of 150 buildings for PHCs, 17 for CHCs and 580 for CHCs SQs.

## **Availability of medicines and doctors**

**15.6.** Medicines are given to the centres on population criteria. Supply of medicines against indent to the health centres is a cumbersome procedure and it needs to be simplified. There is no arrangement for control of infectious diseases and the treatment of snakebites, anti-rabies cases during the rainy season. Tribal area CHCs of Vadodara district treated 140 cases of snakebites – 127 indoor and 13 OPD out of which six victims succumbed their last during the course of the treatment. The paramedical staff has not been trained to give anti-rabies and snakebite injections in case of emergency when the medical officer was not available. This is a very acute problem faced by the tribals when cases of snakebites are rampant during the rainy season. At Santoshpur Cottage hospital, the Commission found that refrigeration facilities for keeping anti-rabies injections and snakebite venom serum was not available at the hospital for want of refrigeration facilities. The injections were being kept in a private refrigerator.

**15.6.1. The Commission recommends that the health centres should be manned by adequate trained personnel, supply of medicines and refrigeration facilities. Para medical staff including male and female nurses should be trained to give injections in the cases of snake and dog bites.**

**15.6.2.** As per the NHP – 83 and NHP – 2002, each CHC should have four specialist doctors i.e. Gynecologist, Physician, Surgeon and Pediatrician. But the State Government has not followed the guidelines of the Government of India and has appointed only one specialist doctor. Hence the CHCs in the tribal areas are not getting the services of the other three specialist doctors. Moreover, where available the operating surgeon does not have the facility of anesthetic, so either the patient has to bear the expenditure of the charges of the private anesthetic or Surgeon has to take the risk of giving anesthesia to the patient himself or send him to the district hospital. **The Commission recommends that the posts of specialist doctors and anesthetics should be filled up.**

## **Creation of Sub-Cadre of Health Services**

**15.7. The Commission recommends that to overcome the vacancy position of Medical Officers (I) and (II), the State Government should create a sub-cadre of health services of tribal areas and the doctors should be posted in**

**the centres on a tenure basis. They should be permitted to go for Post Graduate courses after completion of the tenure. In order to make their postings attractive, the medical personnel should be paid special tribal allowance, which should take into consideration, the cost of education of their wards at far off places and they should be permitted to visit their home towns on LTC at least once in 2 years. The monetary incentives to medical officers like Special Pay, LTC etc. should be given in comparison with such incentives paid in urban areas. In addition, he should be given out of term promotion and priority in PG admission provided he undertakes to serve in tribal area for atleast 5 years.**

**15.7.1.** The Commission found that the tribals have a strong notion that the health care delivery system is not very effective to cater to their needs. The tribal women have constraints in consulting male doctors/paramedical staff for seeking gynecological treatment. The women preferred the role of Female Health Workers (FHW) in attending to minor ailments at their doorsteps, provided FHWs make home visits regularly. The Commission found that the institutional deliveries in the tribal areas were around 20%. This is perhaps due to multiple factors like vacant posts of dais (TBAs), their poor reach in tribal hamlets and unattractive honorarium per delivery. Another important reason is the need for awareness among tribal women to go in for institutional delivery. The acculturation process precipitated by the industrial activities in the tribal areas has fortunately made them develop faith in the modern healer.

## **Use of herbal medicines**

**15.8.** Tribals collect medicinal herbs from forest and there are four Government medicinal plants collection centres at Khedbrahma, dist. Sabarkantha, Devgadbaria, dist. Panchmahal, Rajpipla, dist. Narmada, Ahwa, dist. Dangs. The Government is considering to disburse Home Remedy Ayurved kit to 30 families per village in 3000 villages in 42 selected talukas. **The Commission feels that the faith of the tribals in the traditional medicine man (Bhagat) is still very strong and has to be given due recognition by the modern health delivery system.**

**15.8.1.** Improvement of tribal health is an important pace setter for all-round development of the tribal areas. **The Commission feels that this would not be possible under the present dispensation where the State health department looks at the tribal health care in an indifferent manner. On the other hand the tribal development department shows its helplessness by simply assuming that the tribal health care is not its baby. The Commission feels that the structure and functioning of the CHCs, PHCs and SCs in the tribal areas would need thorough revamping in consonance with the tribal needs, ethos and beliefs. The Commission recommends that the sub-directorate of health services within the tribal development department as proposed above should cater to all issues pertaining to tribal health like control of**

sub-cadre, filling up of vacant posts, supply of laboratory equipments, medicines, provision of mobile medical vans, strengthening of the health centres not merely in accordance with the norms of Government of India but on the preponderance of tribal population, difficult terrain, occurrence of special diseases and training of tribal doctors and para-medical staff. This sub-directorate should also duly recognize the traditional medicine man through suitable interventions. At the same time, the Commission desires that the State Directorate of health service should have a proper stay in the proposed system as all initiatives for health policy would emanate from that department. The Gram Sabhas should also be duly consulted.

## **ICDS**

**15.9.** ICDS is the largest nutrition and health programme in India. This programme is implemented by the Department of Women and Child Development of Government of Gujarat. The beneficiaries receive supplementary nutrition, immunization, health check up, referral, services, non-formal pre-school education and nutrition and health education. The beneficiaries of the programme are children below 6 years, pregnant and lactating mothers and women in the age group of 15 to 44 years. The National Vitamin A Prophylaxis programme started in 1971 has been merged with the ICDS. The National Nutritional Anaemia Prophylaxis programme launched in 1970 has also been integrated with ICDS.

## **Role of Anganwadis**

**15.10.** Despite the relaxed norms of 700 tribal children for opening of an Anganwadi, the State Government could start only 7,737 Anganwadis under 46 projects till March 2002 benefiting 5.43 lakhs persons. **The Commission recommends that due to isolated location of tribal hamlets on large expanses there is need for further relaxation of norms for opening of Anganwadis in tribal areas from a population of 700 to 250. Such a course will also facilitate the enrolment of tribal children and their retention in primary schools and thereby promote tribal literacy. The Commission also recommends that the expenditure towards supplementary feeding under Anganwadi scheme should be borne by the Union Ministry of Human Resource Development. The Commission feels that the health education of pregnant / nursing mothers would motivate them to accept the advantages of family planning and follow two-child norm. The SHGs of tribal women should be engaged for preparing mid-day meals for Anganwadis.**

**15.10.1.** The Commission strongly feels that so far the health services are heavily concentrated in the urban areas to which the tribals have hardly any access due to cultural and communication problems. The periodic cycle of

drought in the tribal areas leads to the malnutrition of the children. The food they get is both deficient in Vitamin 'A' and iron. There is lack of any public outcry at the present state of affairs in the health sector and there is urgent need for putting the tribal health care on the public agenda. **The Commission recommends that the issues of tribal children have to be properly sensitized and ingrained into the mindset of the policy framers for keeping it as an integrated part of the state health vision. The proposed Sub Health Directorate should examine this issue of vital concern in a holistic manner as health of tribal children of today would produce a good Human Resource Development for tomorrow.**

**The Commission recommends that reputed voluntary agencies for which Gujarat is famous, should be financially assisted by the State Government and the Government of India in tandem to cover the entire scheduled areas by health network. Gujarat is an industrially forward state and the industrial prosperity is very much on account of mineral, forest and water resources available in the tribal areas. The Commission recommends that the Government should levy a reasonable Cess on exportable goods to pay for proper health care of the tribals.**

**15.10.2. The Commission observed that a large number of PHCs and CHCs in tribal areas are not effective in providing health care to the tribals because full complement of posts of medical officers nurses are not filled. Doctors who come out of medical colleges do not want to work in the tribal areas and if by chance they are posted in the tribal areas they manipulate to secure their transfer to an urban center. The Chief Secretary suggested that in so far as services of specialists are concerned, a three prong approach would be followed by the State Government by (1) deputing teams of specialists along with supporting staff and equipments to visit selected tribal medical centers twice a week and undertake higher value services such as surgery, (2) institution should be involved in some tribal pockets by the Health Department to create a viable programme to enable tribal beneficiaries to avail better medical services.**

## **Drinking water**

**16. Most of the tribal areas are characterized by hilly terrain, rocky sub strata and presence of forest on large chunks which makes the problems of supplying safe drinking water difficult. As per survey carried out by Rajiv Gandhi National Drinking Water Mission during the year 1992-93, there are 30,269 habitations in the state, out of which 13,050 habitations fall in tribal area. Out of these 13,050 habitations 12,176 habitations have been covered up to March, 2002, leaving 874 habitations to be covered. During the year 2002-03, 305 habitations have been covered against the target of 250. As on 1.4.2003, 569 habitations remained to be covered.**

## **Hand pump programme:**

**16.1.** Generally tribal population are living in hilly terrain and scattered manner and hand pump is the only techno-economic solution in this area. The State Government has revised the criteria of one hand pump per 100 people to 50 for the tribal areas. There are 80,463 HPs in the tribal area and on an average of about 2% hand pumps require repairs. There are 216 repairing gangs for hand pumps. To involve the people in the job of repairing hand pump, a programme for providing hand pump repairing training has been started for tribal areas and up to March, 2003, 10,645 people were trained in 3,840 villages. It is also planned to provide hand pump repairing kits to all tribal villages of the state. Upto February, 2003, 410 tool kits were supplied to village panchayats. **The Commission recommends that all the remaining gram Panchayats should be provided with kits on a priority basis.**

## **Mini Pipe Water Supply Scheme**

**16.2.** The scheme consists of installation of single phased power pump on bore of 165 mm dia through which water will be stored in a storage tank of @ 10,000 litre capacity and then distributed to the village people on stand posts. Under this programme 246 mini pipe water supply schemes have been completed up to 1.4.2003 in tribal area.

## **Rural Regional Water Supply Scheme (RRWSS):**

**16.3.** RRWSSs are proposed where source for individual water supply scheme is not feasible on the basis of reservoir / river as an assured sustainable source. In tribal area at present 36 RRWSSs covering 317 habitations are functioning and work on 19 RRWSSs covering 679 habitations are in progress. **During the tour the Commission noticed that in Bhiloda and Vijaynagar areas wherein Regional Water Supply Schemes have pipeline passing by tribal hamlets but no water is given to the tribals. This matter was discussed at the meeting with the Chief Secretary who gave a positive response by indicating that since 1986, in the aftermath of successive droughts, GOG has come out with a clear policy that a pipeline has to give tap off to the areas it passes through. The Secretary, Water Supply promised that tribal hamlets would be supplied water in Bhilodia and Vijaynagar immediately.**

## **Housing**

**17.** 3.7 lakh house sites plots have been allotted to ST beneficiaries since 1972. 1.82 lakh houses have been constructed for STs since 1976. Under Sardar Patel Awas Yojana homeless families living below poverty line are provided *pacca* houses and the cost of each unit was Rs. 30,000 and cent percent subsidy was given by the State Government. Since 1<sup>st</sup> February 2000, the unit cost has been raised to Rs. 40,000 plus 3,000 as labour component to make an

earthquake resistant house with toilet-cum-bathroom. The Government has instructed that the tribal houses may have tiled roofs to suit their conditions.

## **Tribal Research & Training**

18. The Tribal Research and Training Institute, Gujarat Vidyapeth was established in the year 1962. The Institute has completed 381 research studies, 78 training courses in tribal life, culture and development were conducted for class-II Government officials covering 1,386 officials. The Institute is also conducting peripatetic training course for local officials, village leaders, grass-root level workers and forest officials and so far 145 such courses were conducted in which 7,036 persons participated. The institute conducts seminars and workshops on various issues. The Commission during its tour was accompanied by the Director, Tribal Research Institute and found that the institute has done a number of studies on various issues pertaining to the tribal people. The Commission however, got the impression that the State Government does not take action on the recommendations made in various studies and reports submitted by the institute from time to time. It was very disheartening to note that the State Government is not aware that the TRI has conducted studies on land alienation.

**18.1. The Commission recommends that the Institute should be strengthened by appointing a renowned Anthropologist / Sociologist with adequate research staff for undertaking tours in the tribal areas. The Commission further recommends that the Government should welcome the constructive criticism of the working of the welfare programmes and take suitable action to modify the contents of their programmes for effective delivery of benefits to the tribal people. The TRI should not be treated as a limb of the Government and entrusted with multifarious routine duties, which impede their research work.**

## **VOLUNTARY AGENCIES**

19. Voluntary agencies can play a catalytic role in the development of disadvantaged sections of the state. The tribals, due to their low HDI in vital sectors like health, IMR, MMR, malnutrition, prevalence of most dreaded diseases, availability of poor health services in tribal areas, education – high rates of wastages and stagnation in education, gender disparities in education, lack of motivation from tribal parents to send their wards to schools, more particularly girls, poverty, absence of vocational bias in education, landlessness – uneconomic size of agricultural holdings, resulting in poor yield, restrictions by the forest department in collection of MFP etc. for sustenance, leading to their migration.

**19.1** Panchmahals was faced with devastating famines in 1901, 1907, 1910-11, 1918, 1920, 1921 & 1922. Moved by the enormity of these famines, Mahatma Gandhi got a study made by Shri Thakkar Bapa, a veteran social worker. Gandhiji started massive relief work through prominent social workers – Thakkar Bapa and Indu Lal Yajnik by way of distribution of free grains and clothes to the

tribals. It was noticed that the money lenders were entrenched in the tribal areas. Thakkar Bapa with a band of dedicated social workers started Bhil Sewa Mandal (BSM) to educate the tribals. The Commission visited Mirakhedi, the first Ashram type of school established for STs in the country. With donations received in cash and kind including land BSM has established Ashrams, Buniyadi Pathashalas, secondary, schools, hostels etc. benefiting 5665 boys of 3792 girls upto secondary stage. To make available cheap loans to STs a co-operative credit Society was set up which advanced Rs.43 lakhs credit to them during 2001-03.

**19.2** The Government of India as well as Government of Gujarat have been encouraging, the voluntary agencies to have interface with the tribals in the fields of education, health, nutrition, women and child development, provision of irrigation facilities, water shed development including rain water harvesting, sprinkler irrigation, vocational training, employment, promotion of co-operatives-Self Health Groups / Van Mandalies. For this, the various departments of Central and the State Governments as well as International Agencies give grants / assistance to the voluntary agencies. 13 voluntary agencies, working in various fields were given grants to the Ministry of Tribal Affairs in the year 2001-02 (Appendix – IV). It would be seen that six agencies were aided for running of mobile dispensaries, three each for setting up of hostels / residential schools and one for opening of library in the tribal areas of the state at a total cost of Rs.91.98 lakhs (2001-02). During 2002-03 the number of the voluntary agencies in receipt of grant in aid shrunk to six. During the tour, the Commission was informed that there is delay in the release of second instalment.

**19.3** A number of NGOs like NM Sadguru Water & Development Foundation, Gram Vikas Trust, Bharat Agro Industries Federation (BAIF), Aga Khan Rural Support Programme (India) [AKRSP(I)] etc. have interacted with the tribals in various sectors like minor irrigation, rain-fed farming, drip irrigation, water harvesting, plantation of horticultural crops inter cropping of vegetables on tribal land and setting up of food processing industry for income generation to the tribals.

**19.4** Some success stories which have impacted the tribals are that of A.K.R.S.P.(I). Through soil and water conservation measures and provision of group-wells and check dams, the tribals of Bharuch district have grown 3325 grafts of mangos in 43 villages covering an area of 33 ha. and 120 households. Further, 15 households of 4 villages have been supplied 21,000 flower grafts. An additional income of Rs.2882 per household was provided through J.F.M. by way of fuel on protected plots of land in Bharuch district. The Sadguru Foundation has assisted the tribal farmers to have record production of Rs.1 lakh worth of vegetables and Rs.57,000 in onion on a hectare of land where earlier there was none in Dahod district. This has been possible through technology transfer in agricultural practices and drip irrigation.



## 19.5 The Commission makes the following recommendations:

1. Undue delay in receipt of grants by the voluntary agencies is not conducive for the development of the tribals. The first instalment should be released within 2 months of the receipt of the application and the second instalment which is often delayed on flimsy grounds is a matter of great concern. There is need to review the entire gamut of release of grant in aid by allowing lumpsum grant for such organizations which are doing work in the field of health care and education in the difficult tribal pockets and commuting to Delhi/Gandhinagar for release of 2<sup>nd</sup> instalment repeatedly is unproductive and wasteful by amending the existing rules. A flexible approach needs to be adopted for release of grant in aid.
2. Corrupt officials found soliciting hush money from the voluntary organizations should be cornered and given exemplary punishment.
3. The voluntary agencies should be encouraged with suitable building grant for setting up of their offices and complexes in the heart of the tribal areas as it is difficult and financially unbearable for the tribals to commute to urban environment which is alien to their culture. Moreover, their presence in tribal ambience would have salutary effect for them.
4. Voluntary agencies, which do commendable work in tribal areas should be given citation in the names of local tribal leaders.
5. The different Ministries of the Govt. of India and State Government are giving grant to the voluntary agencies, sometimes for the same purpose. The overlapping should be avoided. The Ministries should set up an inter Ministerial working group to ensure that the duplication of grant for the same purpose is weeded out/minimized.
6. The voluntary agencies should train local tribal leaders in managing the affairs so that ultimately they manage these agencies themselves.

## Part - IV Categorization of STs

20. There are 26 ST communities in the state, 12 tribal communities have a population ranging from 0.48 lakh to 26 lakhs. The population of these 12 tribes according to 1991 census was as follows:

1. Bhil	26,38,488	7. Kokna	2,59,253
2. Dubla or Halpati	5,46,567	8. Chaudhary	2,51,503
3. Dhodia	5,18,671	9. Dhanka	2,20,666
4. Rathwa	4,34,517	10. Warli	2,00,080
5. Naika, Naikada	3,40,694	11. Patelia	1,10,003
6. Gamit	3,10,471	12. Kunbi	48,358

20.1. There are 5 minor tribes declared as PTGs and their population ranges from 5,000 to 82,000. Their names are given below:

1. Kolgha	82,679	4. Siddi	6,336
2. Kotwalia	19,569	5. Kathodi	4,773
3. Padhar	15,896		

20.2. In addition to the above PTGs, the remaining 9 minor tribal communities are as follows:

1. Chodhara	13,554	7. Pomla	928
2. Rabari	7,061	8. Charan	881
3. Phanse, Pardhi	5,841	9. Bharwad	667
4. Bavcha, Bamcha	5,164		
5. Barda	1,974		
6. Gond, Rajgond	1,341		

20.3. Except PTGs for whom the developmental programmes have been undertaken out of funds provided by the Government of India, only the major tribes have largely received benefits of development measures and even among them "..... there is a great \*disparity in the level of socio-economic development. Among some of the tribes, such as Dhodia, Choudhary, Patelia and Dungri Garasia (sub-group of Bhil tribe as indicated in the list of scheduled tribes, otherwise having a separate entity), the process of social and economic changes appears to be of such magnitude that they may lead to rapid deculturation."

20.4. The Commission has observed that some tribal communities have received disproportionate benefits compared to the other tribal communities and as a result of wide ranging discussions with the tribal representatives and non-official agencies, the Commission feels that the State Government should go into all aspects of reservation in employment and admission in educational institutions.

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- Report on 'Gujarat Tribal Development vision - 2010' prepared by the Centre for Social Studies, Surat funded by the Tribal Development Department, Govt. of Gujarat in 2001 at page 10.

**Land alienation laws in Gujarat**  
**Bombay Land Revenue Code, 1879**

**Power to restrict right of transfer.**

73-A. (1) Notwithstanding anything in the foregoing section in any tract or village to which the State Government may, by notification published before the introduction therein of an original survey settlement under section 103, declare the provisions of this section applicable, occupancies shall not after the date of such notification be transferable without the previous sanction of the Collector.

(2) The State Government may, by notification in the Official Gazette from time to time exempt any part of such tract or village or any person or class of persons from the operation of this section.

Restriction on transfer of occupancies of tribals to tribals or non-tribals.

73-AA. (1) Notwithstanding anything contained in section 73, an occupancy of a person belonging to any of the Scheduled Tribes hereafter in this section and in section 73AB referred to as the tribal shall not be transferred to any person without the previous sanction of the Collector.

(2) The previous sanction of the Collector under sub-section (1) may be given in such circumstances and subject to such conditions as may be prescribed.

(3)(a) Where tribal transfers the possession of his occupancy to another tribal in contravention of sub-section (1), the tribal transferor or his successor in interest may, within two years of such transfer, apply to the Collector that the possession of such occupancy may be restored to him and there upon the Collector shall, after issuing a notice to the transferee or his successor in interest, as the case may be, in the prescribed form to show cause why he should not be disentitled to retain possession of the occupancy and after holding such inquiry as he deems fit, declare that the transferee or his successor in interest shall not be entitled to retain possession of the occupancy and that the occupancy shall be restored to the tribal transferor or his successor in interest, as the case may be on the same terms and conditions on which the transferor held it immediately before the transfer and subject to his acceptance of the liability for payment of arrears of land Revenue in respect of such occupancy in accordance with the rules made by the State Government and that the transferee or his successor in interest as the case may, be shall be deemed to be unauthorisedly occupying the occupancy.

Provided that such declaration shall stand revoked if the tribal transferor, or as the case may be his successor in interest fails or refuses in writing to accept the restoration of the possession of such occupancy within the prescribed period.

a) Where –

(i) a tribal in contravention of such-section (1) of section 73-A or of any other law for the time being in force has transferred his occupancy to another tribal at any time during the period commencing on the 4<sup>th</sup> April, 1961 and ending on the day immediately before the date of commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980, and

(ii) the tribal transferee or his successor in interest has not been evicted from such occupancy under section 79A.

the transfer of occupancy shall be valid, as if it were made with the previous sanction of the Collector under section 73A.

(4) Where a tribal -

(a) in contravention of sub-section (1) of this section, or of sub-section (1) of section 73A of any or other law for the time being in force, transfers his occupancy to any person other than a tribal (here after in this section and in section 73AB referred to as "the non-tribal") at any time on or after the date of commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (hereinafter in this section referred to as "the said date"); or

(b) in contravention of sub-section (1) of section 73A or of any other law for the time being in force has transferred his occupancy to a non-tribal at any time before the said date.

The Collector shall, notwithstanding anything contained in any law for the time being in force, either suo-motu at any time, or on an application made by the tribal transferor or his successor in-interest at any time within three years from the said date or the date of such transfer, whichever is later, after issuing a notice to the transferee or his successor in-interest as the case may be, to show cause why the transfer should not be declared void and after making such inquiry as he thinks fit, declare the transfer of such occupancy to be void and thereupon the occupancy together with the standing crops thereon, if any, shall vest in the State Government free from all encumbrances.

(5) Where an occupancy is vested in the State Government under sub-section (4) and such occupancy was assessed or held for the purposes of agriculture immediately before its transfer by the tribal transferor, the Collector shall, after taking necessary action under sections 79A and 202, give notice to the tribal transferor or his successor in interest, as the case may be, requiring him to state in writing within ninety days from the date of receipt of such notice whether he is willing to purchase the occupancy and cultivate it personally, and if such tribal transferor or his successor in-interest agrees to purchase the occupancy and undertakes to cultivate it personally, it may be granted to him on payment of the prescribed occupancy price.

(6) If within the said period of ninety days the transferor or his successor in interest does not intimate his willingness to purchase the occupancy and to cultivate it personally, or fails to pay the occupancy and to cultivate it personally, or fails to pay the occupancy price within period as may be specified by the Collector, the occupancy shall be granted to any other tribal residing in the same village or in any other village situated within such distance from the village as may be prescribed, on the same conditions, including the payment of the occupancy price, as are specified in sub-section (5), and if he is not so willing, it shall be granted to other classes of persons in such order or priority at such occupancy price and subject to such conditions as may be prescribed.

(7) Where any occupancy is transferred to a non-tribal in contravention of sub-section (1) such non-tribal shall, without prejudice to any other liability to which he may be subject, be liable to pay to the State Government, a penalty not exceeding three times the value of the occupancy, such penalty and value to be determined by the Collector, and such determination shall be, final :

Provided that before levying any such penalty, the non-tribal shall be given a reasonable opportunity of being heard.

(8) The penalty payable under sub-section (7) shall, if it is not paid within the time specified by the Collector, be recoverable as an arrear of land revenue.

Rights of occupant to encourage his occupancy in favour of State Government and certain institution.

73AB. Notwithstanding anything contained in section 73 or sub-section (1) of section 73AA or in any condition lawfully annexed to the tenure, but subject to the provision contained in section 35, it shall be lawful for an occupant to mortgage, or create a charge on his interest, in his occupancy in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists Loans Act, 1883 or the Bombay Non-Agriculturists Loans Act, 1928 as in force in the State of Gujarat or in favour of a bank or a co-operative society, and without prejudice to any other remedy open to the State Government, bank or co-operative society, as the case may be, the event of his making default in the payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government, bank or co-operative society as the case may be to cause his interest in the occupancy to be attached and sold and the proceeds to be applied in payment of such loan:

Provided that if such occupant is a tribal his interest in the occupancy shall not be sold to a non-tribal without the previous sanction of the Collector.

73AC. (1) No civil court shall have jurisdiction to settle, decide or deal with any question, which is by or under section 73-A or section 73AA or section 73AB required to be settled, decided or dealt with by the Collector nor shall the civil court have jurisdiction to entertain any suit or application for grant of injunction (whether temporary or permanent) in relation to such question.

(2) No order of the Collector made under section 73-A or section 73AA or section 73AB shall be called in question in any civil or criminal court.

Explanation – For the purposes of this section, a civil court shall include a Mamlatdar's Court under the Mamlatdar's Court Act, 1960.

73AD. (1) Notwithstanding anything contained in the Registration Act, 1908 –

(a) no document relating to transfer (not being a mortgage or creation of charge falling under section 73AB) of an occupancy of a person belonging to any of the Scheduled Tribes shall be registered on or after the date of the commencement of the Bombay Land Revenue (Gujarat Second Amendment) Act, 1980 (hereinafter in this section referred to as "the said date"), by any registering officer appointed under the Registration Act, 1908 unless the person presenting the document furnishes a declaration by the transferor in the prescribed form, which shall be subject to verification in the prescribed manner that the transfer of occupancy is made with the previous sanction of the Collector under section 73-A or section 73-AA.

(b) a document relating to the transfer of an occupancy belonging to any of the STs, referred to in clause (a), which is registered on or after the said date shall take effect and operate only from the time of such or registration.

(2) Notwithstanding in sub-section (1) shall apply to the documents of transfers of occupancies of persons belonging to any of the STs made before the said date, but presented for registration after the said date.

73B. Where any occupancy, by virtue of any conditions annexed to the tenure by or under this Act is not transferable or partible without the previous sanction of the State Government, the Collector or any other officer authorized by the State Government, such sanction shall not be given except on payment to the State Government of such sum as the State Government may by general or special order determine.

## Appendix – II

**District wise distribution of land transfer cases under Section  
73-A and 73-AA of the  
Bombay Land Revenue Code, 1879 and the Gujarat Land  
Revenue Rules, 1972 (Amended)  
[February 1981 to September 1997]**

S. No.	District	Registered cases of Tribals	Areas (Hectare) (Hect.)	In favour Tribals	Area (Hect.)	Cleared cases against Cases	Area (Hect.)	Pending	Area
1.	Bharuch	10344	10771.83	9536	10004.64	627	555.27	181	211.92
2.	Panchmahal	13938	20937.63	13226	19508.42	59	76.44	653	1352.77
3.	Vadodara	4042	4943.38	3606	4473.23	421	454.67	15	15.48
4.	Sabarkantha	5555	6164.33	4954	5380.46	69	70.46	532	713.40
5.	Surat	2329	1950.23	328	649.90	1742	915.42	259	384.90
6.	Valsad	1442	858.03	233	276.74	1061	464.90	148	116.92
7.	Dang	794	1977.16	773	1946.49	1	1.27	20	31.77
8.	Banaskantha	1178	2184.96	881	1566.66	136	248.37	161	368.94
Total		39622 123028.65 (Acre)	49786.96	33537 108249.1 (Acre)	43806.54	4116 6887.44 (Acre)	2786.80	1969 7897.8 (Acre)	3196.07

Source : Department of Land Revenue, Gujarat State, Gandhinager

## Appendix – III

**District wise Distribution of Cases (Permission for Land Transfer)  
Under Section 73-AA of  
the Bombay Land Revenue Code, 1879 and  
The Gujarat Land Revenue Rules, 1972 (Amended)  
[February 1981 to September 1997]**

S. No.	District	Total Cases for No. of Cases	Permission Area (Hectare)	Permissi on No. of cases	Granted Area (Hectare)	Permissi on not Cases	Granted Area (Hectare)
1.	Bharuch	824	1447.24	379	580.50	441	861.67
2.	Panchmahal	187	251.43	36	33.05	103	175.42
3.	Vadodara	220	292.17	14	11.89	139	191.47
4.	Sabarkantha	91	105.21	41	41.52	50	63.69
5.	Surat	240	335.78	115	215.65	125	120.13
6.	Valsad	544	419.25	205	216.08	339	203.17
7.	Dang	162	232.00	60	75.20	57	95.65
8.	Banaskantha	21	27.94	19	22.36	2	5.58
Total		2289	3112.02 7687.64 (Acre)	869	1196.25 2956.05 (Acre)	1256	1716.78 4242.33 (Acre)

## Appendix – IV

### Voluntary agencies receiving grants from the Ministry of Tribal Affairs during 2001-02

S.No.	Organisation Name	Project Name	Amounts (in Rs.)
1.	Anugrah Adivasi Education Trust At/Po: Vadwa, District Dahod	Mobile Dispensary	804662
2.	Bharat Sevashram Sangha Narmada	Mobile Dispensary	537499
3.	Bharat Sevashram Sangha(Navasari) Navasari	Mobile Dispensary	1071400
4.	Bhasha Research Publication Vadodra	Library	119700
5.	INRECA Raypipla Road, Timbapada, Dediapada, District Narmada	Residential School	610000
6.	Sant Shri Asaramji Ashram Sabarmati, Ahmedabad	Mobile Dispensary	2229374
7.	Shiv Shakti Education Trust H.No.17, Municipal Shopping Centre, Near New Fire Station, Dahod	Mobile Dispensary	534285
8.	Shree Dhadhela Kelvani Mandal At/PO: Dhadhela, District Dahod	Hostel	679320
9.	Shri Adivasi Yuvak Seva Sangh Jhalod, District Dahod	Residential School	380370
10.	Shri Sadgurudeo Swami Akhananda Charitable Trust Barumal, District Valsad	Hostel	420570
11.	Sri Sadgurudeo Swami Akhandananda Memorial Trust At/PO: Barumal, District Valsad	Mobile Dispensary	692163
12.	Vivekanand Education Trust Shakhinagar Society, Dahod	Residential School	710910
13.	Zarpan Nasarpur Vibhag Kelvani Mandal District Surat	Hostel	407610
		<b>Total</b>	<b>9197883</b>



# Himachal Pradesh

The State of Himachal Pradesh is situated in the North-Western Himalayas which range from Shivalik, Greater Himalayas and the Trans-Himalaya and is interspersed with rivers, valleys, glaciers, alpine pastures and the high mountain peaks. The State has International land border with the Tibet (PR-China) in the North/North-East, and bounded by Uttaranchal in the East/South-East, Haryana in the South, Punjab in the South-West and Jammu & Kashmir in the North.

The vital statistics of Himachal Pradesh as per the Census 2001 are as under:-

	Himachal Pradesh	Scheduled Areas
Total Geographical Area	55673 Sq.Km.	23,655 Sq. Km. i.e. 42.49% of the HP State
Population	60.77 Lac (Decadal growth rate is 17.53% against national 21.34%)	As per 2001 census total tribal population is 2,44,587 which is 4.02% of the State

## The Scheduled Areas

As per the Scheduled Areas (Himachal Pradesh) Order, 1975, issued under the provisions of the Fifth Schedule [Article 244(1)] of the Constitution of India, the following are the Scheduled Areas:-

1. Kinnaur The entire District comprised of three C.D. Blocks (Pooh, Kalpa and Nichar)
2. Lahaul & Spiti Comprised of the C.D. Blocks of the Lahaul & Spiti District
3. Bharmour Bharmour C.D. Block/Sub-Division of the District of Chamba
4. Pangi Pangi C.D. Block/Sub-Division of the District of Chamba

The Scheduled Areas are situated in the North and the North-Eastern parts of the State forming a contiguous belt in the high mountains with average altitude being 3281 metre above the mean sea-level. There are two pockets of tribal concentration outside the Scheduled Areas. One such pocket is comprised of Bhatiyat CD Block, and another is comprised of Chamba CD Block, both are in the Chamba District. Each pocket has minimum 10,000 population of which over 55% are tribals. These pockets are funded under Modified Area Development Approach (MADA) through Special Central Assistance.

The tribal belt is a rugged terrain with a large number of snow glaciers, snow fields, water lakes and that major rivers – Satluj, Spiti, Baspa, Ravi and Chenab with their tributaries flow through the Scheduled Areas. The highest human habitat (Kibber in Spiti) is at 14,000 ft. above the mean sea-level. The Scheduled Areas are contiguous and these constitute 42.49% (23,655 Sq. Km.) of the States geographical area (55,673 sq. km.). The density of population per sq.km. in the Scheduled Areas is at 6 as against 92 of the State (1991 Census).

The Chief Minister of Himanchal Pradesh in the meeting held with the Commission during its visit to the State of Himachal Pradesh, put-forth a proposal for the inclusion of the following areas of the State in the list of Scheduled Areas:-

- 1) Chauwara Block, Dodra Kwar area, the Panchayat areas of Darkali, Munish, Kashapat, Deoti, Kool, Kinnu, Chai-Bish of Shimla District, Pandrah-Bish area of Shimla and Kullu Districts;
- 2) Chuhar in Mandi District; Malana area in Kullu District; Churah sub-division in Chamba District;
- 3) Chotta Bhangal and Bada Bhangal area in Kangra District and Trans-Giri area of Sirmaur District adjoining Jaunsar-Bawar of Uttaranchal.

The grounds stated by him were the similar geographical conditions and cultural affinity/similarity the above areas have with the adjoining Scheduled Areas/Scheduled Tribe habitat. The Commission observed that the main criteria for declaring any area/habitat as Scheduled Area is the preponderance of the tribal communities in the concerned area. The State Government has not furnished any list of the communities in the above mentioned areas having the geo-cultural similarities with the communities

already notified as Scheduled Tribes. A scrutiny is required to establish whether the communities so identified fulfil the criteria laid down for scheduling them under the provisions of the Constitution as Scheduled Tribe and it would also require an appraisal of the ethnographic history of the communities. The economic backwardness of the community has never been taken as the sole factor for notifying a community as Scheduled Tribe. The community should be the one which is geographically and socially isolated, apart from its economic backwardness requiring special attention to be paid for human resource development and for overall economic development.

**The State Government can undertake an exercise on the above lines and submit a detailed proposal to the Government of India in respect of the communities.**

## **The Scheduled Tribes**

The communities notified as the Scheduled Tribes under the Constitution (Scheduled Tribes) Order, 1950 and 1951 and under the Scheduled Castes and Scheduled Tribes (Amendment) Act of 1956, 1976 and 2002, in relation to Himachal Pradesh are:-

1. Bhot, Bodh
2. Gaddi
3. Gujjar
4. Jad, Lamba, Khampa
5. Kanaura or Kinnara
6. Lahaula
7. Pangwala
8. Swangla
9. Beta, Beda
10. Domba, Gara, Zoba

The communities shown above against Sl. No. 9 & 10 have been added to the list of Scheduled Tribes in Himachal Pradesh under the Scheduled Castes and Scheduled Tribes (Second Amendment) Act, 2002. The Gaddi and Gujjar communities of the territories specified in sub-section (1) of the Section 5 of the Punjab Re-organisation Act, 1966, i.e. the new areas of Himachal Pradesh have been included in the list of

**Scheduled Tribes of Himachal Pradesh under the Scheduled Castes and Scheduled Tribes (Second Amendment) Act, 2002.**

According to the 1991 Census, the Scheduled Tribe population of Himachal Pradesh is 2,18,398 which is 4.22% of the total population of Himachal Pradesh. These statistics cover the ST population in the Scheduled Areas as well as in the pockets of tribal concentration and also the dispersed tribal population outside Scheduled Areas. The population of the Scheduled Tribes as per 2001 census is 2,44,587.

The community – 'Lamba' at Sl. No. 4 was notified as Scheduled Tribe under the Scheduled Castes and Scheduled Tribes (Amendment) Act of 1956. As per the census of 1951 and 61 onwards i.e. in all census conducted upto 2001, there is no community recorded by the name of 'Lamba'. Obviously, it is a misnomer. The name was, as it appears, assigned by the outsiders to 'Lama' who is a Buddhist Monk a wise man i.e. one who has attained monkhood. Any person, irrespective of caste, tribe or community can attain monkhood and become a Lama. The Lama is, therefore, not a community to be notified as Scheduled Tribe.

**The Commission observed that in the list of communities notified as Scheduled Tribes at Sl. No. 4 – the community listed as 'Lamba' should be omitted as there is no community by the name of 'Lamba' in the Scheduled Area as well among the dispersed tribal population by carrying necessary amendment of the Order/Act in this regard, for the reason given in the foregoing para.**

The Commission has also examined the proforma/format prescribed for issuing the Scheduled Tribe Certificate. The format used by the Sub-Divisional Magistrate, Kalpa Sub-Division, District Kinnaur mentions Constitution (Scheduled Tribes) (Amendment) Act, 1991. The fact is that there was no amendment carried of the Scheduled Tribes Orders in respect of Himachal Pradesh after the (Amendment) Act of 1976. While referring to various Constitution (Scheduled Tribes) Orders and the Acts amending the Orders, there is no mention made of the Scheduled Castes and Scheduled Tribes (Amendment) Act of 1976 which added 'Kinnara' as synonym of 'Kanaura' in the list of the Scheduled Tribes. Further, in this format in place of 'Kinnara' the name 'Kinnaura'

is mentioned. It is obvious that the ST Certificate is not being issued meticulously as per the Constitution (Scheduled Tribes) Orders/(Amendment) Acts.

In fact there have been mistakes beginning with the first Order i.e. Constitution (Scheduled Tribes) Order 1950 about the name of the tribes. In 1950 Order in Part-VII – Punjab 'Tibetan' has been listed as Scheduled Tribe in Spiti and Lahaul – then part of the District of Kangra in Punjab. Another mistake made was that under Constitution (Scheduled Tribes) (Part-C States) Order 1951 in Part-IV, 'Lahaul' was shown in Chamba District of Himachal Pradesh and Spiti in the Mahasu District of Himachal Pradesh whereas both Lahaul and Spiti then were part of Kangra District in Punjab. Again, the name of the tribe shown therein was 'Tibetan'. It is obvious that all the communities – Lahaula, Swangla, Bhot, Bodh were named as 'Tibetan'. In the said Order not a single community of Himachal Pradesh was notified as Scheduled Tribe. It was only under the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1956 that various communities were notified as Scheduled Tribes in Himachal Pradesh and there again 'Tibetan' was added which was deleted from the list notified under the Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976. Such were the mistakes committed at the initial stages of identification of communities for notifying them as Scheduled Tribes.

**The Commission recommends that the format presently used by the Distt. Magistrate, Sub-Divisional Magistrates and the revenue authorities for issuing the Schedule Tribe Certificate should be standardized as per the guidelines issued by the Ministry of Tribal Affairs, Government of India.**

During the Commission's visit to the District of Kinnaur some representatives of Kanaura/Kinnara tribe and few activists among them have demanded that the eunuchs of Madhya Pradesh should be restrained from calling themselves as 'Kinner'. These social activists claim that only the 'Kinner' of Kinnaur are the real 'Kinner' as they find their mention in the Indian mythology and Puranic writings of the Vedic culture.

**The Commission recommends that the Central Government may, in consultation with the State Governments of Himachal Pradesh and**

**Madhya Pradesh, get this dispute settled amicably to pre-empt any possible tribal unrest in Himachal Pradesh.**

Most of the communities notified as Scheduled Tribes in Himachal Pradesh have Vedic/Hindu Caste System. The castes like Chamar (Chamang), Koli, Dom (Lohar) Oreas (Badi), who are the natives of the tribal areas belong to the tribal communities which have been notified as Scheduled Tribes as such the persons belonging to these castes also are the Scheduled Tribes. That 18% of the population shown as Scheduled Castes in the Scheduled Areas/Tribal belt in 1991 Census are, in fact, Scheduled Tribes as per the interpretation of the Constitution (Scheduled Tribes) Orders/Acts.

**The Commission observed that there is now a controversy whether in the Scheduled Areas the original inhabitants belonging to these castes under the Hindu Caste System which have already been notified as Scheduled Castes in the Himachal Pradesh list of Scheduled Castes can actually claim for Scheduled Tribes Certificate. The State Government may settle/resolve this controversy/dispute early.**

This controversy is related to only Kanaura, Lahaula and Pangwala Scheduled Tribes. The candidates belonging to these castes perhaps prefer to have a Scheduled Caste Certificate for the jobs/employment as it is easier for them to get into the jobs reserved for the Scheduled Castes particularly in the District cadres and for all the recruitments made within the Districts. Earlier there were reservations for the Scheduled Castes for filling-up the post of office bearers under the Panchayati Raj System. Now, that the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 have been incorporated in the Panchayati Raj Act and Rules made thereunder, all seats for the office bearers in the Village Panchayats, Panchayat Samities and Zila Parishads have been reserved for the Scheduled Tribes. All candidates possessing the Scheduled Caste Certificate belonging to these castes have been denied the democratic right to contest for the various posts under the Panchayati Raj System. Various delegations representing these castes have pleaded before the Commission that the persons belonging to all these castes in the Scheduled Areas of Kinnaur, Lahaul and Spiti and Chamba Districts should be treated as Scheduled Tribes. In the past, some of the candidates belonging to these castes

have been taking Scheduled Tribes Certificate as they are eligible to obtain Scheduled Tribe Certificate being a Kanaura or Lahaula or Pangwala. ST Certificate can be issued only on the recommendation of the Revenue Authorities, Patwaries and Tehsildars up the lines, who normally recommend for Scheduled Tribe Certificate on the basis of Revenue records. The Commission consulted the Revenue records during the field visits and it was found from the Revenue records that during the last Revenue Settlement the families belonging to these castes were shown as Scheduled Caste (अनुसूचितजाति). With this kind of entries in the Revenue records, the Revenue Authorities are not in a position to recommend them for the Scheduled Tribe Certificate. The Commission observed that these castes in Pangwala and Lahaula Tribes also are facing the same problem. The Chief Minister of HP said in the meeting with the Commission that the families of these castes should also be made eligible to the Scheduled Tribe Certificate.

**The Commission observed that the original inhabitants – the natives of the Scheduled Areas of Himachal Pradesh belonging to the communities notified as Scheduled Tribes irrespective of their caste under the Hindu Caste System are eligible to the Scheduled Tribe Certificate going by the provisions made under the Constitution (Scheduled Tribes) Orders and the Amendment Act 1956 and 1976 in this regard. The Commission recommends that the original Kanaura, Lahaula, Pangwala inhabitants of the Scheduled Areas belonging to the Caste notified as Scheduled Caste in the State of Himachal Pradesh may be allowed to opt-for the Scheduled Tribe Certificate. Those in the Government jobs should not be allowed to change their status of either Scheduled Caste or Scheduled Tribe, nor should they be allowed to shift their claims from time to time.**

The Commission further observed that the entries in the Revenue Records of the Scheduled Areas made in the last revenue settlement may have to be revised to facilitate the exercise of option – by those Kanaura, Lahaula, Pangwala inhabitants belonging to the Caste notified as Scheduled Caste in Himachal Pradesh – for the Scheduled Tribe Certificate. The name of the community notified as Scheduled Tribe should be recorded against each original inhabitant/land holder in the

revenue records and if considered necessary the Caste under the Hindu Caste System including those which are in the list of Scheduled Caste in Himachal Pradesh may also be recorded. This will also help the Revenue Authorities in the enforcement of the provisions of the Himachal Pradesh Transfer of Land (Regulation) Act 1968 – amended in January, 2003 which regulate the transfer of land from tribals to non-tribals.

The solution recommended as above will help ease social tension among the tribes of Kanaura, Lahaula and Pangwala and this would pre-empt social/tribal unrest brewing up on account of this controversy in the Scheduled Areas of Kinnaur, Lahaul & Spiti and Pangi.

### **Tribes Advisory Council (TAC)**

A Tribes Advisory Council (TAC) has been set up in Himachal Pradesh under the Chairmanship of the Chief Minister. The other Members are – the Minister in-charge Tribal Development & Social Welfare; 3 MLAs representing the Scheduled Areas in the State Legislative Assembly; and rest are the nominated Members of the Scheduled Tribes. The mode of appointment of the non-official Members is by nomination for a period of 2 years. In all, the TAC consists of 20 Members in Himachal Pradesh as per the provision of the Fifth Schedule [Article 244(1)] of the Constitution.

The task assigned to the TAC is to advise on such matters pertaining to the welfare and advancement of the STs in the State as may be referred to them by the Governor. The Council meets twice in a year. All matters/subjects/issues pertaining to tribal development and welfare programme and projects, social and cultural issues obtained from the Departments and also those raised by the Members are placed on the agenda of the meeting. These are discussed, progress and periodical achievements are assessed and the views of the Members are taken in the meeting and decision is taken on each agenda item for further action/implementation by the Departments and the development agencies etc.

There are meetings held twice a year of the TAC to review the progress of the tribal development projects and welfare programmes. It provides a forum for raising



questions, expressing views/opinions and for making recommendations by these nominated Members. Apart from these meetings there are no other forum or sittings for the TAC. During the Commission's interaction with some of the TAC Members and other tribal leaders, the opinions/views were expressed by them that the size/number of Membership of the TAC be increased so that the eminent tribal representatives, other than MLAs from different valleys and revenue circles in the Scheduled Areas are taken on the TAC; that such Members should have a genuine interest in the social work and public welfare; and some of them should have some expertise to advise on socio-economic matters and cultural affairs. As per the provisions of Fifth Schedule of the Constitution, as far as possible  $\frac{3}{4}$  of the Membership should be filled by the ST MLAs representing the scheduled areas. In a State with large number of tribal MLAs, strength of the nominated members will be very small as the total strength of TAC should not be more than 20. However, in HP there are only three MLAs representing the Assembly Constituencies reserved for the Scheduled Tribes and that leaves enough seats for non-official representatives covering various tribal belts of the State.

There are views expressed that the existing mode of appointment of Members by nomination be changed to direct election held locally which would require proportionate distribution of the seats in the scheduled areas. There were others who oppose the direct election to the TAC and they were of the view that the appointment by direct election would unnecessarily create a division in the community disturbing the peace of harmony in the tribal areas. There is also a need to statutorily fix at least quarterly meetings of the TAC. They have also expressed that there should be a Secretariat of the TAC set up to assist the Members during the meetings and in the intervening periods.

### **Recommendations**

**The Commission is of the view that the present system of appointment by nomination should continue. The appointment by nomination should be of the eminent tribals from different Scheduled Areas, having genuine interest in the social work and public welfare and they should have the expertise to advise on socio-economic development matters.**

**As per the provisions of the Fifth Schedule of the Constitution, task of the TAC is to advise on matters as may be referred to them by the Governor. Although the Members may on their own tender advise on any subject, yet a provision need be made to allow Members to advise on matters other than those referred to them. In HP it appears from the records as well as from the interaction with the tribal leaders that no major advisory policy proposals and recommendations on Tribal Policy and on development policy and programme were submitted by TAC in all these years. There is no mechanism other than the half-yearly meetings devised for the consultations with TAC and for taking their advice before the laws affecting tribal interest are passed by the Legislative Assembly/Parliament, the Commission observed.**

### **Tribal Sub-Plan**

The Tribal Sub-Plan strategy was evolved in the Fifth Five Year Plan and its implementation commenced from 1974-75. Tribal development has been classified into (i) areas having more than 50% tribal concentration with an area development approach and (ii) dispersed tribals with family welfare oriented programmes. This concept is primarily based on the recommendations of the 1<sup>st</sup> Scheduled Areas and Scheduled Tribes Commission – popularly known as Dhebar Commission.

The TSP concept had undergone a fundamental change during the Eighth Plan period in that Maharashtra model was introduced and that the decentralized planning process with Integrated Tribal Development Project (ITDP) as a basis was started and this strategy has since been implemented in Himachal Pradesh with ITDP as a mechanism for the implementation of the tribal development and tribal welfare programmes. As a policy, plan funds flow to the TSP was raised to 9% of the State Plan during the Eighth Plan period. Throughout the Eighth Plan period flow to TSP was continuously at 9% of the State Plan. But from the 2<sup>nd</sup> Year of the Ninth Plan i.e. from Annual Plan 1998-99 to annual Plan 2001-02 there has been some marginal cut in the allocation to TSP. The Tenth Plan 2002-07 has fixed the funds flow to TSP at 7.97%. In the Annual Plan for the year 2003-04, the funds flow to TSP is at 7%. The Tenth Plan continues with the strategy with greater emphasis on accelerated growth in employment; on basic

minimum services to the people; eradication of poverty; and provision for a food security system as per guide-lines issued by the planning Commission.

The Commission observed that the State of Himachal Pradesh has an efficient mechanism set-up for the implementation of the tribal development programmes/projects. The State Planning Department communicates funds flow to TSP to the Tribal Development Department with the ceiling in terms of percentage of funds flow out of the total State Plan to TSP as decided at the level of the Planning Commission, Government of India. On receiving the allocation of plan funds to TSP, the Tribal Development Department allocates divisible outlays to each of the ITDP viz Kinnaur, Lahual, Spiti, Pangi and Burmaur. The ITDPs determine their own priorities and allocate funds only to those schemes which are relevant to the ITDP area. Each ITDP prepares its own Tribal Sub-Plan in consultation with the Project Advisory Committee. The Tribal Sub-Plan prepared by the ITDPs for their project areas are compiled by the Tribal Development Department and made part of the State Tribal Sub-Plan. The indivisible outlays are conveyed to the Administrative Departments. The Heads of the Departments concerned prepare documents in respect of its Department for the Tribal Sub-Plan and submit it to the Tribal Development Department. The Tribal Sub-Plan document is finalized by the Tribal Development Department in consultation with the Heads of the Departments and it is submitted to the Planning Commission through the Ministry of Tribal Affairs. The implementation and execution of the projects and programmes are with the ITDPs and the Departments concerned. The function of the Tribal Development Department is to allocate funds to ITDPs and the Departments getting the TSP implemented. It monitor the progress of the works undertaken under TSP. This mechanism/system proved efficient and effective in HP, the Commission observed.

### **Integrated Tribal Development Projects (ITDPs)**

There are five ITDPs which implement the Tribal sub-Plan. These are namely ITDP Kinnaur with 3 CD Blocks; ITDPs-Lahaul, Spiti, Pangi and Bharmour – each having one CD Block. ITDPs are placed under specified authorities:-

<b>ITDP</b>	<b>Authority</b>
Pangi	Resident Commissioner Pangi at Killar

Kinnaur	Deputy Commissioner, Kinnaur at Recong Peo
Lahaul	Deputy Commissioner, Lahaul & Spiti at Keylong
Spiti	Additional Deputy Commissioner, Spiti at Kaza
Bharmour	Deputy Commissioner, Chamba

There is a system of single-line administration for the implementation of the TSP Projects in that the specified authorities exercise the powers of the Heads of Department for TSP programmes and expenditure on tribal development programme. This has cut-down the delays and improved the delivery system.

The Project Advisory Committee for each ITDP is headed by the MLA of the Project Area. Members are the MP of the area; Chairmen of the Panchayat Samities and Zilla Parishads; Members of the TAC from the area; Project level heads of offices. This Committee is to advise on right from the project formation, through implementation, to review of the project level TSP and its budget.

For equitable flow of funds to these 5 ITDPs, formula evolved by the State is as under:-

Population	40%
Area	20%
Relative economic backwardness	40%
<b>Total</b>	<b>100%</b>

Based on the above formula the share of each ITDP is as under:-

Kinnaur (3 CD Block)	30%
Lahaul	18%
Spiti	16%
Pangi	17%
Bharmour	19%

The Commission observed that there was no critical analysis done of this formula, nor there are any complaints about this formula. Although, this formula has been accepted by the tribals and the authorities implementing the TSP, yet a weightage need be given to the relative

**economic backwardness of the ITDP raising it to 50% or so in the formula for the equitable flow of funds to the ITDPs.**

There has been no diversion of Plan funds allocated to TSP and ITDPs nor there were any surrender of funds in the past few years mainly because TSP Budget in Himachal Pradesh is based on single Consolidated Demand.

When asked by the Commission during its visit, the cut in the allocation has not been satisfactorily explained. It appears that the Tribal Development Department which receives allocations has not raised any question on the cut. The Tribes Advisory Council Members are not aware of the cut in the allocation for the Tenth Plan period. There has been no direction for this variation in the allocation from the Government of India. This cut has not been questioned by the MLAs, from the Tribal Constituencies on the floor of the State Legislative Assembly. There is no tribal MP in the Parliament to raise questions on such matters.

The Commission observed that this criteria for Plan funds flow to TSP at 9% against 4.5% population base, now raised to 6% on account of scheduling the Gaddi and Gujjar communities of the new areas, was adopted considering the fact that the tribal belt is mountainous, rugged and economically backward, inaccessible on account of lack of infrastructural facilities and unproductive terrain where cost of development is comparatively much higher, almost three times that of the non-tribal areas. There is, therefore, no justification for any cut in the allocation criteria.

**The Commission recommends that the State Government and the Planning Commission may consider the feasibility of maintaining the Plan funds flow to TSP at 9% of the State Plan for the reasons explained in the foregoing paras. The Commission recommends further that the Border Area Development fund being special central assistance, the special grants under Article 275(1) of the Constitution and all other Special Central Assistance sanctioned for the Scheduled Areas and for the dispersed tribal population should be treated over and above the State Plan share allocation to the TSP.**

## **Personnel Policy**

The tribal areas have been declared as remote areas for the purpose of Personnel Policy. The tenure of the officials posted to tribal areas is fixed under the policy. Employees posted in tribal areas get advance of pay, compensatory allowances, tribal allowances, winter allowances etc. Rate of TA is also high. Special transit leave is granted. Overstay allowance is given to the non-locals. On completion of the tenure they are posted out to one station out of 5 choices given; provided residential accommodation on priority; house building advance is reserved for them.

The Personnel Policy devised by the State is based on the recommendations of the Maheshwar Prasad Committee. ITDP officials exercise enhanced financial, technical and administrative powers. Special entries in the ACRs of the officers are marked by the Tribal Development Commissioner-cum-Secretary. Special training is provided to the personnel posted in the tribal areas. They are also granted rural health allowances. Helicopter service is provided in the land-locked areas in the winter season. There is a Difficult Area Sub-Cadre set up for the tribal and difficult areas. The first appointment of the officials is made in the tribal areas for a period of five years now reduced to four years.

The Commission during its visit to the State observed that despite all these attractive salary components, and various incentive schemes, over 50% of the key posts in education and health sectors particularly remain vacant. In the cadres of education and health departments over 91% of the posts in the State stand filled. In that situation where are the staff deployed against these over 50% vacant posts in the Scheduled Areas. Obviously, the employees against these 50% vacant posts in the Scheduled Areas are deployed in excess outside the Scheduled Areas and drawing salary against these vacant posts; which is highly improper and irregular.

**The Commission recommends that in HP at least 2/3<sup>rd</sup> of the sanctioned strength in the education and health sector in the Scheduled Areas should be filled and that the funds from both non-plan and TSP budget for those posts which cannot be filled should not be released by the budget controlling authorities until those are filled so as to curb the proclivity of the authorities to divert the Scheduled Areas budget for**

**funding the salary of the staff deployed elsewhere against the vacant posts in the Scheduled Areas.**

## **Agriculture and Allied Sector**

### **Agriculture/Horticulture**

Agriculture/horticulture being the primary sector is the main occupation of the people in the tribal areas. According to the Government statistics operational area is only 27,882 hect. out of the total geographical area of 23,65,533 hect – i.e. only 1.18% owned by 22,552 farmers. The average size of holding varies from 0.94 to 1.89 hect. against State average of 1.30 hect. The agro-climatic conditions in the tribal belt are conducive to cash crops like temperate fruits, stone fruits, seed potato, vegetable, hops, peas, medicinal herbs. The on-going strategy is to increase the productivity of food crops and fruit crops. Improved seeds, plant materials, chemical fertilizers, insecticides, and pesticides are provided under a subsidy scheme. Agriculture/horticulture implements and tools are also provided on subsidy. Emphasis is on productivity and improved quality of production since the land being limited. There is no additional cultivable land to be broken. Irrigation is essential in most parts of the tribal belt. All the streams and rills are tapped which are snow-fed as monsoon do not enter most parts of the tribal areas.

**The Commission recommends that the irrigation scheme should be given top priority under TSP. The traditional community run irrigation channels should be improved/renovated under the water shed development programmes.**

Support prices scheme is also operative as a measure of market intervention scheme as operative elsewhere in the State. There is an adequate marketing and processing post-harvest handling infrastructure developed in the States including the tribal areas. All these schemes have been implemented successfully and satisfactorily in the States and in the tribal belt as was revealed during the interface the Commission had with the farmers.

**One important aspect of development in this sector should be to modernise the extension services provided in the field of crop husbandry and animal**

husbandry. As a part of the agricultural extension service emphasis need be given on the use of organic manure in the agri/horticultural production.

### **Animal Husbandry**

Animal husbandry being an integral part of the agriculture sector has undergone a major change in the tribal area. According to 1992 census domestic animal population in the tribal areas was – livestock 2,88,625, sheep/goat 1,99,941 + poultry 14,815. Animal health care and veterinary extension services are being provided. Tribal belt was one time traditionally famous for sheep/goat stocks – wool production meat/mutton and milk food. Though the indigenous sheep population has been significantly transformed into cross-bred that yield three times more wool yield, but the size of the population has gone down, particularly the population of goat owing mainly to the forest conservation policy of the State. The traditional economy of the Gaddi and Gujjar communities has suffered a lot in modern times which needs revival.

**The Commission recommends that the present Animal Husbandry Policy needs a review. It should be so designed to augment the production of milk, wool and mutton which will generate employment and income not only within the sector but also in the traditional handloom sector. However, the augmentation scheme should be eco-friendly.**

### **Forestry – Conservation and Development**

As per Revenue records the total area in Himachal Pradesh under Forest Department is 37,591 sq. Km. Of this 17,296 sq.km. area is alpine pasture and snow mountain. Forest area is only 20,995 sq. km. with 10% to 40% density. The National Forest Policy envisages 66% of the total geographical area to be brought under forest coverage which is not feasible.

The tribal belt covers mostly the alpine pastures and snow mountains. Most part of the tribal belt lies outside the monsoon zone. The Forest Department has not been able to publish exact area under forest cover with varying density owing to the fact that the forest surveys have not yet been completed in the tribal belt in all these years. However, the thrust of the forestry department in the tribal belt is to raise plantations for fuel, fodder and small timber species; development of the existing pastures; soil



conservation work, and the forest conservation work particularly the medicinal herbs. There are a number of schemes under social forestry programme with people's participation such as – Van Lagau, Rozi Kamao Yojna, Sanji Van Yojna etc.

The tribals enjoy right to timber for house construction; grazing rights in the alpine pastures; collection of various minor forest produce in their respective Revenue estates particularly chilgoza, thangi, hazel-nuts, medicinal herbs etc. These rights are very well regulated and there are generally no complaints about these rights being exercised by the tribals, nor there is any complaint with the forest department and forest conservation policy in the tribal belt. In fact, there are hardly any forest encroachment cases in the tribal areas as compared with that in other areas. The main reason for the absence of any encroachment on forest land is the fact that the tribal villages have effective social-control over the minor forest produce collection. In fact, they themselves undertake conservation works to ensure regular flow of income from this traditional usage.

- 1. The Commission recommends that chilgoza and the medicinal herbs are important minor forest produce and the income from chilgoza particularly is quite substantial. There have been efforts made for raising nurseries and plantation of chilgoza pine but without any success. Chilgoza - the pinus-geardiana is a rare specie naturally grown only in the upper Satluj tract in India and in some tracts of Afghanistan and Iran globally speaking. This specie is on the verge of extinction. There should be a national scheme for a scientific research on conservation and nursery development for regeneration of this specie. Similar efforts are needed for juniper pine which has medicinal value.**
- 2. There are over 40 rare medicinal herbs commercially exploited by the tribals and these herbs grow on high altitude area. So far the Department has not been able to conserve these herbs used mostly for producing life-saving drugs. The Department only regulates the extraction of herbs by notifying a four year extraction cycle in a routine way without any application of a specific method where some species require annual extraction for their proper regeneration. There**

**is no scientific approach undertaken at present on conservation and regeneration of these herbs. The National level research institutions under the Ministry of Forest and Environment, Government of India should be assigned a task for conservation and regeneration of these rare herbs scientifically by using the experiences and knowledge, the tribals have with them about these herbs and shrubs.**

- 3. The Commission observed that the State Department has not done enough to develop the alpine pastures in the tribal belt for the conservation and regeneration of the rare tonic grass species. The Commission recommends that State should prepare projects for alpine pasture development for funding by the Government of India. The Ministry of Environment and Forests has taken a policy decision to develop alpine pastures.**

## **Rural Development**

All the National and State plan funded rural development schemes are also implemented in the tribal areas. There are programmes specific to the tribal areas – such as Desert Development Programme; Watershed Development programme funded by the Central Government.

The RD Schemes are mainly geared to poverty alleviation through employment generation which is an important element of India's strategy for development. As per the survey conducted by the State in the Ninth Five-Year Plan period there were 19105 ST families out of the total 2,86,447 families below the poverty line in the State.

## **Panchayati Raj System**

The three tier Panchayati Raj system has been in operation ever since the Community Development Blocks were set up in the 1960's, although in the early years district level institution was not effectively installed. HP Panchayati Raj Act 1968 was repealed (after the enactment of the 73<sup>rd</sup> Constitutional Amendment Act) by the new Panchayati Raj Act, 1994. Panchayati Raj institutions at all levels have been actively involved in the implementation of the rural development scheme and programmes in the Scheduled Areas.

The HP Panchayati Raj (Second Amendment) Act 1997 has incorporated the provisions of the PESA Act and that the Gram Panchayats/Gram Sabhas in the tribal areas have been made competent to safeguard the interest of the tribals in land, forests, minerals and preserve the tradition and customs of the people, their cultural identity, and the community resources.

The reservation for the STs in the Panchayati Raj institutions shall not be less than one-half of the total number of seats under the amended Act in the Scheduled Areas. Further, all seats of Pradhan of Gram Panchayats and Chairman of the Panchayat Samities/Zilla Parishads have been reserved for the STs.

### **Roads**

Tribal areas have 1913 Kms long motorable roads comprised of State roads, link roads, border area development roads, State highways and the National highways as the two tribal Districts have international land border with China (Tibet). The policy is to connect all villages with motorable roads. The road network has helped economic development as well as road transport system to connect villages in the tribal areas.

**The Commission observed that there are two major roads which have traditionally been the branches of the famous silk-route. One is the old Hindustan-Tibet Road in Kinnaur which takes off from the National Highways at Tapri to Kanam and meets the National Highway at Shiaso-Khad. Another road is in Lahaul which runs from Tandi through the Chenab River valley to Pangi Scheduled Area, which is funded by the Government of India under the Border Roads Programme. These two roads when made fully motorable will transform the economy of the respective areas. The Commission, therefore, recommends that these roads should be constructed and expeditiously completed.**

**The Commission further observed that there are villages which are accessible only by traditional rope-ways (Jhulas) even after all these years of planned development. The Commission recommends that pending the construction and completion of the link roads, there should be foot-bridges constructed to replace the rope-ways (Jhulas) immediately.**

### **Drinking Water Supply**

By 1994 all the villages in tribal areas have been provided with drinking water facilities. There are new habitations which came up with the economic development and that there are some such habitats requiring proper piped drinking water supply.

### **Housing**

Not a major problem in the tribal areas. However, for the construction and repairs of the houses to the needy tribals there is a housing subsidy scheme operative in the tribal areas.

### **Food/PDS**

The tribal areas of HP are deficit in foodgrains production. There are over 333 fair price shops operational under PDS in the tribal areas and the objective is to maintain price level and regulate public distribution.

### **Human Resource Development – Education**

Under Article 46 of the Constitution the State has been assigned the task of promoting the educational interest of Scheduled Tribes. Over the successive five-year plans the literacy percentage in the tribal areas has moved up from 12.85% in 1961 to 53.15% in 1991.

There is a good network of educational institutions from Primary level to the Senior Secondary and the College levels. There is hardly any revenue village without a school in the Scheduled Areas. A package of incentives has been provided to promote education and literacy at all levels. But, it is a matter of concern that the quality of education has deteriorated at all levels in the recent years.

**The Commission during its visit to the State discussed that the schools at all levels in the interior areas of the tribal belt are without adequate teaching staff. The science labs are ill-equipped. The deployment of teaching staff at full strength has always been a perpetual problem. The**

**creation of separate sub-cadre has not helped solve the problem as the sub-cadre has never been operational effectively.**

The private sector institutions have not much scope in the tribal areas. In the early 1990's, the literacy mission sponsored by the Central Government had done good job achieving targets both in tribal areas and non-tribal areas in Himachal Pradesh on promoting functional literacy.

The Department of Education has the sanctioned posts of about 11500 Trained Graduate Teachers (TGTs) and about 6000 School Lecturers in the State. About 10% of the sanctioned strength remains vacant almost for all the times on account of promotions and retirements etc. as the filling up of these vacant posts take its own time in the process.

The Commission observed that despite various incentive schemes such as attractive salary components and compensatory allowances and the provision of the choice of the station given on the completion of the tenure in the Scheduled Areas over 50% of the given posts in the Department of Education in the Scheduled Areas remain vacant. As may be seen from the statistics given above only 10% of the posts remains vacant in the State, while a large number of them are shown vacant in the Scheduled Areas. That means, the teaching staff sanctioned for the Scheduled Areas are deployed in excess outside the Scheduled Areas. Obviously, they are being paid salary against these vacant posts in the Scheduled Areas.

**The Commission recommends that the educational institutions in the Scheduled Areas should be provided with adequate infrastructural facilities, buildings and teaching staff particularly in the mathematics and science subjects etc. At least 2/3<sup>rd</sup> of the sanctioned strength of the schools in the Scheduled Areas should be filled and those posts which cannot be filled, budgeted funds for these vacant posts should not be used outside the Scheduled Areas.**

The Commission was informed that the State Government has decided to fill the vacant posts in the cadres of TGTs and school lecturers etc. by appointing trained graduates and lecturers as the para-teachers on the pay package which is much smaller in size as compared to the salary

package given to the regular TGTs/lecturers. The scheme is for the entire State designed to fill the regular vacancies of TGTs/lecturers by appointing these para-teachers. The fact that for all these years the schools in the Scheduled Areas have been run with only about 50% of the sanctioned teaching staff particularly of mathematics and science subjects etc., it may, happen that all these vacant posts or most of it in the Scheduled Areas are filled by appointing these para-teachers helping the regular teachers escape from the posting in the Scheduled Areas. If that happens the tribal students in the Scheduled Areas will never receive quality education. The success rates in the examinations will further deteriorate.

The Commission recommends that not more than 10% of the sanctioned posts in the cadre of TGTs and School Lecturers in the Scheduled Areas should be filled by appointing these para-teachers to help tribal students get their fair deal.

No evaluative studies have so far been done on the functioning of the Government run schools and about the quality out-put of the educational system in the tribal areas. It is recommended that the existing policy of the State Government to open up new schools and upgrading the existing schools without proper staffing and necessary lab equipments should be reviewed. The consolidation measures need be stepped up to ensure quality education at all levels. An investigative study/research is also recommended to ascertain the reasons for the failure of the tribal Students Hostel Projects. Funds have never been a problem being a centrally sponsored project. There has been a functional failure not only on account of mismanagement but because of poor attendance as not many tribal students prefer to join these hostels. May be there are social reasons. A discreet inquiry need be conducted to ascertain the reasons for the poor attendance.

## **Health Care**

There are a large number of health institutions ranging from sub-centres to PHC and hospitals under Allopathy, Indian System of medicines-Ayurveda and Homeopathy-opened in the tribal areas but most of these institutions are without Doctors and para-medical staff deployed. Successive governments have tried to deploy doctors and para-medical staff in the interior areas but with little success. This situation is likely to continue for many more years in the future also. Bhot chikitsa padhati and Amji systems i.e. Tibetan System of medicines have also been introduced without an adequate infrastructure, staffing and training etc.

The Commission observed that some of the good health care programmes have not been able to achieve the targets fixed on account of non-deployment of doctors and para-medical staff in the tribal areas. One good example is the RCH (Reproductive Child Health Care) Project sanctioned for the tribal District of Kinnaur in the recent years. Over a sum of Rs. 3 cr. were budgeted for the RCH project under a Centrally Sponsored Programme which has counselling as a major programme content by involving the NGOs and medical social workers etc. Investigations revealed that this budget was spent on the construction of PHC buildings not because these buildings are required to be constructed but because the Health Department found it easier to achieve the expenditure target by constructing these buildings which in fact was not required as there are many PHC buildings without doctors and staff in the tribal areas. Health Department was unable to arrange expert counselling which is the major programme content under RCH Project. Building is not a part of the programme contents under RCH. The very purpose of the project has not been served in the instant case. There may be many more such cases. Why does this happen? Because there are no proper monitoring and evaluation of the programmes and projects launched in the tribal areas in the health sector.

### **Recommendations**

- 1. The State government should undertake a special drive to strengthen the health institutions – dispensaries, PHC and hospitals in the remote tribal areas with experienced doctors and para-medical staff. The incentives as listed in the Personnel Policy of the State for the tribal**

**areas, particularly – fixed tenure, choice of station on transfer out of the tribal areas, housing, loans and advances on priority apart from the special allowances etc. – should be provided without any deviation and that the said Personnel Policy should be implemented in letter and spirit. The Central Government assistance can be arranged with additional budgetary provisions.**

- 2. The Central Government should monitor at regular intervals the execution of the Centrally sponsored health schemes to ensure that physical targets fixed are actually achieved without solely depending on only the expenditure targets. Any change in the programme contents of the schemes should never be allowed.**
- 3. Important programmes/projects like HIV / AIDS Control, RCH with GOI, World Bank and UN Agencies assistance are being run departmentally as well as in a substantial way through NGOs. Although there may not be any such cases detected among the tribals, yet the awareness campaign and educating programmes need be undertaken in the tribal areas through the NGOs apart from the Govt. agencies as a preventive strategy. There should be specific and earmarked allocation of funds in the health sector for the tribal areas which will help promote NGO participation in the tribal areas. Not many NGOs are prepared to work in the tribal area and most of the NGOs engaged operate from the urban centers outside the tribal areas - i.e the impression at present. Nor efforts have been made to promote NGOs in the tribal areas by the Mother NGOs.**
- 4. It is recommended that NACO and the State level AIDS Control Societies/Cells and the RCH Controllers and the State Department of Health Services should undertake capacity building measures to develop and strengthen the skills and capabilities of the NGOs to be deployed in the tribal areas and that the NGOs so promoted should be run by the tribals themselves with the expert assistance from outside wherever necessary.**



- 5. The Institution of Mahila Mandals as NGOs should be strengthened by the State Govt. with necessary extension services provided by the Block Officers of various departments. Mahila Mandals are registered societies spread over all the villages/panchayats. They are in the midst of the beneficiaries whether they are women or children. They are the NGOs readily available who can undertake execution of schemes and projects for women and child welfare.**

## **Industrial Development**

The tribal areas in the State are industrially backward due to inaccessibility and lack of infrastructural facilities. Only the small and cottage industries are being promoted. Some industrial areas have been developed in the tribal areas also. Main thrust is to promote the growth and development of handloom and handicrafts industry and to develop marketing infrastructure. The Tribal handicraft which is on the verge of being abandoned needs revival. A lot of incentives by way of subsidy and technical assistance and tax concessions are being provided to attract industrial investment in the tribal areas.

**The Commission recommends that the tribal handicraft which is on the verge of being abandoned should be revived by building infrastructural facilities and technical assistance programmes, the important aspect of which should be to develop export oriented marketing outlet.**

The incentive programmes for handloom and handicraft sector should be augmented. At the national level the industrial re-finance schemes of the Scheduled Tribes Finance and Development Corporation require a comprehensive review. At present, the easy finance and concessional investment at lower rate of interest for capital investment is available only for tiny sector and for the individual oriented schemes such as taxi and bus services in the transport sector and for running small shops and restaurants etc. which in fact, have reached a saturation point creating unhealthy competition and glut in the sector in all these years. Time has come now to cover the small and cottage industries by providing concessional rate of interest on term loan for the capital investment in this sector. Schemes should also be developed for investment in trade and commerce by providing easy and concessional finances.

**This new industrial strategy for the tribal areas will help develop industrial estates, manufacturing infrastructural facilities, development of trade and commerce which will have a multiplier effect on the tribal economy resulting in employment and income generation which, in fact, is the ultimate objective of a comprehensive development strategy. There should be a separate National Policy on industrial development and for the promotion of trade and commerce in the tribal areas, the Commission observed.**

Hops is one of the important cash crops of Lahaul tribal belt. The State and the Central Government have already invested a lot in setting up several Drying and Processing Plants in the valley and one Processing Plant at Baddi in Solan District. These processing units are unable to have the optimum capacity utilization in view of the fact that the Hops production in the valley has come down in the recent years.

**The Commission recommends that the Hops farmers and the hops societies should be given appropriate technical assistance to upgrade the quality of hops produced to build its market acceptability and sustain the market demand.**

## **Excise Policy**

There is a distinct excise policy for the tribal areas which is in tune with the social milieu of the tribal communities. The local tribals in their areas can manufacture country fermented liquor for home consumption and for special occasions of marriage and festivals etc. They can distil liquor from fruits and grains on a licence at nominal rate. This policy meets the liquor requirement of the tribal by using the local materials such as fruits and grains. It also protects the tribals from the exploitation by the liquor vendors. The Mahila Mandals and the social organisations have demanded that the liquor vends 43 of them opened in the project areas and at the Distt. Hqrs. should be closed and there should be a total ban imposed on the opening of the vends in the Scheduled Areas. Those who wish to consume liquor other than the tribal brew can be given permits to procure and store limited quota from outside the Scheduled Areas. Further, without the consent of Gram Sabha, no liquor vend should be opened.

The Commission observed that the Mahila Mandals have listed in the foregoing para some credible demands. The State Government may consider closing the liquor vends in the Scheduled Areas. Instead, the vends of local brew may be set-up at the Distt. and Sub-Divisional Hqrs. on a higher licence fee. There are some major hydro-power project areas where liquor vends may be opened if there are pressing demands to meet the requirement of the project staff which in itself is a difficult proposition.

### **Land Reforms and Land Alienation Problems**

The land records in Himachal Pradesh including that in the tribal areas have been very well maintained leaving no scope for any sort of alienation or exploitation. Revenue surveys including forest surveys were conducted twice in most areas including the tribal areas, one such survey was conducted during the British/State time. After the Independence, the tenants were made owners under the Abolition of Big Landed Estates Act in the State and in the tribal areas also. This was followed by the enactment of the ceiling on the Land Holdings Act in Himachal Pradesh. The surplus land made available on the implementation of the provisions of Act were allotted to the landless and the marginal farmers.

The scheme of the Government of India initiated in 1971 for strengthening the Primary and Supervisory land record agency in the State has enhanced the efficiency of the Revenue agency in respect of the maintenance of land records, collection of the agricultural statistics. HP Tenancy and Land Reform Act 1972 has provided protection against exploitation in the agriculture sector. There is no problem of land alienation from tribals to non-tribals or restoration thereof. Under the provisions of the HP Transfer of Land (Regulation) Act, 1968 amended in January, 2003 no person belonging to a scheduled tribe can transfer his interest in any land by way of sale, mortgage, lease or gift to any person not belonging to such tribe except with the prior permission of the State Government. Every transfer in contravention of these provisions shall be void. Further, under these provisions no rights in the interest held by a tribal in any land shall be liable to be attached or sold in execution of any decree or order of any Court in favour of any person not belonging to scheduled tribe except

where the sum due under the decree or order is due to the State Government or to a Cooperative Society and any financial institutions/cooperative banks with which land is mortgaged against a loan.

**The provisions of the Act have, by and large, been implemented to protect the tribal interest in land and the property on the land in the tribal areas. There have been some transactions related to the transfer of land held by the tribals to the non-tribals with the permission of the Deputy Commissioner, but generally without any adverse impact on the overall interest of the tribal community, the Commission observed. However, there have been some group or community attempts made in some cases to pre-empt transfer transaction and in most cases they have succeeded. Such objection or alarm raised by the tribal people or social groups help protect the interest of the tribals in their land and landed property etc.**

Land have also been acquired in the number of cases by the private sector companies and the individual enterprises for the Hydel projects in the tribal areas through the official proceedings under Land Acquisition Act, but with the free consent of the land owners.

The Tribal Areas have been opened up for the development projects and that a large number of Hydel Projects are coming up in these areas. The pressure on land will increase due to these projects and on the expansion of trade and commerce in the area. Under the amended provisions of the Transfer of Land (Regulations) Act, the prior permission for transfer of land by way of sale or gift or mortgage etc. shall now be given by the State Government in consultation with Gram Sabha concerned and the Deputy Commissioner of the District. It is expected that this provision will also help the State Government to take the holistic view on the proposals for the transfer of land as all the Schedule Areas of the State are geographically contiguous.

**The Commission recommends that there is a need to keep a constant vigil on tribal land transactions in times to come with the rapid economic development and in view of the project clearance given to a large number of Hydel Projects in the pipe-line for execution in the tribal areas. The State Policy is to encourage investments in the Hydel Projects both in**

**public and private sector and most of these projects are located in the tribal areas. These project activities will have a multiplier effect on the tribal economy particularly in the trade and commerce involving in some way the land transaction. The District Administration and the State Government will have to take adequate measures through advanced planning to safeguard the interest of the tribals in their land and landed property and to pre-empt any exploitative land transactions.**

### **Money Lending**

The problem arising out of the money lending and debt are being addressed under Himachal Pradesh Registration of Money Lender Act, 1976, Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976. There are no complaints on this account. All types of bonded labour have been put to an end with the help of the provisions under the Himachal Pradesh Relief of Agricultural Indebtedness Act, 1976 and under the Central Act viz. the Bonded Labour System (Abolition) Act, 1976. A good job done.

### **Displacement of the Tribals and the Rehabilitation Policy**

There have been no displacement or migration of the tribals from their original habitat on account of any economic development programme/projects such as power projects/hydel projects executed in the tribal areas. Over 2500 MW capacity individual projects together are under execution in the tribal areas. But, a good thing done by the State is that it has put in a place a well defined State Policy in respect of rehabilitation or re-settlement of the displaced population on account of acquisition of their lands for the projects in the tribal areas. The rehabilitation plan under the policy envisages provision of housing for the displaced families having plinth area of 45 sq.m plot/terrace land; at least one member of the family to be given employment; transport facility during shifting on displacement; a team of officials set-up in readiness. These provisions are also applicable to the private sector projects. There was a demand raised by some tribal leaders that where the Government acquires land for any project, the land owner should be allotted land of the size and type acquired in addition to the compensation assessed as that would be required to develop the land allotted for agri/horticultural farming etc. There is at present no such scheme as 'land for the land' being thought of by the State Government.

The Commission observed that the rehabilitation plans of this type appear sound and effective on the shelves. But their efficacy can be tested when put under implementation. Many practical problems may arise on actual implementation as have occurred in the rehabilitation/re-settlement schemes elsewhere in the country in the State of Kerala, Madhya Pradesh, Rajasthan and Maharashtra etc. However, it is commendable that advanced planning has been done in Himachal Pradesh.

### **Eco-Development**

In order to maintain the fragile eco-system of the mountainous tribal belt, a built-in need based provision for eco-development under the hydel projects are being executed in the tribal areas. The State Government has prepared Catchment Area Treatment (CAT) Plans particularly for these hydel projects. In the tribal belt in Satluj valley itself already eco-development plan costing around Rs.135 crores have been prepared and some of which are under execution. The entire cost of the eco-development will be met by project authorities as a part of the project. The project authorities both in the public and private sector are required to deposit with Government the whole amount during the project period itself. The CAT plans are being executed by the Department of Forest Farming and Conservation.

In the Satluj River valley in Kinnaur Distt. and in the Patten valley in Lahaul & Spiti District where a large number of hydel projects are either under execution or are in the pipeline, the tribal leaders and the Zila Parishad Members pointed out during the Commission's visit that the project authorities do not deposit the funds earmarked for the eco-development under CAT plans on time as per schedule of deposits fixed which fact has been ascertained from the official records. The State Government should monitor and ensure that the schedule of deposits into CAT plans is strictly adhered to so that the eco-development projects are executed speedily on time to pre-empt a possible ecological disaster that may take place on account of CAT plan failure. They also pleaded

**that the Gram Sabhas and the Tribes Advisory Council be consulted and clearance taken before any hydel project is approved for execution.**

**During the meeting with the State Officers the Commission was told that all the Hydel Project authorities/Companies have not deposited the funds earmarked for the CAT plans as per schedule. Some of the major projects have been commissioned, yet they have not released huge amount of funds running in crores for the CAT plan. The State government should get the funds released by these Companies for CAT plan.**

**The tribal leaders stated before the Commission that most tribal areas where the hydel projects are under execution are facing a major environmental threat posed by the haphazard execution of the hydel projects without an environmental protection plan. The Commission recommends that there should be a comprehensive environmental protection plan put in place before the projects are sanctioned and that CAT plan should be implemented simultaneously with the execution of the project. It appears that there has been on the part of the successive Governments good intention to protect the fragile eco-system of the tribal belt but the project authorities have not shown their concern about the eco-protection aspect of the project.**

## **Evaluation**

The Programme Evaluation Organisation of the Planning Commission and the State Planning Department are expected to conduct evaluation studies to assess the impact of the Plan programmes, success or failure in the planning, development and the implementation of ITDPs, but no evaluation studies were conducted by them. There is a proposal now to have the evaluation study of the Ninth Plan period performance through these organizations. However, the Tribal Development Department has regularly been conducting concurrent evaluation in respect of New 20-Point Programme beneficiaries for furnishing reports to the Tribal Affairs Ministry.

## **Economic Policy**

The economic growth in the State of Himachal Pradesh is traditionally governed by agriculture/horticulture and allied activities and that the growth rate during the 1990's remained more or less stable on an annual average at 5.7% which was almost at par with that of the national.

The total State Domestic Product (SDP) in the year 2000-01 registered an increase of 8% over that of the year 1999-2000. The per capita income showed an increase of 6.4% in 2000-01 over the previous year. The trend analysis have revealed that the economy has shown a marginal shift from agriculture and allied sector (Primary Sector) to industries (Secondary Sector) and services (Tertiary Sector). During the year 2000-01, the contribution of Primary Sector to State Domestic Product of the State was 27.37%, Secondary and Tertiary Sectors contributed 32.50% and 40.13% respectively.

The Scheduled Area of Kinnaur has made tremendous progress in the development of horticulture - apples and stone fruits production; Lahaul and Spiti have excelled in the production of seed potato, hops and peas etc.; Pangi and Bharmour areas have opted for horticultural development and animal husbandry. These economic achievements have helped generate employment and income significantly. The Primary Sector continues to have a major contribution to the economic development of the tribal belt. The Tertiary Sector has shown in the recent year significant improvement thereby indicating gradual shift in overall economy which is a welcome trend.

There were, in the past, some myths generally associated with the tribes and the tribal areas of the Western Himalayas. One such myth pertained to the notion that the tribal areas are inaccessible mountainous terrain with inhospitable climate and, therefore, are of no consequence in the economy of the tribal belt, State and of the country. Because of this notion the economic, ecological and strategic importance of the tribal areas has not received the attention they deserved. The myth has now been exploded and that the tribal areas have been opened up for the development projects particularly the hydel and mining projects both in the public and the private sectors. The construction of the highways and the development of the communication network and the modern technology made it feasible.



The Commission observed that despite achieving some levels of development, there were in HP, as per the Report of the State Government of Himachal Pradesh, 27811 candidates belonging to Scheduled Tribe seeking regular/stable employment as on 30.04.2003.

As per the Report of the State Government, there are 19105 ST families which subsist below the poverty line. The majority of them i.e. 13650 ST families are from Bharmaur and Pangi Scheduled Areas in Chamba District. The criteria for determining the BPL families as adopted was the one prescribed by the Government of India i.e. monthly per capita income consumption at Rs. 289.31.

It is recommended that there should be a new economic policy thrust to be given on the development paradigm and the professional development administration. Tribal economy needs diversification to reduce pressure on land. The emphasis must now shift from Agriculture to eco-industrialization and the services sector for the faster income generation and employment growth. Industrial areas should be developed for eco-friendly industrial projects/units to be set up by the tribals as a measure of economic diversification. Some details are given on this account under the head Industrial Development in this report.

Another point for consideration is socio-economic protection through adequate legal provision as has been done to some extent in respect of tribal interest in land and forest. As can be seen in the tribal areas all over the entire trade and commerce sector is in the hand of non-tribals because the tribals don't have professional competence they need. That has hampered the economic development of the tribal areas. Tribal people should be helped to develop professional skills and competence in trade and commerce. A strategy need be developed in this regard. Human Resource Development also requires attention particularly in technical skills development.

In fact the major backlog in employment in the public sector is in respect of technical jobs where trained tribals are not available to fill the vacancies. Further, the tribals of

Himachal Pradesh falling in the taxable income group, some employee's organizations have demanded that the Government of India should consider providing them Income Tax exemption on the pattern of the North-East tribal areas, as the Scheduled Areas of Himachal Pradesh are situated on the international land border and are remote; difficult and mountainous terrain and are economically backward with comparatively very high cost of living.

### **Cultural Tourism– Its impact on the economy of the Tribal Habitat**

At present there is only one pilgrimage route from India to the sacred Mt. Kailash (22,028 ft./6675 mtrs) and Mansarovar (at the height of 14,930 ft./4530 mtrs.) which passes through Pithoragarh in Uttaranchal, Navidag, Lipu Lake Pass (International border) and from the border via Taklakot to Mt. Kailash and Mansarovar in Tibet (PR-China). This route takes almost three weeks to reach Mansarovar and that the return also takes over two weeks and most part on the Indian side of the journey is undertaken on-foot. In terms of expenditure as the tour package charged is very expensive which on an average is to the tune of Rs. 60,000/- or above. The tribal people of Himachal Pradesh submitted a proposal before the Commission during its visit for opening up Shipki La along the upper riparian of river Satluj as a pilgrimage route to sacred Mt. Kailash and Mansarovar. On the Indian side the route is from Shimla via Rampur along the river Satluj/National Highway to Namgia. Another route proposed is from Manali via Kaza in Spiti to Namgia in Kinnaur. From Namgia the border is about 20 Km. From Namgia village National Highway/border road is motorable upto for a length of 12 Km. and beyond that the road is under construction and at present there is a 8 Km. long mule track upto Shipki La (border). On the Tibet (PR-China) side, there is a 6 Km. long mule track from the border via Shipki Village to Kyukh Village. From Kyukh Village, there is a motorable road upto Mansarovar and beyond. The road crosses river Satluj at two points in its upper riparians.

**This route proposed is a traditional route – a branch of famous Silk route via Shipki La border – has already been opened for trade between India and Tibet (PR-China) since 1996. Since the route has been opened for the trade there appears no obstacle for opening this route as pilgrimage route to sacred Mt. Kailash and Mansarovar, the Commission observed.**

The time taken along this route to complete the pilgrimage will be far shorter when compared with the time taken for the pilgrimage via Lipu Lake Pass in Uttaranchal. It is estimated that actual journey from the point Shimla and Manali via Shipki La to Kailash/Mansarovar can be completed in 10 days, the break-up of which is – 6 days spent on traveling and 4 days for acclimatization/conditioning at different levels and route. The return journey can be completed in 6 days. The pilgrimage package will be less expensive comparatively.

**The tribal people were of the view that the pilgrimage along the river Satluj to Mt. Kailash would be meaningful in terms of cultural values as the river Satluj originates from the point close to Rakas Lake which is linked with Mansarovar by underground channel. The Commission recommends that the Government of India may consider opening the route via Shipki La along the upper riparians of River Satluj for pilgrimage to sacred Mt. Kailash and Mansarovar in view of the plea taken by the tribal people and the grounds discussed as above justifying the opening up of this route as pilgrimage route.**

**The pilgrimage along this route will have a multiplier effect on the tribal economy resulting in employment and income generation for the tribals inhabiting the catchment area along the route, the Commission observed.**

## **Cultural Policy**

There is a myth associated with the cultural distinctiveness of the tribes and the tribals which revolves around the notion that the tribal areas constitute cultural back-waters vis-à-vis the composite culture of the country; and that the distinctiveness is more a reflection of the primitive and stagnant society. This myth has now been exploded/unfolded as a result of greater appreciation of the culture of the pagan tribes and the realization that necessary protective measures need be taken to preserve on urgent basis the cultural heritage of the tribes and the tribal areas.

The Points for consideration are:-

- (a) How the best in the culture of the Pagan tribes can enrich the composite culture of the country?

- (b) How best can we preserve the cultural heritage of the tribes which is an integral component of the composite culture of India?
- (c) The best in the culture of the Pagan tribes particularly are – social and cultural values; moral and ethical values; and the standards of integrity and honesty and probity/uprightness: How best these values and standards can be preserved/protected while making a policy thrust on an accelerated economic growth and development?

**The development policy must recognize the indivisibility of culture and development and that the development planners need to take into account the cultural dimensions in the planned economic development programmes. The preservation of the cultural resources as cultural heritage should be made an integral part of the planned economic development, the Commission observed.**

**The Commission recommends that the Ministry of Tourism and Culture, Government of India and the UNESCO together may consider sponsoring necessary measures for the conservation and preservation of the tribal art and cultural heritage in the Himalayas and elsewhere in the tribal areas of the country.**

# Jammu and Kashmir

1. The Scheduled Tribes inhabit all the Divisions viz. – Jammu Division, Kashmir Division and Ladakh Division of the State of Jammu and Kashmir. According to the census 2001, the total population of the State is 1.04 crore. The Scheduled Tribes population is 11.05 lakh i.e. 10.90% of the total population of the State.

## Demographic profile (2001 census)

Total Geographical Area	1.04 crore
Total Population	11.05 lakhs
Percentage of Scheduled Tribes	10.90%
Sex Ratio	State 899
	STs 910

## 2. Scheduled Tribes

- 2.1 Under the Constitution (Jammu and Kashmir) Scheduled Tribes Order 1989 and under the Constitution (Scheduled Tribes) Order (Amendment) Act, 1991 following communities have been notified as Scheduled Tribes:-

1.	Balti	8.	Purigpa
2.	Beda	9.	Gujjar
3.	Bot, Boto	10.	Bakarwal
4.	Brokpa, Drokpa, Dard, Shin	11.	Gaddi
5.	Changpa	12.	Sippi
6.	Garra		
7.	Mon		

The tribes at Sl. No. 9, 10 and 11 were inserted in the list of Scheduled Tribes by the Constitution (Scheduled Tribes) Order (Amendment) Act 1991. Major part of

the Scheduled Tribe population in the State is in the Jammu Division followed by that in Kashmir Division and Ladakh Division. The census of 1991 could not be conducted due to turmoil in the State as per the report of the State Government. However, a special survey prior to the 1991 Census was conducted by the Registrar General of Census to assess the District-wise and ethnic group-wise population of the State and some projections were made based on which certain ethnic groups listed as above were notified as Scheduled Tribes.

2.2 The percentage of ST population to the total population in the Districts – 14 of them – of the State as per 2001 census ranged from 2.3% in Budgam District to 14.8% in Udhampur, 33.10% in Rajouri, 40% in Poonch to 82% in Leh District and 88.30% in Kargil. There is at present a sizable number of non-tribal employees, and some workers deployed in Ladakh region from outside of State. Some of these workers are from Central India and the Commission during its visit had interaction with them. And quite a few non-tribals are running business in the region.

2.3 **The Gujjars and Bakarwals** are the dominant tribes in terms of population, as they constitute 8% of the total population of the State. These two tribes constitute 80% of State tribal population. They are nomadic but they keep their habitat in the Districts of Poonch, Rajouri, Baramullah, Kupwara, Udhampur and Doda. The economy of Gujjar and Bakarwal tribes is pastoral which is totally dependent on live-stock development, production and marketing of milk and milk products etc. They are a migratory/nomadic tribe moving in search of fodder/pasture for their live-stock up in the high mountains during the summer months and they shift to the plains during the winter months. Some of them have their habitats in lower areas and have agricultural land holdings as well. The Bakarwals keep large herds of sheep and goats and for this reason they are called Bakarwals.

2.4 There is an **Advisory Board under the name – Advisory Board for Welfare and Development of Gujjars and Bakarwals** under the Chairmanship of the Chief Minister. The Board monitors the progress of the schemes for the Gujjars and Bakarwals and go into the problem and difficulties of these communities and

make necessary recommendations. The functions assigned to this Board are – to assist and advise the District Development authorities in the implementation of the schemes for the Gujjars and Bakarwals under the Sub-Plan and to identify the areas inhabited by Gujjars and Bakarwals for being developed under the Tribal Sub-Plan, and also to involve them in the formulation of tribal development plans.

Gujjar and Bakarwal Board monitors the Sub-Plan for Gujjar and Bakarwal. The major schemes are; (a) management of Gujjar and Bakarwal hostels – 12 for boys and one for girls; (b) grant of pre-metric scholarship for Gujjar and Bakarwal students with the funds placed at the disposal of the Chief Education Officer; (c) construction of shops; (d) development of Gojri or Gujjari language and culture. The Annual Plan for Gujjar and Bakarwal has on an average about Rs. 5.50 crores approximately, the major part of which is spent on pre-metric scholarship.

**The Commission recommends that the Advisory Board for the Welfare and Development of Gujjar and Bakarwal may be extensively associated with planning and development of schemes and programmes in respect of State level sectors and the District level sectors of the economy.**

**The Commission recommends that the development strategy for these two tribes should aim at transforming their pastoral economy into a settled agricultural and allied sector economy and some of them may be encouraged to take up self-employment schemes in industry, trade and commerce.**

- 2.5 Ladakh is named as (i) broken moon, (ii) roof of the world, (iii) land of the Lamas, (iv) land between earth and sky. The geo-physical features are such that justify the name assigned as above. There are 8 tribes notified as Scheduled Tribes in the Ladakh region/Division viz. – (1) Balti, (2) Beda, (3) Bot, Boto, (4) Brokpa, Drokpa, Dard, Shin, (5) Changpa, (6) Garra, (7) Mon, (8) Purigpa. From the list of the tribes at para 2.1 above, Gujjar, Bakarwal, Sippi and Gaddi tribes do not

inhabit the Ladakh region. Three important rivers -- Indus, Shyok, Zaskar with their tributaries flow through the region. There are three ranges covering the Ladakh region -- Karakoram range, Ladakh range and Zaskar range.

- 2.6 **In the Ladakh Division, Leh District** has a unique distinction of being the largest inhabited District of the State scattered over a geographical area of 82,665 Sq. Km. The population of the District is 1.17 lakh as per census 2001 of which 85% population are Buddhists, 15% Muslims and others. The density of the population is 2 persons per Sq. Km. The District has the ST population of 96,174 which is 82% of the total population of the District.
- 2.7 **The Kargil District was carved out** of the erstwhile Ladakh District in July, 1979. It has the geographical area of 14,036 Sq. Km which is mountainous. The density of the population is 9 per Sq. Km. As per the census 2001, the total population of Kargil District is 1,19,307, of which ST population is 105377. The District has the tribal preponderance with ST forming 88.30% of the population of the District.
- 2.8 The Commission had interaction with the tribal development authorities, tribal leaders, members and the office bearers of Ladakh Autonomous Hill Development Council of Leh and Kargil. The tribals of the Ladakh Division have placed a demand before the Commission for scheduling both Leh and Kargil Districts as Scheduled Areas under the provisions of the Fifth Schedule to the Constitution. There is enough justification for declaring both Leh and Kargil Districts as Scheduled Areas under the provisions of the Fifth Schedule as these two areas fulfil the criteria laid-down for declaring them as Scheduled Areas i.e. (1) Both the Districts have the preponderance of the tribal population with over 88.30% in Kargil District and 82% in Leh District; (2) Both the Districts are contiguous.

**The Commission recommends that both Kargil and Leh Districts may be considered for scheduling them as Scheduled Areas under the provisions of paragraph 6 of the Fifth Schedule to the Constitution**



subject to the provisions of Article 370 of the Constitution. Both these Districts fulfil the criteria laid down for declaring Scheduled Areas, as both the Districts (a) have the preponderance of the tribal population, (b) are territorially compact with the reasonable size, (c) economically under-developed requiring special development treatment, (d) ethnically distinct requiring special administrative treatment etc.

Both the Councils have demanded that there should be a law/regulation framed for regulating transfer of land from tribals to non-tribals by way of sale or gift etc., the Commission endorses this demand subject to the provisions of the Article 370 of the Constitution.

2.9 The State Government had constituted a number of Commissions from time to time with Gajender Gadker Commission in 1967 followed by Wazir Commission in 1969 and Anand Commission in 1976 for recommending measures to safeguard the interest of the weaker sections of the society including certain communities who have now been notified as Scheduled Tribes. They were provided reservations in professional institutions and upper age limits were also raised. The State does not have any reserved constituencies for the State Assembly nor for the **Lok Sabha** for the Scheduled Tribes.

2.10 The representatives of the **Lakshesh/Beda community notified as Scheduled Tribe** comprised of about 130 families residing in Ladakh have stated before the Commission that the families of this community are landless as their main source of income traditionally has been from musical performance given by them at pooja ceremonies and entertainment at marriage ceremonies etc. and have traditionally been begging door to door. They do not have any knowledge about the farming or of any other avocation.

In order to seek employment or obtain loans for any scheme or admission into the technical institutions/colleges and even for holding the passport and to

purchase landed property they are required to produce Permanent Resident Certificate (PRC) to be issued by the District Administration. They have pleaded before the Commission the difficulties they faced in obtaining the PRC, being landless they are unable to produce revenue records to facilitate the issue of PRC. They have pleaded that some solution be found out to help them obtain PRC of Jammu and Kashmir State.

**The Commission recommends that the District Magistrate and the State Government may find a way-out to solve the problem they are facing for obtaining the PRC. A special package be given to this tribe for self employment on a sustainable basis.**

### **3. The Ladakh Autonomous Hill Development Council**

- 3.1 For the tribes of Ladakh region, the Ladakh Autonomous Hill Development Council for each of these Districts Leh and Kargil has been constituted under the Ladakh Autonomous Hill Development Council Act, 1995 for faster economic development of the tribes and tribal areas of these two Districts.
- 3.2 Ladakh Autonomous Hill Development Council for Leh District has 30 seats of which 26 Councillors are chosen by direct election on the basis of adult franchise from 26 Territorial Constituencies and the rest 4 Councillors are nominated by the Governor. The sitting members of the Legislative Assembly and of the Lok Sabha representing the Ladakh region are ex-officio members of the Council constituted for each of the Districts.
- 3.3 The Council in each District shall have executive powers relating to a number of subjects such as allotment, use or occupation of land vested in the Council; formulation of development plans and programmes, review of the progress and achievements of the development plans and schemes; budgeting both Plan and Non-Plan. The Council has been assigned the responsibility for employment

generation and the alleviation of poverty etc.; management of forest; public works; health and education – in all there are 28 subjects entrusted by the State to the Council.

- 3.4 The Council has the powers to collect such taxes payable under law as may be prescribed by the State Government and credit the same into the Consolidated Fund of the State. The Council can establish toll-bars on any road or bridge and it has powers to impose taxes on any trade or profession and the fees for the grazing and for the construction of buildings etc.
- 3.5 There is an Executive Council with a Chairman and 4 Members. The Chairman functions as Chief Executive Councillor. The Members of this Executive Council are nominated by the Chief Executive Councillor from amongst the Members of the Council. The Executive Council has been empowered to make regulations under the Act and approve the Plan and Non-Plan budget, five year and annual plans for the District.
- 3.6 The Deputy Commissioner of the District shall be the Chief Executive Officer of the Council. All Government employees in the District except the judicial officers and employees and the police personnel are deemed to be the employees transferred to the Council as notified by the Government. The subject of land within the District has been transferred to the Council.
- 3.7 The Council has the fund operated through Government Treasuries. All revenue raised, the loans released, the allocations made from the Plan and Non-Plan budget, loans and grants made by the Central and State Government are credited into the Council fund.
- 3.8 While the Autonomous Hill Development Council for Leh District has been functioning since the time it was constituted in 1995 itself under the Act of 1995, the Council for the Kargil District was constituted and made functional from August, 2003. The Commission had, during its visit to Ladakh, interaction with

the Council for the Kargil District and for Leh District on development matters and tribal affairs, operationalisation of the Constitutional safeguards etc.

- 3.9 At present, there is no job oriented educational programme and they have demanded that some initiative may be taken by the State Government to improve the opportunities for the professional education. **The Commission endorses this demand.**

The Council also stated that devolution of powers to the Council has not yet been completed. However, Land Management power has been devolved only recently. They demanded that the Council should be taken to the Planning Commission for making its plea on plan allocations. They have also demanded that there should be restrictions imposed on the transfer of tribal land to non-tribal. **The Commission endorses this demand.**

#### **4. Tribal Sub-Plan (TSP)**

- 4.1 The State has adopted decentralized development plan process under which each District of the State formulates its District Plan and that special care is taken for the development of the weaker sections of the society including the Scheduled Tribes. As said earlier in this report, all Districts in the State have the Scheduled Tribe population. The Tribal Sub-Plan is not segregated from the sectoral plan. The control of the TSP is not with the Social Welfare Department which looks after the tribal welfare as well, except for social welfare sector, although the Department of Social Welfare functions as the Nodal Department for the welfare and the development of the Scheduled Tribes. Of all the 14 Districts, the Districts of Leh and Kargil have the preponderance of Scheduled Tribes. The other 12 Districts do not have the preponderance of the Scheduled Tribes with the result the State had to devise plan funds flow to the Tribal Sub-Plan on population basis. In fact, flow of funds to TSP from the Plan Funds is made at the District level where allocation is made to the TSP on the basis of percentage of population of the Scheduled Tribes in the Districts. The entire plan funds earmarked for Districts of Leh and Kargil having the preponderance of the

Scheduled Tribes are taken as flow to the tribal development @ 100%. In other 12 Districts which do not have the tribal preponderance, flow of funds to the TSP is on the basis of the percentage of the tribal population in each District. The State Plan outlays and flows made to the TSP in respect of 12 Districts for the year 2003-04 are given in the table below:-

(Rs. In Lakh)

S.No.	Districts	Approved Outlay	Flow to TSP	% of the funds flow
1.	Jammu	6770.42	371.25	5.48
2.	Udhampur	6147.45	951.74	15.48
3.	Kathua	4704.03	295.68	6.29
4.	Doda	6326.38	1018.26	16.09
5.	Poonch	3767.53	1596.42	42.37
6.	Rajouri	4762.99	1435.93	30.15
7.	Srinagar	4909.79	342.15	6.97
8.	Budgam	5855.31	182.20	3.11
9.	Anantnag	6965.55	539.33	7.74
10.	Pulwama	5857.35	262.14	4.48
11.	Baramulla	7605.40	665.87	8.76
12.	Kupwara	5401.98	723.24	13.39

During the year 2003-04, the entire plan funds outlay approved for each District of Leh & Kargil has been shown as flow to the TSP @ 100%. The Districts of Kargil and Leh have been given an approved plan outlay of Rs. 69.98 crore respectively.

- 4.2 Department of Social Welfare is the Nodal Department for the tribal development and for the TSP without any functional or administrative control over the TSP. There was a Tribal Development Welfare Cell created in the Department of Social Welfare headed by Additional Director with supporting staff comprised of economists, project officers, sociologists etc. and they were expected to conduct research on traditional and professional ethos of various tribal groups in the State. This Cell in the Directorate was abolished in the year 2002-03 and at

present there is no Cell that monitors the schemes being implemented under the TSP and Special Central Assistance. The District Development Authorities have been advised to identify the Tehsils and Blocks where Integrated Tribal Development Projects can be established as per the norms laid-down by the Government of India.

No separate Department has been set-up in the State for formulation of Tribal Sub-Plan. In fact, the Annual Plan is prepared at the District level for the entire population in the State for each District out of which funds are also earmarked for the tribals and tribal habitats.

## **5. Special Central Assistance (SCA)**

- 5.1 The Government of India provides quite a substantial amount of funds under SCA to TSP and these funds are distributed through the Social Welfare Department to the District Development Authorities for the development of tribals. The SCAs are an additive to the Tribal Sub-Plan mainly to cover such areas for development which remains uncovered by the Tribal Sub-Plan. It has proved to be a major help as an additive to the TSP. As reported by the Development Authorities adequate funds under normal Tribal Sub-Plan are not being provided for the development of the tribal areas.
- 5.2 Special Central Assistance is given by the Ministry of Tribal Affairs as an additive to Tribal Sub-Plan. 70% of the SCA is provided for the infrastructural development in the areas having concentration of Scheduled Tribes and 30% of the funds are earmarked for income generating schemes. There are grants received from the Government of India under the proviso to Article 275 (1) of the Constitution. The State has been using this grant for infrastructural development in the tribal areas and the schemes under this grant are implemented by the sectoral Departments. A sum of Rs. 11.73 crore was spent on schemes executed with grants under Article 275 (1) in the year 2002-03. The grant released during the year 2003-04 was Rs. 14.73 crore. It is quite a substantial amount of grants under Article 275 (1), but the State has not documented the outlays of the

schemes undertaken and executed under this grant in their annual plan document.

- 5.3 Year-wise funds released by the Government of India to the State of Jammu and Kashmir under SCA as an additive to TSP ranged from Rs. 2 crore in 1990-91 to Rs. 9.71 crore in 2001-02. There is a need to augment the funds under SCA.
- 5.4 The Commission recommends that there is a need to step-up assignment of the SCA as an additive to TSP for the State of Jammu & Kashmir to upgrade the existing poor state of infrastructural facilities in the tribal areas/tribal habitats. The Commission recommends that special package for the rehabilitation of nomadic Gujjar and Bakarwal tribes by transforming their pastoral economy into settled agricultural economy where they can keep avocation of rearing Buffalos, sheep, and goats to support their settled agricultural avocation on a sustainable basis. For a package, which may be a one-time package for a duration of one Five year Plan period, the Central Government may not insist upon the State share considering weak resource base of the State.**
- 5.5 The sector-wise functional highlights in respect of the schemes funded under SCA to TSP in the District of Leh are such as development, procurement and distribution of seeds of high yielding varieties of grains and distribution of the same at the 50% subsidy; fodder development; for setting-up dairy units; establishment of sheep and goat units and provision of sheds in areas within Changthang belt and also distribution of Rams etc. In the field of education, there are dormitories constructed at tribal hostels; laboratory blocks etc. under the SCA to TSP. In the handloom and handicraft sector under the SCA, there are schemes for setting-up income generating handloom units and also setting-up handicraft training centres.
- 5.6 Ladakh Autonomous Hill Development Councils demanded that the plan funds and SCA should be released directly to Ladakh Council for each District. The Council demanded that all schemes funded under SCA and all funds flow under the plan must take into consideration the conditions**

prevailing in the Ladakh region and that the ecological consideration need be taken into account. Propagation and extension services in the agriculture and allied sector should be based on the R&D efforts made locally to suit the local conditions in the Ladakh region. The Council was of the view that in each village in the region there should have a primary school in relaxation of the norms such as strength of the school and size of enrolment etc. They also demanded that right at the primary stage English should be introduced. In the schools having inadequate staffing in math and science streams, the locally qualified available teachers may be deployed. Commission endorses.

## **6. Agriculture/Horticulture**

6.1 The economy of Gujjar and Bakarwal tribes are mainly pastoral i.e. rearing the buffalos, sheep and goats moving from pasture to pasture in different locations. The other tribes are dependent on agriculture and allied sector for their sustenance. The Districts of Leh and Kargil have the settled agricultural economy supported by horticulture and animal husbandry. Agriculture and allied sector development cannot be extended beyond a level on account of the constraints of geo-climatic factors. There are no industries in the tribal areas except for the traditional handloom and handicraft. However, tourism is being promoted in the Districts of Kargil and Leh. In these two Districts, agriculture is totally dependent on irrigation. The villages have traditional minor irrigation channels (kuhl) constructed and maintained by the villagers themselves from generation to generation with community participation. These channels/kuhls are drawn from the snow-fed streams, rivulets and rills. The Commission during its visit to Leh and Kargil Districts interacted with the farmers and the District Development Authorities on the subject of agricultural development. The Commission also visited a number of agricultural fields. Wheat, Barley, buck-wheat, potatoes, beans, peas etc. are the main crops grown for sustenance as well as for the exports which is largely needed to augment their income resource. There are vast areas of table land available particularly in Leh District and in some parts of Kargil Districts also which can be converted into agricultural holdings requiring some investment on land development.



But, the main constraints is again lack of irrigation facilities. During 2001-02 the gross irrigated area in the Kargil District was around 10,000 hec. put under wheat, barely and beans. In Leh District the total irrigated areas was 12,050 hect. during the year 2000-01. The villagers reported that in the recent years Ladakh had not received enough snow during the winters which has affected the availability of water from the snow fields and glaciers. In fact, the reports are that the snow-fields are melting faster and that glaciers have receded at a faster rate. All this will affect adversely the availability of water for irrigation in future time. It is mainly attributed to the global warming and the excessive unscientific exploitation of the forest resources in the neighbourhood i.e. entire Western Himalayas. Lift irrigation can be a big source of water for irrigation. Lifting water from rivers – Indus river, Shyok river, Zaskar river requires huge investment. In the absence of electric power supply, lifting water from the rivers would not be feasible. But, diesel run hydrams can be installed for lifting the water for irrigation.

The villages in this Districts are located at long distances. In fact each village would require a separate lift irrigation scheme.

**The commission recommends that the feasibility of lifting water for irrigation by installing hydrams may be gone into. The existing water channels which each village has a number of them should be renovated and their capacity can be expanded requiring investment which may be beyond the means of the villagers themselves. The Commission recommends that the State Government assisted by the Central Government may consider providing package for development of irrigation schemes in these two Districts which do not receive enough precipitation during the summers.**

- 6.2 Horticulture particularly apricot, plum, walnut, peaches, grapes and apples can be propagated. For want of irrigation facilities and also the fact that the farmers are apprehensive about the problem of post-harvest-handling and marketing of

horticultural produce to the long distance markets are the impediments to the horticultural development in the region. Apricot is the only one fruit which can be dried and stored for long distance marketing. There are some varieties of apricots which are high yielding but with low brix having TSS value at 8° to 12° brix whereas the other varieties of apricot which is dried and marketed for consumption has higher brix°. The sour varieties are dried and used as fodder and that edible oil is extracted from the kernel of the apricot. The Shell of the apricot and lops of the trees can be used as fuel by the villagers who do not have enough wood and dry bushes for use as fuel for cooking and heating. Apricot economy has various dimensions.

**The Commission recommends that the high yielding apricot plant material may be produced by raising the progeny orchards and nursery one for each District of Leh and Kargil for propagating and expanding apricot tree plantation. Ladakh has traditionally been famous for dry apricots and with the facilities provided for modern method of drying, it can capture the export market.**

**We recommend that various dimensions of apricot economy should be examined and with the technical assistance and extension services provided through development of progeny orchards as discussed in the above paras the plantation of apricot orchards can be propagated which would require comparatively less care in terms of plant protection and apricot trees would need irrigating only twice or thrice in a month.**

**Ladakh Autonomous Hill Development Council and the tribal representatives have emphasized that priority need be given for land management and agricultural development on a sustainable basis. Leh Council particularly mentioned that the Central Government Ministries may earmark some percentage of its budget for the Ladakh region on the pattern the individual Ministries at present provide 10% of its sectoral budget for funding North-Eastern States. Ladakh region**

**requiring faster economic development to meet its local requirement of food-grains and consumable products which at present heavily depends upon the outside supplies should be made self-sufficient in all basic food supplies and that there should be infrastructural facilities developed faster in this region by augmenting the State Plan funds and SCA with 10% of the Central Assistance sectoral outlays on the pattern North-Eastern States are funded. The Commission agrees that there are enough justification for the application of the North-Eastern pattern to Ladakh region by providing some percentage, if not 10% of budget of the Central Ministries.**

- 6.3 In these two districts, the average size of operational land holdings has been around 0.76 hec. in Kargil District and 1.38 hec. in Leh District. There are big as well as medium, small and marginal holdings in both the Districts. In these Districts high yielding varieties of barley & wheat seed and grams have been introduced which has assured the productivity. The State Horticulture Department has 5 Departmental orchards/nurseries where fruit plant materials are raised and distributed among the farmers who have taken up horticulture.

## **7. Animal Husbandry**

- 7.1 There are grassland for the production of fodder which is cut and stored for winter feeding of domestic animals. During the summers, all the domestic animals including sheep, goats, mules, ponies, yak and local breed of cows (churu) are left in the open in the high altitude pastures and in the winter these are reared in the stalls/sheds erected by each family alongside their houses. The animal wealth is a big source of nutritious food for these tribals of these two Districts. According to 1997 live-stock census the District of Kargil had 3,65,480 live-stock population which included cattle zo/zomo (local breed of cow and castrated bulls) sheep, goats and yaks, horses, ponies, mules and donkeys. Poultry has also been encouraged and in fact as per the census, 34,711 poultry birds were counted in the District. In the Leh District as per live-stock census, the live-stock population was 3,33,759 and the composition of the various cattle and herds is almost the same as that of Kargil District. There are quite a good

number of cattle development centres, veterinary dispensaries, frozen semen banks and first-aid centres run by the veterinary assistants in both the Districts. Marino sheep development as well as Tibetan Biang sheep development have been experimented and hybridization has also been promoted with some good results.

**7.2** There should be some more experimentation done particularly for the propagation of chiku (pashmina goats). Propagation of sheep and goats apart from being good source of nutritional food, milk and milk products etc., they provide wool and pashmina and that entire traditional handloom/shawl industry of Kashmir is dependent on production of wool and pashmina particularly in these two Districts though the Bakarwal tribe has been contributing in a big way production of wool with the propagation of Marino. For centuries India procured biang wool and pashmina from Tibet through the traditional trade routes which were closed in 1960. None of the trade routes to Tibet from Ladakh region has been re-opened. Ladakh traditionally has been producing Pashmina and today it is the major producer and the annual turnover of pashmina production is stated to be over Rs. 3 crore.

**7.3** There are some nomadic tribes among the tribes listed in the Ladakh region in the Changthang area who are totally dependent on pastoral economy. The Commission recommends that a special package for the pasture development in Changthang area be provided which would help propagate sheep and pashmina goat (chiku) development for increased wool and pashmina production.

## **8. Power**

**8.1** Almost 2/3<sup>rd</sup> of the villages in the Ladakh region have been covered under rural electrification for domestic as well as commercial purpose. There are no survey done about the electrification of the habitats of Gujjar, Bakarwal, Sippi and Gaddi tribes.

The Commission recommends that hydro-power projects may be encouraged both in public sector and private sector. The private sector companies from outside may not be interested in making investment in Districts like Leh and Kargil. The Mega Power Projects may not be feasible because transmission of power particularly from the Ladakh region would be very expensive.

## **9. Industrialisation**

9.1 Industrialisation has not much scope in the Ladakh region because of its locational disadvantages and due to closure of Zozila during the winter. Shortage of material and power also are major impediments to industrial development in these two districts. However, some small scale industrial units have been set-up in these two Districts in all these years. There are District Industry Centres set-up for promoting the industrial activities mainly for promoting handloom and handicraft sector. There are a number of training centres for various crafts where training is provided. The handloom and handicraft avocation is not restricted to the traditional weaving families only. It is now being taken up by all sections of the communities.

## **10. Infrastructure**

- 10.1 Transport and communication facilities are inadequate. This in fact has come in the way of economic development of Ladakh region. Except for the Srinagar – Leh National Highway, all roads are being maintained by the PWD. The Commission has travelled during its visit through some of these mountainous high altitude rural roads. Quite a good number of villages have some access to the roads in a limited way.
- 10.2 The Commission recommends that the development of road and transport network should receive impetus. In fact, the Ladakh Autonomous Hill Development Council of both the Districts with whom the Commission had interaction emphasized time and again in their deliberations the development of infrastructural facilities, road transport, civil aviation, tele-communication and power supply. These areas are tough and difficult for

investment in these sector yet connectivity is one important factor for both economic development and human resource development, the Commission observed.

There are no firmed-up statistics with regard to the people below the poverty line in these two Districts. Both the Councils have claimed that about 40% of the people are below the poverty line. The Commission recommends that the basic data about the employment opportunities, unemployment problem and people below the poverty line should be firmed up by making objective assessment of the situation on the ground.

These Councils stated during the interaction that although efforts have been made for the accelerated development of the Ladakh region having international border land, they have not fully succeeded in mitigating the problems of Scheduled Tribes. The difficulties and problems are different, they insist, in Ladakh region. The time-period available for the implementation of the development schemes is just about 4 months. The entire development works come to stand still during winter as the road transport and communication facilities remain partially suspended. They pleaded that plan funds should be given direct to the Ladakh Autonomous Hill Development Council so as to ensure timely flow of funds to the scheme which at present is hampered by the time taken in processing the funds flow from the State Headquarters, Srinagar in summers and Jammu in winters.

The Commission recommends that Ladakh Autonomous Hill Development Councils both in Kargil and Leh should be released plan funds in one go by the first week of May every year by which time all formalities with regard to the budget processing is completed so that the season for the implementation which begin in early May through August to November can be used for speedy execution of the projects and programmes. It is not enough that Deputy Commissioners of these Districts are given powers of the Heads of the Departments for execution of the schemes but the

**availability of the funds right in the beginning of the first quarter of the financial year is an important factor. The Commission further recommends that there should be Non-Lapsable Pool of Plan Funds Resource created for these two Districts so as to enable them to begin implementation of schemes right in the month of April when the season starts. Both the Councils emphasized that the potentiality of the hydro-power generation of these two Districts should be explored and harnessed. The Commission agrees with their proposal and measures needed to be taken as described in the paragraph above may be taken.**

**10.3** Leh is well connected by air. Kargil has only a small airport. The Kargil Council demanded that the only small airport in Kargil District should be fully developed to allow ATR flights to this airport. At present AN-32 flight for civil transport is run during the winters. **They demand that 50 seater ATR from Delhi – Jammu – Srinagar route should be extended to Kargil. The Commission endorses this demand.**

**10.4** The Council also proposed that route from Pahalgam to Panikhar and then to Kargil can be made all weather road. **It also demanded the implementation of the Zozila tunnel project given to GREF should be expedited for opening up the road in winter linking Kargil and Leh Districts.**

## **11. Education**

**11.1** There are a good number of educational institutions right from the primary to the secondary level run by the Department of Education in the Ladakh region. These Districts have District Institute of Education and Training and also they have ITIs set-up to impart training in various trades. Besides, the Government run schools, there are a number of private recognized schools in these two Districts. These Government schools are run in the Government buildings as well as in private rented accommodation. Both the District of Leh and Kargil have Degree Colleges.

11.2 Gujjar and Bakarwal tribes being nomadic for most part of the year, education of children suffers. However, they have put their children into various educational institutions. The number of Gujjar and Bakarwal students studying in different schools from primary classes to matriculation has been on the rise from 80,000 in 1996 to 1,63,000 during the year 2003-04. A substantial amount of Rs. 3 crore was spent on pre-metric scholarship during the year 2003-04. Every year, there is an increase in the allocation of funds for pre-metric scholarship for the students belonging to these two tribes. There are 12 hostels for Gujjar and Bakarwal boys with an intake capacity of 1050 students. There is only one hostel for the girls belonging to Gujjar and Bakarwal tribes having capacity only for 125 students established at Jammu.

**The Commission recommends that adequate building infrastructural facilities should be raised by augmenting the plan funds with the Special Central Assistance and there can be grants provided under Article 275 (1) of the Constitution as school buildings are the basic infrastructure needed for human resource development. The tribal representatives have pointed out that the teaching staff in science subjects and mathematics etc. are not commensurate with the requirement of the staffing standard as per the education code. The Commission recommends that the adequate staffing should be provided particularly in mathematics and science streams. Also, there is a need to strengthen the science labs in the schools.**

**The Commission recommends that the hostel facilities for both boys and girls may be increased to accommodate more students at different stations close to the places they settled down in winter and also in the places where they have their permanent habitat such as Poonch, Udhampur, Doda, Rajouri, Jammu etc.**

**It was reported that there are proposals for 3 residential middle schools for education of students belonging to these two tribes submitted for locating these schools at Doda, Kargil and Anantnag**



**Districts to be funded under Centrally Sponsored Schemes. In fact, a sum of Rs. 50 lakhs has already been released by the Government of India for the purpose. It is recommended that these projects for education of the tribal students belonging to these tribes should be implemented expeditiously to achieve the target of greater enrolment of students for education.**

- 11.3** There are 297 mobile schools in the State of Jammu and Kashmir to provide education to the students belonging to these nomadic tribes. It appears that the mobile schools are essential for imparting education at the primary and elementary level. **For higher education, the residential schools would be required apart from the hostels being run at present at different places for the students of these tribes.**

Vocational training is receiving some attention. There is one vocational training centre set-up in tehsil Kangan District of Srinagar where training is imparted to the Scheduled Tribes and this centre is operational since 1998-99. There is one more vocational training centre under construction at Leh for which necessary funds have been sanctioned by the Ministry of Tribal Affairs, Government of India.

**The Commission recommends that this project should be implemented expeditiously which would help impart necessary training for skill development.**

## **12. Health**

- 12.1** In both the Districts of Leh and Kargil right from the District Hqrs. to the villages necessary infrastructural facilities have been developed by setting up primary health centres, dispensaries, sub-centres etc. Except for some specialist Doctors and nurses, there are no problems about the rest of the staff infrastructural facilities. Interestingly, there is not much emphasis laid for further strengthening of the specialized treatment facilities and about modern medical equipment etc. both

by the District Authorities, tribal leaders and the Council Members. However, in Kargil District the Council pointed out that the District hospital does not have adequate number of specialists and nurses. They pointed out that about 63% of the specialists and nurses posts are unfilled in the health institutions of the District. They proposed that Doctors and nurses should be arranged on contract basis for the health institutions and that the District Council should be given powers to fill the vacancies by deploying doctors/nurses on contract basis. At Janskar the primary health centres have no specialists. In respect of supply of medicines, the Council Members did not mention any specific problem in Kargil District. However, they wanted that the hospitals should have Ultra-sound and other equipments.

There are 12 mobile medical aid centres established for providing medical facilities for nomadic/semi nomadic Gujjar and Bakarwal tribes.

**The Commission recommends that the posts of specialists and nurses should be filled and that the grievances of the people of Ladakh region should be removed by posting the specialists and nurses recruited for these two Districts who are presently being deployed outside the Ladakh region.**

### **13. Employment and Income Generation**

13.1 The Commission is of the view that there is a need to have survey done to establish the number of families belonging to the Scheduled Tribes who continue to be below the poverty line. Some suitable schemes may have to be devised for providing them alternative opportunities of avocation in agriculture and allied sector; self-employment schemes and in trade and commerce. Under the scheme for an alternative avocation for these tribes, so far 200 shops have been constructed and allotted to Gujjar and Bakarwal beneficiaries. There are schemes for allotment of plots for housing and so far only 73 plots have been allotted to the beneficiaries belonging to these tribes.

13.2 The Commission recommends that special housing schemes may be launched to provide necessary permanent shelter to the nomadic families of these tribes in the places where they have their winter habitat. The Commission further recommends that a special economic package for socio-economic development of these tribes may be funded under the Centrally Sponsored Schemes without insisting upon State Plan participation, considering the weak resource base of the State of Jammu and Kashmir. It is now time that special measures are taken to help these tribes to have settled life with sustainable avocation in agriculture and allied sector where they can combine both settled and pastoral economy considering the compulsion they have to rear herds of sheep and goats and buffalos as an integral part of their economy. There should be a number of milk chilling plant set up for the Gujjars. Similarly, there should be wool development and marketing agency set-up for Bakarwals so as to ensure remunerative returns to these tribals.

#### **14. Reservation in Services**

14.1 Gujjars and Bakarwals are given 10% reservation in direct recruitment to the Government jobs and for the admissions to the professional institutions. Besides 5% reservation has been given to them in the promotion upto some level.

14.2 The Ladakh Autonomous Hill Development Council of Leh pointed out that the State Government has not been maintaining roster for reservation and they have pointed out that seniority list are also not being properly maintained.

15. **Bhoti Language** - Ladakh Autonomous Hill Development Council, Leh also demanded that the tribal language of Ladakh with Tibetan script i.e. Bhoti language is being used in the Leh District be listed as a language in the Eighth Schedule to the Constitution. The Government may examine the feasibility of this demand.

## **16. Tourism**

16.1 The Commission visited a number of villages close to Line of Control (LoC) in Kargil District particularly villages of Batalik, Darchik and Garkon in Kargil District and also passed through the village Dah in Leh District along the Indus river. There is another village Hanu-Do in Leh District which is also connected by road. The tribal representative of these villages have demanded opening up the areas along the Indus river for the foreign tourists particularly those who wish to visit these villages. Foreign tourists are being given inner-line permit (ILP) to visit the villages along the Indus river, Khalatse to Hanu-Do and Dah in small groups under the supervision of District Administration. But, ILP is not given to the foreigners visiting the villages of Darchik, Garkon and Batalik in Kargil District as per the Regulations in force. The District authorities and tribal people have stated before the Commission that in the past a number of proposals have been sent to the Government of India through the State Government for opening up these areas for the foreigners to promote tourism along the Indus River.

16.2 The tourism industry has tremendous potentiality, the development of which will have a multiplier effect on the economy of the tribal region of Ladakh resulting in employment and income generation. There is an adequate road connectivity along the Indus River and that being so it appears there is no problem related to traffic control, movement of tourists/visitors and that the promotion of tourism may help these tribal villages integrate culturally and socially with the main stream of India's composite culture. The District authorities are of the opinion that the movement of the foreign tourists under the inner-line permit system, if it is opened, can be regulated along the Indus River via Leh and Khalatse to the villages mentioned as above. The tribal leaders have also proposed that promotional work should be launched to attract the tourists from other States of the country, although even after the cessation of Kargil conflict in 1999 some parts of the Kargil are frequently hit, sometimes daily, by shelling from across the LoC.

**Considering the potentiality of tourism industry and its likely beneficial impact on the economy of the tribal people discussed as**

above, the Commission recommends that necessary measures be taken for promoting tourism in the Ladakh region particularly in Batalik, Darchik and Garkon areas, along the Indus River and that demand of the people of the area for opening up of these areas for foreign tourists as well may also be considered in consultation with the Union Home Ministry, Defence Ministry and External Affairs Ministry.

## **17. Integrated Development of Drokpa Tribe**

- 17.1 The natives of Darchik, Garkon, Hanu-Do and Dah belong to Drokpa community, which is a Scheduled Tribe. More than the landscape of this part of the Indus river valley, the special interest of the region is Drokpa inhabitants. The population of this tribe is around three thousands (census 2001 figures not yet available). They are believed to be of pure Indo-Aryan race and they have preserved their racial purity down the centuries. They are tall, well-built and have fair complexion. Their traditional dress is also distinctive, quite different from that of the rest of the Ladakhies. This tribe is strictly endogamous and the marriages takes place within the tribe and that is how they have been able to preserve their racial purity. **The Commission spent a considerable time interacting with the villagers in two major villages Darchik and Garkon inhabited by the Drokpa tribe.** Their culture and religious practices are geared to nature worship quite akin to Vedic culture. Their economy is agrarian but even today it is partially pastoral as during the summers they take their herds of sheep and goats and other domestic animals up in the high-lands and move from place to place in search of pastures which is an integral part of their agrarian economy.
- 17.2 **The representatives of Drokpa tribes demanded that these four villages namely, Darchik, Garkon, Hanu-Do and Dah should be given special economic package for overall economic development of these villages. In fact, they wanted that special treatment be given to their cause for rapid economic development. The Commission recommends that the Drokpa tribe inhabiting these four villages may be notified as Primitive Tribal Group (PTG) so as to help them receive special economic benefits for overall**

socio-economic development to generate employment and income on a sustainable basis. There are a number of educated youth, a couple of them are graduates who are unemployed and they have submitted their applications for Government job commensurate with their educational qualifications. The Commission further recommends that after notifying this tribe as PTG, Government may earmark certain percentage of the posts reserved for the tribes in different services at the State level to Drokpa, Brokpa, Dard, Shin tribe.

The Commission also recommends that as a part of economic package recommended as above, there should be necessary technical assistance and extension services provided for the development of horticulture in the area particularly Apricot, apple, peach, almond, walnut and grapes etc. as the climatic conditions in this part of the Ladakh region are well suited for propagation of these fruits and nuts. It was also mentioned by the tribals of these areas that some more new land can be broken that are suitable for assignment to the tribal farmers and that would help increase the size of agricultural holdings which at the moment fall in the category of small and marginal holdings. The streams and rills alongside these villages have enough water to augment traditional miner irrigation channels/kuhls as without irrigation nothing can be grown on commercial scale in this part of the area. In short, the Commission is of the view that an integrated economic development programme specifically for these four villages can be taken up for an holistic development of the area, as is apparent from the conditions obtaining there in all these years of planned development to an extent these areas remained isolated and deprived of their basic development rights.

## **10. Public Safety and Security**

1. It was brought to the notice of the Commission by the Members of the Autonomous Hill Development Council and by the tribal representatives that during the "Operation Vijay" in 1999 in Kargil sector about half of the tribal population had to migrate to safer areas leaving their hearth and property behind.

Even after the cessation of Kargil conflict heavy shelling from across the LoC continues causing damage to life and property in the Kargil/Drass sector. Only a month ago, a number of people had died due to shelling from across the LoC. In fact, a shelling from across the LoC had hit the compound of the High school in the Kargil town. It was also reported that these shellings from across the border hit the area sometimes almost everyday. The people of the border areas particularly in Kargil and Drass sectors and adjoining villages live in perpetual fear and that economic and basic services sectors have been adversely affected. The tribal people have demanded that special measures should be taken for the safety of the people to help instil a sense of security among them and some bunkers may have to be built in the affected areas for the safety of the people.

The District authorities and tribal representatives here reported that the tribals of some villages particularly Kaksar, Kharboo in Kargil Sector and Goshan in Drass Sector have migrated to safer areas as these villages have become perpetual targets of sporadic shelling from across the LoC. The District Administration has sent a proposal for relief and rehabilitation of the affected people to the State Government. It appears from the record that there were no officially notified migrations from these villages with the result a comprehensive plan for relief and rehabilitation could not be worked out under the rules and regulations. However, at present these migrants are provided free ration at a small scale without any cash assistance or house rent allowances.

**18.2 In the light of the ground realities, the Commission recommends that necessary measures for the safety and security of the tribal people of the Kargil District in the areas along the LoC may be taken to mitigate the sufferings of the tribal people on account of frequent heavy shelling from across the border. The details in this regard as reported by the District Administration have been sent to the State Government and they in turn may have taken up with the Ministry of Defence as well as with the Union Home Ministry. There is certainly no doubt about the fact that the deployment of armed forces and para-military forces in this sector have provided avenues for employment and income generation yet their primary**

concern is about the safety of the people and security of the area. We feel it is necessary to bring the ground realities to the notice of the Central government and the State Government so that necessary measures are taken urgently for the protection, safety, security and for the rehabilitation of the affected tribal people of Kargil District, considering the fact that the Nation has very well recognized the contribution the local people made for defending the borders.



## JHARKHAND

The State of Jharkhand was created on 15 November, 2000 through bifurcation from the larger Bihar State. It has an area of 74,677 sq. kms. and is bordered by Bihar in the North, Madhya Pradesh in the West, Orissa in the South and West Bengal to the East. 35 per cent of the population of the former Bihar State now lives in the Jharkhand region. About 28 per cent of the State's total population belongs to 32 different Scheduled Tribe groups like Santhal, Oraon, Munda, Ho, Gond. There are some primitive tribal groups also like Asur, Birjia, Birhor, Korwa, Parhaiya and Mal Paharia. A list of scheduled tribe groups, also showing the primitive tribal groups in bold, is at Annexure I. According to the provisional population figures of the census of India 2001, its population stood at 2.70 crores. During the decade 1991-2001, the population grew by 23.19 per cent, slightly higher than the country's growth-rate of 21.34 per cent. The sex ratio has shown an upward trend, going up from 922 in 1991 to 941 in 2001. The total literacy percentage has shown improvement, rising from 41.39 per cent in 1991 to 54.13 per cent in 2001.

2. Jharkhand is one of the richest in India in the matter of natural resources like forest, water, minerals etc. More than 29 per cent land is covered with forest. The region is said to account for about 40 percent of the country's total mineral resources, about 35 per cent of the country's known coal reserves, 90 per cent of coking coal deposits, 40 per cent of copper, 22 per cent of iron ore, 90 per cent of mica and huge deposits of bauxite, quartz, ceramics etc. The country's largest steel plant in Bokaro and the oldest steel plant at Jamshedpur are located in Jharkhand. As such, the new State has the potential to develop as the wealthiest, the most developed, the most industrialized and financially the most viable State in the country. With dexterous and efficient management of its natural and human resources, it can soon wipe out poverty and become a frontline State.

3. We paid a visit to Jharkhand soon after establishment in July 2002 of the Second Scheduled Areas and Scheduled Tribes Commission. The main purpose of that visit was to inaugurate the Commission's work in the land of Birsa Munda and Budha Bhagat, ST freedom fighters. At that time, we had a meeting with the then Chief Minister Shri Babulal Marandi and State-level officers led by the then Chief Secretary. We paid homage at the Birsa Munda Memorial in the village Dombari.

4. The second visit by the Commission Team comprising of Chairman Shri D.S. Bhuria, Convenor-Member Dr. Bhupinder Singh and Members Dr. B.D. Domore, Shri S.K.Kaul and Prof. Diwakar Minz took place from 6 – 12 October 2003. During this period, we fulfilled the following major engagements:

- (i) Tours in the districts of Lohardaga, Latehar, Gumla, Ranchi, West and East Singhbhum
- (ii) Meetings with the Deputy Commissioners, members of political parties, representatives of NGOs and other organizations and members of the public
- (iii) Meetings with the Governor, the Chief Minister and Secretaries of the State Government as well as the Chief Secretary.

5. Wherever we went, our major concern was to look at the tribal people, the state of their economic, educational, health and related conditions, in other words the level of their over-all development. We felt that equally important was the presence or absence of legal and administrative protection entrusted to the district level agencies in matters of land, money-lending, trade etc.

6. The tribals' life-support systems are based mainly on two resources : land and forest. We found that in respect of both these resources, the tribals were losers.

### **Land**

7. Loss of tribal land is a burning problem. Tribal land is alienated in various ways:

- (1) There are coercive and forcible occupations of tribal land by non-tribals.
- (2) In many cases, tribals do not possess Pattas or other relevant documents in the context of a predominant oral tribal culture.
- (3) Land records are manipulated at the time of settlement operations or at other times without the knowledge of the original tribal owner. The village officers play a nefarious role in manipulation. The Chief Minister mentioned that even some tribals do "Dalali" for sale of tribal land.
- (4) A long time lapses between a court judgment in favour of STs and actual hand-over of land to the ST owner, enabling the dispossessor to employ all subterfuges to prolong the matters and go in for appeal.

- (5) The twelve/thirty years time-bar clause often operates against the tribal, the more so since generally the tribal is not able to produce documentary evidence of his possession.
- (6) Generally the revenue courts rule in favour of the STs but the case is lost in High Court and Supreme Court as the STs do not understand the dynamics of the higher courts nor they are able to afford and pursue matters there.
- (7) In the district of Jamshedpur, people complained that since restrictions had been imposed in Jharkhand on registration on transfer of land in favour of non-tribals, some non-tribals had taken recourse to registration in West Bengal.
- (8) A novel method of land appropriation had been devised in some districts of Jharkhand, that is non-tribals marrying ST women, thereby gaining access and ownership of tribal land. Incidentally, children born out of such union have been declared as STs by the Ranchi High Court.

8. Some of these hurdles can be traced to defects in law while some others may be due to negligent or motivated implementation. Three glaring examples were often cited by the people. A non-tribal male marries an ST woman specifically with an eye on tribal landed property. The ST woman might already own the property or, in the alternative, the well-to-do man may be able to buy land and/or other immovable tribal property in the name of the ST wife. The Jharkhand Government needs to look into this matter carefully, both from the legal and practical points of view. It appears that there are some Supreme Court rulings. On the ground, the Deputy Commissioners can exert to restrain such anti-policy practices. Secondly, we were apprised of cases in which, after having occupied tribal land, the unlawful non-tribal occupant built structure or structures for which the original tribal owner has to pay compensation in the event of court's ruling in his favour. Such a provision effectively prevents the original tribal owner from restoration to him of property since he is rarely in a position to defray the compensation amount. We were informed that such cases were common in Ranchi and other urban areas. To deter the wrongful non-tribal encroachers, the State government might consider enacting a measure that allows restoration of the land along with the structures to the tribal owner. In case of repression of scheduled tribes, the Atrocities Act could be invoked. Thirdly, in the context of (7) above, the legal provision of registration of land within the jurisdiction of the State Registration Officers should not be allowed to be breached.

9. Since the State Government did not send timely their replies to the questionnaire circulated by the Commission to States on different sectoral subjects, we cannot form a proper idea of the total extent of land from which tribals have been dispossessed. In the districts which we toured, some figures were given to us showing the number of cases filed in courts, number of disposed of along with the area involved, the number in which lands were restored.

10.1 Lohardaga district administration reported 4,155 cases pertaining to an area of 8,072 acres out of which 4,014 cases were said to have been disposed of involving an area of 7,768 acres. The number of cases decided in favour of STs has been mentioned as 2,355 involving an area of 3,355 acres, while those decided against numbered 1659 involving an area of 4,413 acres. The number of cases appealed were 1,958 involving an area of 2848 acres.

10.2 In the district of Gumla, so far 10,841 cases were said to have been registered involving an area of 17,383 acres, out of which 5,573 involving an area of 7,385 acres were decided in favour of STs and 5,004 involving an area of 9,709 acres were rejected. Appeal was filed in 4,580 cases involving an area of 7,311 acres.

10.3 The figures furnished by Ranchi district administration show that to date 18,185 cases involving an area of 22,712 acres were registered out of which 15,730 involving an area 21,324 acres were disposed of, 10,145 involving an area of 11,354 acres in favour of tribals and 5,585 involving an area of 9,922 acres against. 6,220 appeals have been filed involving an area of 6,666 acres.

10.4 Land alienation seems to have occurred on smaller scale in West Singhbhum district. The number of cases filed were shown by the district administration as 268 involving an area of 209 acres out of which 226 cases involving an area of 190 acres had been disposed of. The number in favour of STs was 224 involving an area of 189 acres, while in two cases the decision was against an area of nearly one acre. In 184 cases involving an area of 134 acres appeal had been filed.

11. Two aspects are significant in this context. One, invariably the number of cases in which restoration was ordered but actual possession was not given was not mentioned. Two, the number of cases filed in courts do not, generally, reflect the situation on the ground. Detection of cases involving the weakest tribal segment is not easy and often our bureaucracy does not possess adequate motivation to help the downtrodden. There should be a provision in the Chhotanagpur Tenancy Act and Santhal Parganas Tenancy Act for suo moto detection and filing of cases in appropriate courts and their pursuit. This calls for an alert detection machinery. For motivation, the training and orientation courses run on appropriate lines with the appropriate syllabi and course contents can partly fill the bill.

12. It is necessary for the State Government to take a look at the matter holistically from all points of view. Requisite measures need to be adopted for saving the penurious and hapless tribals from further impoverishment and demoralization through loss of both their land and women.

### **Education**

13. This Commission regards education as the foremost need of tribals. In fact, educational backwardness should be deemed as the most important factor behind backwardness in all other respects. As already mentioned, the provisional 2001 census shows the state's literacy percentage as 54.13. Separate ST literacy percentage not being available, it is assumed to be much lower. In this context, in our interactions with officials, non-officials, NGOs and representatives of various organizations and groups, we discussed the causes of educational backwardness and ways of promoting literacy among the tribes.

14. In the districts, we could not get a precise position of literacy percentage. We could form some idea from information furnished otherwise. For instance, it was quoted to us that, in the Ranchi district, the results of students staying in 31 residential hostels were very poor: not a single student could pass matric examination. A dramatic indicator of the state of education was contained in the drop-out figures. At Chaibasa, the district headquarters of West Singhbhum district, where STs were reported to be 74%, 7301

children were said to be in class I and in class VIII the number was 1,562. In the district of East Singhbhum (Jamshedpur), the figures were 11,276 in class I and 1,626 in class VIII. In Gumla district, the number of primary schools was reported as 574, middle schools 141, 22 government-recognised high schools and 4 senior secondary high schools. But the students got reduced to 3,025 in class VIII from 30,840 of class I. In West Singhbhum where 930 primary schools, 254 middle schools were reported, the drop-out was from 7,140 students in class I to 678 in class VIII. In Lohardaga district, the figures were 21,905 in class I and 2040 in class VIII.

15. Another relevant indicator of the state of education is availability of school buildings. The papers furnished to us in the field do not convey adequate information in this regard. But the impression we gathered during our discussions in the districts is that there is a big gap between the requirement and availability.

16. One complaint commonly heard was that the number of teachers in position was only about half of the sanctioned strength and quite a few among those in position remained habitually absent. For example, the East Singhbhum district reported 4,296 sanctioned posts of matric trained Assistant Teachers out of which the number in position was 3,181, the vacancies being 1,115. In the district of Gumla, the total number of sanctioned posts was given to us as 1,208 in different classes, while the number in position was 767, the vacancies being 339. In Lohardaga district, 200 teachers were short. Along with the vacancies and absenteeism, the complaint was that most of the teachers were of sub-standard quality.

17. The regrettable state of education may be ascribed to the following factors:

- (a) Poverty, which compels parents to employ their children in the field in economic activities and at home to help in domestic and sibling chores.
- (b) Lack of awareness of ST parents and their general indifference to education. Addiction to liquor of parent/parents.
- (c) Apart from the vacancies in teachers' posts, absenteeism, untrained teachers, low level of teachers' motivation, diversion of teachers' time to non-teaching assignments like census, BPL survey, lack of

teachers' staff quarters act as a drag on their ability to perform and low standard of teaching.

- (d) As tribal children, particularly in the lower classes, do not generally understand a language other than their mother-tongue, as a medium of instruction the regional language becomes a barrier. The State Government need to consider to what extent this barrier can be overcome in the context of availability of local teachers, tribal language primers and text-books etc.
- (e) Mid-day meals is a great attraction to students, particularly those coming from poor tribal strata. Even the Supreme Court has also ruled promotion of mid-day meals. The State Government does not appear to have realized the importance of mid-day meals, as no sanction has issued from State headquarters for the last three months. We were informed that the scheme will become operative in December 2003 or thereabouts. This way the children are likely to lose nearly one year of their life.
- (f) In the districts we heard repeatedly the view that an important factor in the situation was lack of appropriate syllabi suitable for tribal children. Elsewhere in this report, in the chapter on education, we have advocated preparation and introduction of suitable syllabi for tribal students in consonance with their background, culture, language, level of development etc. In the districts, teaching of elements of agriculture, horticulture, manual labour etc. was lacking.
- (g) The want of buildings in some schools and their condition of disrepair in other schools impedes spread of education. For instance, in the district of Gumla, 84 schools did not have buildings.
- (h) We found that many of the schools in the districts we toured were single-teacher schools or two-teachers schools, where the single teacher or the duo was managing about five classes each. This hits at the quality of education directly. It is difficult to imagine how a single teacher or even two teachers can manage multiple classes and multiple subjects at the same time. If we are serious about education, this aspect requires serious attention.
- (i) Inadequate facilities for vocational training.

18. At Chaibasa, some officers indicated to us that teachers in Jharkhand are the best paid in the country, but because of lack of attention to duty they have leisure that enables them to indulge in anti-government and anti-people activities. To improve the quality of education, the Jharkhand Education Project has provision for filling of teachers posts and training them. But the training has not been taken seriously. As a result, the quality of education has suffered.

19. In the meeting held of State-level officers headed by the Chief Secretary on 10 October 2003, at Ranchi, we brought all these to their notice for remedial measures. The Secretary, Education, informed that under the Sarva Siksha Abhiyan, the State Government had decided to devolve funds to the villages so that they can appoint matric-passed teachers. The strategy was to initially carry out the scheme in 11,514 villages. It is not known how many villages will be covered in Scheduled Areas by the scheme. Nevertheless, the Commission feel that while it is a good idea to empower the village committees to appoint teachers, it may be preferably to appoint teachers knowing the local tribal language not belonging to the village itself. The reason for this is the complaint made to us that teachers posted in their own village have the tendency to look-after their land and domestic affairs, neglecting school duties.

20. In regard to the Netarhat Public School, the Secretary indicated that for the last three years, admissions could not be made to the school due to the fact that negotiations had been going on between the Bihar and Jharkhand governments on the question of sharing of seats and expenditure. Since Bihar Government had not responded, the Jharkhand authorities had decided to commence studies for new batch on 26 October 2003 bearing the entire expenditure. He confirmed 26 % reservation for ST students.

21. With a view to improvement of quality of education, the Secretary, Education informed that State Government was thinking of out-sourcing education to NGOs. We stressed during our discussions in the field and at Ranchi that arrangements should be made for imparting vocational education to ST boys and girls.

### **Health**

22. As in the case of education, we found that the situation regarding health was not satisfactory. At Jokhipukhar village in block Mohuadanh of Latehar, the people complained that there was no doctor in the Netarhat hospital and no staff had been posted in Chor Munda village health sub-centre. There was a strong demand for health facilities.



23. At Gumla, during the meeting with officials and non-officials, we were informed that the X-ray machine had not been functioning and, in the laboratory, only one technician was available. The diseases generally afflicting the people were tuberculosis, malaria, gastro-enteritis, goiter, anemia etc. During discussions, it was communicated to us that there were 40 per cent vacancies in the post of medical officers and 90 per cent vacancies of para-medics posts. The papers furnished to us by the district administration showed 38 vacancies among 99 sanctioned posts of MOs. The position of sub-centres was not indicated. In this district, the major complaint of the people was that medicines were not being supplied to the poor people. Anti-biotics were too costly and the people could not afford them. A sum of Rs. 25 lakhs had been lying unutilized in the civil surgeon's office because of fear relating to an earlier medicine-purchase scam. Orders of the State Government were being awaited. Further, district papers showed that during 2002-03, a sum of Rs. 27.84 lakhs had been utilized against the provision of Rs. 35.10 lakhs for medicines, no expenditure had been incurred against the provision of Rs. 5.56 lakhs for other supplies and a sum of Rs. 33, 459 only had been utilized against the provision of Rs. 2.5 lakhs for food. Thus, there had been under-utilisation of funds.

24. At Chaibasa, the headquarters of West Singhbhum district, at a meeting of district officials and non-officials, we were informed that 50 percent posts of doctors of PHCs and 50 per cent posts of nurses were vacant, while the vacancies in the 324 health sub-centres were to the extent of 40 per cent. The positions of laboratory technicians were vacant and no X-ray facility was available. These figures, however, were not corroborated in the papers given to us by the district administration where the percentage of vacancies shown was less. Even the total number of sanctioned posts varied. There was a nurses' training school in the district and it should be possible to fill up the vacancies in the nurses' posts early.

25. At Jamshedpur, East Singhbhum district, we learnt that there were 288 sanctioned posts in 244 sub-centres and 241 personnel were in position. 44 sub-centres had no buildings. In the one community health centre, there was no specialist and no X-ray facility. There was no laboratory but a technician had been posted. In the city of Jamshedpur, there was one medical college and one nurses' training centre; full

advantage should be taken of these institutions not only for the district but also for the entire State, particularly by STs.

26. On the whole, the situation on the health front in this State does not inspire confidence that health needs of the local people, particularly scheduled tribes, are being looked after adequately. There were complaints that the medical and para-medical staff did not stay at the place of their posting and absenteeism was frequent. Some of the staff required training. The existing institutions should be utilized fully. Particular attention should be paid to specific diseases whose incidence was reported.

### **Agriculture**

27. Besides the strong mineral base of Jharkhand, a present fundamental of its economy rests on agriculture and allied activities. Out of the total geographical area of 79.7 lakh hectares, the cultivable land was 38 lakh hectares and the net sown area 18.04 lakh hectares. The net irrigated area was only 1.57 lakh hectares i.e. 8 per cent of the net sown area. The major crops were paddy, pulses and other cereals. Plantation and horticulture crops were being grown in about 2.57 lakh hectares with an estimated total production of 37.85 lakh tonnes. Under live-stock production, milk, eggs and wool were the major items, goats and pigs being reared by the tribal population.

### **Schemes of the Ministry of Rural Development**

28. The national level Monitor of the Ministry of Rural Development, Dr. R.K. Shrivastava who is also an Expert in this Commission, visited Pakur district in the State of Jharkhand in September 2003. The observations here in respect of the schemes of rural development are based on his report.

29. Pakur district has a geographical area of 686.21 sq. kms. and as per provisional 2001 census figures, the total population of the district was 7 lakhs. The population is predominantly scheduled tribe and among them the Santhal and the Pahadia are significant. According to the 1997-2000 estimates, out of a total of 1,26,465 families,

73,725 families lived below the poverty-line in the district. The sex ratio was 956 females for 1,000 males. The literacy ratio as per the 1991 census was 18.76 percent and it rose to just 24.38 percent in 2001. The drop-out rates in the district were steep, being 40 percent from classes I-II, 70 percent from classes I-V and 85 percent from classes I-X. From the report, it appeared that non-tribal individual beneficiaries had been making good use of the Swarn Jyanti Swarozgar Yojna, deriving reasonable amount of monthly income after receiving financial assistance for items like a grocery shop, a bullock cart, a tea stall, a *pan* shop etc. The report was conspicuously silent on the use that tribals had made of this asset-providing scheme. The womens' self-help groups seemed to have taken loans more for consumption purposes.

29.1 One good feature described about the Indira Awas Yojna was that with the amount of Rs. 20,000 per house, the beneficiaries constructed their houses as per their requirement. However, in the matter of quantum-rate, there was a big disparity between the Indira Awas Yojna funded by the Central Government and the Birsa Awas Yojna for the Paharia, a primitive tribal group, funded by the State Government, the entitlement per beneficiary under the latter scheme being Rs. 56,000. The Monitor explained the difference was partly due to expenditure incurred on transport of construction materials like cement, gravel to hilltops where the Paharia tribe lives. He further explained that neither the Santhal nor Paharia individual beneficiaries were content with the modest type of houses intended to be provided under the two schemes, but aimed at much larger *pucca* houses, bursting the two ceilings. Essentially, of whatever dimensions, housing is a matter of individual effort, but Government assistance is meant only for those who cannot afford any investment except labour from their side. Another relevant aspect is that the houses constructed should be eco-friendly.

29.2 The report describes roads constructed under the Sampurna Gramin Rozgar Yojna and Prime Minister's Gram Sadak Yojna as suffering undue and premature damage through over-use by trucks transporting stones from the Pakur district to West Bengal and other States. Even newly constructed roads cannot be expected to undergo such beating. Nevertheless, the quality of these roads needs to be looked into. If the use is really too much, consideration may be given to the suggestion of imposition of a toll tax for their proper maintenance. In fact, the report recommends setting apart a

proportion of DRDA funds for maintenance of infrastructure and roads. Non-Plan funds are generally meant for maintenance of assets and there is no reason why the State Government should not avail of the non-Plan funds. As already mentioned, unlike other States, the State of Jharkhand is in the happy position of being able to earn substantial amount of income from royalties on the plentiful minerals mining in the State.

29.3 It is rather surprising to note from the report that funds do not reach the blocks timely to enable them to make full use of the working season and only 4 months (December-March) are available as the working season. Since the DRDAs receive funds directly from the Centre, this situation should not arise. The Ministry of Rural Development may like to inquire into the matter. We are not, however, in entire agreement with the suggestion that the DRDA funds should be made non-lapseable for at least two years. Our experience is that non-lapseability beyond the period of one-year leads to complacency and accumulation of funds.

29.4 The Ministry of Rural Development might also look into the question of deficiency in provision of staff for the DRDA, since the report mentions 73 percent vacancies. With such handicap, the DRDA cannot be expected to perform well.

29.5 We express concern over the fact that the Paharias do not like to share development projects with the Santhal. There might be historical reasons behind the differences between the two scheduled tribe groups. A duty is cast on the administration to bridge the differences and to bring the two groups together.

### **Drinking Water**

30. From discussions in the field, we learnt that the accent had been on tube-wells and hand-pumps. During our visit to the districts, no district administration gave us a total picture of all the drinking water sources like open wells, piped water supply schemes, springs, streams. However, we learnt that the situation was not satisfactory. For many villages, the water sources were distant. Many hand-pumps were not working. Official repair agencies moved very slowly. There was little awareness about the scheme of training of local man-power in villages for deployment as repair agents of tube-wells.

the state headquarters, we learnt that such a scheme has been in operation; if so, it has to be ensured that it is operated properly in the field.

31. At Gumla, we learnt that eight crores rupees were available in the district since March 2003 for a piped water supply scheme, but no action had commenced. This was brought to the notice of the Chief Minister, Jharkhand in the meeting with him on 10 October.

#### **Action in respect of atrocities on STs**

32. In district of Gumla, in 2000, a total number of 32 cases were reported out of which 21 were registered. Rape cases numbered 10, cheating and forgery numbered 11 and the remaining 11 were of miscellaneous nature. The only murder case reported related to the year 2001. The year 2002 witnessed 3 miscellaneous cases only. In the West Singhbhum district, only six cases had been reported, three of rape and three relating to cheating and forgery. The district of Lohardaga reported 4 cases in 2002-03, three of rape and one of brawl. Latehar district indicated that during 2001-02 two cases of rape and 8 of miscellaneous nature were registered. No information was furnished by other districts. While the crime-rate may be genuinely low as compared to what obtains in other districts and states, we suspect that a number of cases occurring in reality but not coming to the notice of the police go un-reported. In any event, the expectations from police are much higher.

#### **Administration and Governance**

33. As we have pointed out in our Chairman's letter to the Governor, Jharkhand and the Chief Minister Jharkhand contained in the Annexures II and III herewith, we found the district administrations in the State were not pulling their weight. The aspirations of the people have been rising, but achievements on the development front have been lagging behind. The matter is to be looked at from two points of view.

33.1 First, of energising and revitalising the official machinery through training, orientation, performance-related service conditions, rewards and punishments, inculcation of discipline etc. A ready concrete suggestion we have made is that district cadres should be constituted of as many services as possible and these should be manned by personnel recruited on

contract basis, say for three years, with the provision of extension of those found satisfactory and termination of service of those found otherwise. We have also recommended evaluation of the total techno-administrative infrastructure in the Scheduled Areas by competent experts for consideration of its fitness and suitability of the structure for over-all development. We are keen that a sound work culture is built up so that the tribal people can be pulled out of the morass in which they have been living.

33.2. The second facet of governance is political decentralisation and effective functioning of the Gram Sabhas, Gram Panchayats, intermediate Panchayats and Zila Panchayats through the different official administrative hierarchies in the districts and state headquarters. We learnt that the state has passed a law in consonance with "The Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996". However, there were some clauses which attracted objections, but even these have been overcome. The elections to Panchayats have been over-due, the last elections having been held in 1978 when Jharkhand was a part of the Bihar State. In August 2002, when we visited Jharkhand, we were informed that the elections would be held in November 2002, but such an event did not come off. We urge that the Gram Sabhas and Panchayats should commence functioning without much delay. The needs and urges of the scheduled tribe people ventilated through these bodies might bear upon the administrative apparatus, inducing loss of a degree of insensitivity.

33.3 In this context, we received a memorandum from 'Jharkhand Pradesh Parha Raja, Manjhi Parganait, Manki Munda, Dokle Sohore Mahasamiti' having its headquarters at Gram Bajra Bariatu, District Ranchi to the effect that governance in their areas has been through Pahra Patti, Manjhi Pargana and such other institutions; the heads of these institutions, such as Parha Raja, Manjhi Parganait, Manki Munda and Doklo Sohore should be accorded accreditation; in consequence, they were not in favour of elections in the 113 development blocks situated in the Scheduled Areas of the state. They advocated traditional modes of constitution of traditional governing bodies. In support, they cited Article 13(3) of the Constitution and section 4(a), (b) and (d) of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996. Among these, the relevant provision is clause (a) of Section 4 the latter i.e. PESA Act. It is based on the recommendations contained in the report of Bhuria Committee 1995

The liberal provision for allowing a tribal community to adopt its own traditions, procedures, norms, ethos etc. would be salutary .... (para 8(f))

XX XX XX XX XX

Most of the tribal societies in India have been practicing democracy, having been characterised by egalitarian spirit. Cognisance has to be taken of their indigenous institutions and ethos while considering democratic decentralization in India (para 13).

XXX XX XX XX

Time-honoured customary usages and arrangements in tribal areas should be respected and allowed to continue. Traditional tribal conventions and laws should continue to hold validity. Harmonisation with the modern systems should be consistent therewith. (para 13.1)

In view of these considerations, appropriate decision may be taken by the State Government in the matter.

34. A copy each of the letters written to the Chief Minister, Jharkhand and Governor, Jharkhand are enclosed at Annexures II and III herewith.

## SUMMARY OF RECOMMENDATIONS

Loss of tribal land is a burning problem. Alienation of tribal land takes place in many ways, like forcible occupation by non-tribals, transfer through fraud, manipulation of land records, denial of possession of land decreed in tribals' favour, marriage of a non-tribal with a tribal spouse. Some of these hurdles can be traced to defects in law, while some others may be due to negligent or motivated implementation. All these need to be looked into by the State Administration.

2. Two observations are particularly significant. One, invariably the number of cases in which restoration was ordered but actual possession was not given, did not find mention in the papers, statements furnished to us. Two, the number of cases filed in courts did not, generally, reflect situation on the ground; many cases go undetected and many do not come to record. Training and orientation courses run on appropriate lines with the appropriate syllabi and course contents may help officials and social workers by way of knowledge and motivation.

3. The 2001 census showed state literacy percentage as 54.13, but separate figure of literacy percentage of STs in the state did not become available to us. The figure can be presumed to be much lower than 54.13. In fact, the figures of drop-out of students from classes I to VIII available in the districts were alarming. The ST population of the State may be regarded as handicapped in the matter of education.

4. The causes of low literacy among STs have, inter alia, been identified as poverty compelling children to work in the field and at home, lack of awareness of ST parents, addiction to liquor of parent/parents, large number of vacancies in teachers' posts, teachers' absenteeism, un-trained teachers, their low level of motivation, diversion of teachers' time to non-teaching assignments, non-tribal language as medium of instruction, non-operation of mid-day meals scheme, unsuitable syllabi, single or double-teachers schools, inadequate facilities for vocational training. These multiple causes should be tackled multi-pronged. Some of them can be handled straightaway. For



instance, mid-day meals scheme should be introduced without further delay. Vacancies in teachers' posts should be filled up. Training of teachers should be taken up on crash footing. The teachers should be enabled to devote their entire time to teaching. The barrier of non-tribal languages adopted as medium of instruction should be overcome through availability of tribal teachers, tribal language primers, text-books etc. Appropriate syllabi, that is those in consonance with the tribal milieu, culture, language, should be evolved and introduced. Adequate attention should be given to school buildings. Single-teacher or two-teacher schools should have a larger normative number of teachers. Vocational training facilities should be vastly enlarged.

5. The quality of teaching imparted in the Jharkhand schools was found to be sub-standard. Training of teachers is an urgent requirement. Further, teachers should be placed under control of village education committees who should appoint duly qualified teachers, preferably knowing the local tribal language but not belonging to the same village.

6. As in the case of education, we found unsatisfactory delivery of health services notwithstanding strong public demands therefor.

7. We came across large number of vacancies in the posts of doctors, nurses and other para-medical staff, even to the extent of 50 percent. Equipment like X-ray machine was either not available or was dysfunctional. On the other hand, at Jamshedpur there was no laboratory but a technician had been posted. While there was public clamour for medicines, funds were lying un-used, as in the Gumla district. There were a medical college and a nurses training center at Jamshedpur, but personnel in sub-centres and PHCs were in short supply.

8. On the whole, a perplexing picture of lack of proper management emerged. There is no doubt that it can be straightened out by mere application of fundamental principles of public administration. Over and above this, we do not deem it necessary to make any other recommendation.

9. In the Santhal Parganas, non-tribals appeared to have been making good use of scheme of Swaran Jayanti Swarozgar Yojana, an assets-providing scheme modeled on IRDP. Tribals do not appear to have been conspicuous beneficiaries. This needs to be attended to.

10. It further appears that in the Santhal Parganas, while good use was being made of Indira Awas Yojana assisting beneficiaries with an amount of Rs. 20,000 per house and Birsa Awas Yojana at the rate of Rs. 56,000 per house meant for members of the Paharia primitive tribal group, the ecological angle was being transgressed and the two ceilings were being bursted. Environmental consonance in tribal areas is a matter of prime importance.

11. Notwithstanding the fact that the Ministry of Rural Development releases funds directly to the DRDA, in some districts the latter complained of delay in receipt of funds. The Ministry may look into it.

12. We are not in favour of the prescription of non-lapseability of funds of DRDA or other such organizations. During our visits to states, we came across accumulations of funds in ITDAs where non-lapseability was allowed. In our view, non-lapseability encourages complacency and fund accumulations.

13. The Jharkhand administration should attempt to smoothen the presumptive rough inter-face between members of the Santhal and the Mal Paharia tribal groups.

14. Predominant reliance on tube-wells and hand-pumps has led to a situation in Jharkhand where a large number have been lying in a state of disrepair. For one thing, the water supply schemes should be diversified, linking them to available water sources. Springs, streams may be tapped and open-wells may be dug in addition to tube-wells and hand-pumps. Secondly, local man-power should be trained to attend to break-downs of tube-wells and hand-pumps.

15. Our over-all impressions are contained in our Chairman's letters dated 14 October 2003 addressed to the Governor, Jharkhand and dated 16 October 2003 addressed to the

Chief Minister, Jharkhand. They encapsulate our observations and suggestions. One observation we would like to reiterate here is in regard to the incapacity of the district

administration in the State for meeting the goals of governance and development. An overhaul of the administrative machinery is required for rationalizing, energizing and revitalizing it. District cadres may be constituted of Classes IV and III and, where possible, of Class II services. Contract appointments may curb the tendency of laxity, apathy, indiscipline etc. on the part of staff so badly required to ameliorate the condition of the people, particularly the scheduled tribes.

Existing STs of Jharkhand

1. Asur - \*Agaria
2. Baiga
3. Banjara
4. Bathudi
5. Bedia
6. Binjhia
7. **Birhor**
8. **Birjia**
9. Chero
10. Chick Baraik
11. Gond
12. Gorait
13. Ho
14. Karmali
15. **Kharia -\* Dholki Khaira, Dudh Kharia, Hill Kharia**
16. Kharwar
17. Khond
18. Kisan - \* Nagesia
19. Kora- \*Mudi Kora
20. **Korwa**
21. Lohra
22. Mahli
23. **Mal Paharia - \*Kumarbhag Paharia**
24. Munda - \*Patar
25. Oraon- \*Dhangar (Oraon)
26. **Parhaiya**
27. Santhal
28. **Sauria Paharia**
29. **Savar**
30. Bhumij
31. Kawar
32. Kol

\* Insertions/additions as per the constitutions (Scheduled Castes & Scheduled Tribes) Orders Amendment Act,2002. Tribes indicated in bold at serial numbers 7,8,15,20,23,26,28 & 29 are PTGs.

**Copy of D.O. letter dt.16.10.2003 from Shri DileepSingh Bhuria, Chairman, Scheduled Areas & Scheduled Tribes Commission, Govt. of India addressed to Shri Arjun Munda, Chief Minister, Govt. of Jharkhand, Ranchi**

I thank you and the State government for the hospitality extended to me and the members of my Commission during our visit to the State of Jharkhand 7-12 October 2003. I thank you also for the breakfast-meeting held on 10 October 2003 at your residence.

2. I recapitulate here some of the issues that we discussed during our meeting. As I mentioned to you, we toured the districts of Lohardagga, Lathihar, Gumla, Ranchi, East Singhbhum and Jamshedpur. We met hundreds of people, specially the scheduled tribe people, and held meetings at each of the district headquarters composed of the district officers as well as members of the general public.

3. One major observation we made was that while there have been a slew of rising aspirations of the people, requisite achievements on the development front have lagged far behind. One reason has been that political decentralization has not been effected in the State through formation of Gram Sabhas and Panchayats at the village, block and district tiers. Last year when we visited Jharkhand, we were informed that Panchayat elections would be held and Panchayat bodies would come into being in November 2002. You informed us that the State Government now plans to hold Panchayat election in December 2003. As and when that happens and the Gram Sabha and Panchayat bodies see the light of the day, people will begin to feel empowered and undertake steps for their own development.

4. As you would have noticed, our stress has been on education, for we feel that it is through education and awareness that the tribals can avail of the various benefits meant for them through the various development policies, programmes and schemes. But in the district we found a high percentage, sometimes even 60, of teacher posts vacant. Wherever teachers were in position, their quality left much to be desired. This situation is a formidable hurdle to spread of education among tribal people. You mentioned that State Government was remedying the situation by was of thousand of new appointment and district quotas were intended to be fixed. This is a good measure. I would further suggest that the personnel in the districts should be appointed on contract basis, say for a period of 3 years with provision for extension of service if found satisfactory and for

termination if found otherwise. This is likely to eliminate the sense of complacency which a permanent government servant acquires in course of service.

5. Our interaction with the district administrations revealed a degree of insensitivity among some of the district officials in their attitude to development work. There were accumulation of funds, amounting to even crores, in almost all districts. In Netarhat districts we found funds of 1997-98 lying unspent. On the whole, the incapacity of districts administration was apparent. Doubtlessly, along with lackadaisical attitudes, this is likely to get routinised more and more. We feel that it is necessary to energise the administration at various tiers to be able to deliver goods. For the purpose, it may be necessary to have an objective evaluation of the existing state of affairs. This may be got done by experts from within or without the State. Incidentally, I mentioned this at the meeting held subsequently the same day with the Chief Secretary and other State-level officers.

5.1 You indicated that the State did not have adequate number of IAS officers for manning the posts of Project Officers in the districts and ADMs were being deputed. I have no doubt that even amongst the State Civil Service cadres, there are competent officers and they can discharge their duties as well as any other. The essential thing is to obtain expert advice to restructure and revamp the techno-administrative apparatus, both in the district and at State headquarters. A sequel to it might be man-power planning for state as well as district-level officials, say teachers, doctors, engineers, nurses, technicians et.el.

6. A burning issue which came up repeatedly before us in the field relates to alienation of land of scheduled tribes. Apart from the well known methods adopted by non-tribals for take-over of tribal land like lack of documentary evidence available with STs, manipulation of land records by non-tribals, caste certificates issued by village officers on the basis of manipulated entries in Khatian, benami evidence, coercive methods adopted by non-STs, time-bar in respect of adverse possession, a novel route adopted for dispossession of tribal land came to light during our discussions in the field. It seems that a large number of non-tribals have used the method of marrying ST women and transferred in their name. Their offsprings have been categorized as STs. In short, a number of methods have been and are being adopted to snap up tribal land, leaving the concerned tribals resourceless. There is need to examine the law or laws in this regard to

stem the rot. You may like to get the entire matter examined with a view to amendments towards stricter anti-alienation laws and more stringent implementation.

7. In the field of development, one or two instances were cited by us in the meetings to exemplify the state of affairs. In the district of Lohardagga, we were informed that earlier 259 villages had been electrified and of them only 63 villages remained electrified as on date, denoting regression. In Gumla district, about 8 crores of rupees have been available for water supply of Gumla town, but no steps have so far been taken for utilization. Again in Gumla, we learnt that there was acute shortage of medicines despite a sum of Rs. 25 lakhs being available; no purchases had been made in the background of a scam a little while ago. On account of freedom of private practice, patients were not being given adequate attention in government hospitals. A Civil Surgeon was awaiting government orders for indication of companies from whom medicine stocks could be purchased. You stated that the State Government was taking steps to introduce DRDA pattern for administration in Scheduled Areas. In our view, the induction of Panchayat organizations along with the DRDA patterns of funding them should go some way in improving matters.

8. I informed you that representatives of a number of villages of the total of 245 villages affected, met me at Jokhipukhar village in Mohuadahn block. They were agitated on account of fear of continuation of a firing range in the area. According to them, the firing range would uproot people and dislocate life in the area. You may like to consider the matter and, as necessary, take it up with the defence authorities.

9. Another issue which was raised at Jokhipukhar and elsewhere pertained to caste certificates being issued on the basis of report of village officers based on entries in Khatian. One example quoted was that of Bhuinyar Munda. Such a sub-tribe not existing in the list of scheduled tribes of Jharkhand was creating difficulties. The State Government might examine the matter.

10. I have mentioned above a few issues that came up during our discussions. Separately, we are compiling a note on the various matters that we came across in our six-day tour of Jharkhand and I shall let the State Government have a copy of it as soon as possible.

11. I trust you will give earnest consideration to these issues with a view to resolving them.

With regards,

14 October 2003

Dear Shri Marwah,

It was good of you to have spared some time for a meeting with Members of the Commission and myself at Ranchi on 10 October 2003. It was a pleasant meeting.

2. I recapitulate here some of the issues we discussed.
3. In the first instance, we agreed that naxalism based on the philosophy of violence cannot resolve the problems of the masses of India and of Jharkhand in particular. As almost all the districts in Jharkhand are affected by underground violence, our dominant stress should be on development, while taking all requisite measures for maintenance of law and order. Visible and palpable results in the economic and educational spheres among the tribal people of Jharkhand are likely to dissuade them from joining the extremist ranks and indulging in violence.
4. Our inter-action with the people at large in the districts we toured and members of the Administration led us to believe that the latter was not pulling its weight. In our meeting with the Chief Minister and State level officers earlier the same day, we had emphasised that there was need to energise and revitalize the machinery. Three years have passed since Jharkhand came into being and we trust that the State has, by now, settled down. The State Government may consider evaluation of the total techno-administrative infrastructure in the Scheduled Areas for consideration of its fitness and suitability for over-all development. You may recall that Prof. Appleby had looked at Bihar administration about four decades ago and made valuable recommendations. A sound work culture needs to be built up so that the tribal people can be pulled out of the morass in which they have been living.
5. A ready suggestion which we cited was that district cadres should be constituted of as many services as possible and they should be manned by personnel recruited on contract basis, say for three years, with the provision of extension for those found



satisfactory and termination of services of those found otherwise. We make this suggestion particularly for tribal areas since we found that commonly the employees in the districts set-up were not of requisite capacity and devotion to duty.

6. It struck us, as it would to any other perceptive observer, that while on the one hand Scheduled Areas of the State abound in land, forest, minerals, and water resources, the people living there are penurious, illiterate, mal-nourished and isolated. The natural wealth urgently and fully needs to be harnessed for the betterment of the people.

7. We agreed that the best way would be to empower the tribal people to enable them to effect development, through their own Panchayat organisations. The Provisions of Panchayats (Extension to Scheduled Areas) Act 1996 offers wide scope for tribal empowerment through accordant State Panchayat law and related laws passed by the State Legislature. Should a village community so desire, the traditional Panchayat can function at the Gram Sabha level, while elections should be held to fill up positions in the Gram Panchayat, Panchayat Samiti and Zilla Panchayat. Since elections have not been held since 1978 in Bihar, there is need to hold early elections to Panchayats in the Jharkhand State. We pressed this view in the meetings with the Chief Minister and State level officers. It is essential to hold the elections and entrust the responsibility of development to the people themselves, particularly in the Scheduled Areas.

8. During our visit to Netarhat in the district of Lathehar at Jokhipukhar, the people complained against firing range in the area. It was indicated that about 245 villages were affected. Their demand was for removal of the firing range. You may like to look into the matter.

9. As we discussed, the Fifth Schedule of the Constitution confers special responsibility on the Governor of a State having Scheduled Areas for peace and good government of the area, protection of the tribal people in the matter of their land, money-lending and their development. A general law on the subject may be helpful. Further, the Fifth Schedule has two more significant provisions. One, establishment of Tribes Advisory Council and Governor's Annual Report on Scheduled Areas to the President. The Tribes Advisory Council should meet periodically and should be encouraged to deliberate on all substantive issues concerning Scheduled Tribe people

and to express its views to the State Government. The Governor's report should rise above the routine level and dwell on important matters and questions in the Scheduled

Areas of the State, highlighting achievements and short-comings, as well as drawing the attention of the Union Government towards areas where action on its part is required.

10. I have outlined above most of the points which came up during our discussions. If there has been any omission, or you would like any other matter to be considered or reviewed by our Commission, kindly let me know.

With regards,

Yours' sincerely

( Dileep Singh Bhuria )

Shri Ved Marwah  
Governor Jharkhand  
RANCHI

## **STATE REPORT ON KARNATAKA**

1.1. Karnataka State is bounded in the north by Maharashtra, Goa in the north-west, Arabian sea in the west, in the south by the states of Tamil Nadu and Kerala and in the east by Andhra Pradesh.

1.2. The Karnataka State was constituted by merging of the then Mysore State, certain districts of the erstwhile Bombay State (Uttar Kannada, Dharwar, Haveri, Gadag, Belgaum, Bijapur and Bagalkote Districts), parts of erstwhile state of Hyderabad State (Bidar, Raichur, Koppal and Gulbarga Districts) and parts of erstwhile Madras State (Bellary District and Kollegal Taluk of Chamarajanagar District and Dakshina Kannada District) and erstwhile Coorg State.

1.3. The Commission visited the districts of Mysore, Chamarajnagar, Coorg, Mangalore, Dharwad, Udupi and Bangalore from 7<sup>th</sup> July to 13<sup>th</sup> July, 2003 and Udupi, Mangalore and Bangalore from 2<sup>nd</sup> January to 6<sup>th</sup> January, 2004.

### **Statistical profile**

2.0. Some relevant demographic details as per census are given below:

	1971	1981	1991	2001
Total population	2,92,99,014	3,71,35,714 * (26.75)	4,49,77,201 * (21.12)	5,28,50,562 * (17.51)
ST population	2,31,084 ** <u>0.79%</u>	18,22,081 *(688.49) ** <u>4.91%</u>	19,15,691 * (5.14) ** <u>4.26%</u>	34,63,986 * (80.82) ** <u>6.55%</u>

\* indicates decadal growth rate,

\*\* %age of ST population to the total population.

## Sex ratio :

Census	General	ST
1991	960	970
2001	963	972

## Literacy rate: 1991 census

General	-	56.04%
ST	-	36.01%
No.of ST communities	-	50
Major ST communities	-	Naikda (13.70 lakhs), Dubla (1.24 lakhs) Marati in D.K. district (0.75 lakh), Koli Dhar (0.69 lakh)
PTGs	-	Jenu Kurumba (29,371), Koraga (16,322)

2.1. It will be seen that there was high growth rate of 688.49 and 80.82 during 1971-81 & 1991-2001 in the ST population. This spurt in ST population is attributed to (1) certain communities with nomenclatures similar to those included in the list of STs returned themselves as ST population (2) removal of area restrictions under the Scheduled Tribes List (Modification) Order, 1956 owing to which certain tribes which were ST in some areas and which were not treated as ST due to area restrictions in some other areas, were returned as ST and (3) a combination of both these reasons. Naikda constitute 71.5% of ST population in the state.

## Scheduled Tribes lists

3.0. The ST list of the then States of Bombay, Hyderabad, Madras and Coorg at the time of merger were made applicable to the respective merged areas. Under the Scheduled Tribe List (Modification) Order, 1956, 49 communities were notified as STs in the State. During 1976, the area restrictions were removed and tribal communities were declared STs throughout the State. In 1991, Naik, Nayak, Beda, Bedar and Valmiki were added to the existing entry of Naikda. In January 2002, Siddi community in Uttar Kannada District was notified as a ST and certain synonyms were added to the tribal communities of *Meda* already in the ST list. The list of STs may be seen at **Appendix – I**.

3.1. The Commission was happy to note that the Governor of Karnataka in his speech on 5<sup>th</sup> January, 2004 in the State Legislative Assembly stated as follows: "A Commission to examine inter-se reservations has been set up under the chairmanship of Justice N.Y.Hanumanthappa, retired Chief Justice of Orissa High Court to ensure that the benefits of reservation reach those who deserve it the most."

### **Tribal sub-Plan (TSP)**

4.0. STs constituted 4.26% of the total population of the state in 1991. The State Government has laid down that 3 percent of State Plan outlay funds should flow to the TSP. The Finance Department allocates the funds to the departments based on the resources position. After identifying the divisible from where the benefits directly go to STs the upfront pooling is done by the Finance Department. The information furnished by the State Government of the outlay and expenditure from the State Plan and flow to TSP during the period from V<sup>th</sup> to IX<sup>th</sup> Plan and the annual years 2001-2002 & 2002-2003 is indicated below:

**Table - 1**

( Rs. in Crores)							
S.No.	Plan	State Plan		Flow to TSP		Percentage of	
		Outlay	Expenditure	Outlay	Expenditure	Col.5 to 3	Col.6 to 4
		3	4	5	6	7	8
1	Vth	744.23	278.18	7.99	4.37	1.08	1.57
2	VIth	2710.49	2265.00	28.13	17.89	1.04	0.79
3	VIIth	4217.81	3575.00	64.78	54.44	1.54	1.52
4	VIIIth	15167.00	12300.00	245.00	208.67	1.62	1.70
5	IXth	32137.92	23400.00	453.53	378.81	1.41	1.62
6	Xth	43611.86	43558.22	858.84	211.60	1.97	0.49
7	2001-02	8588.28	8588.28	134.09	105.63	1.56	1.23
8	2002-03	8720.62	8610.61	130.67	105.96	1.50	1.23

4.1. It will be seen from the above table that the flow of funds to TSP was always less than 2 percent of the State Plan outlay and in the case of expenditure it was never more than 1.70 percent of the State Plan expenditure. The State Governments who have accepted TSP strategy

allocate funds to the TSP areas according to the percentage of the ST population. The State Government has not furnished to the Commission X<sup>th</sup> Plan TSP report.

4.2. The statement given below indicates the priority-wise expenditure incurred in the TSP areas during the period from 1975-2001:

**Table - 2**

<b>Department</b>	<b>Amount (Rupees in crores)</b>
Education	57.83
Rural electrification	54.97
Rural road	17.04
Drinking water	16.24
Agriculture	13.83
Health	10.14
Minor irrigation	9.36
Co-operation	8.10
Rural industries	7.93
Horticulture	5.91
Animal husbandry	5.84
Forest	5.46

4.3. It will be seen from the above statement that the priority has been given to education, rural electrification and roads. Except education, electrification and roads are not an immediate priority of the tribal communities living in accessible areas. We have in this report mentioned instance of a mini-hydro electric project constructed in the Dakshin Karnataka district for Malaikudi tribals at a cost of Rs.12 lakhs of which only 50% was contributed by the Tribal Development Department as against Rs.1.00 crore required by the Electricity Department for extending electricity poles to the village.

4.4. The Commission recommends that the State Government should allocate 7 percent of the State Plan outlay for the TSP areas to make leeway

for accelerated development of STs in sectors like agriculture and allied schemes, health and drinking water and the money should be credited to a major head of account of the ST welfare department, which should further allocate funds from this amount to the line departments.

### **Integrated Tribal Development Projects (ITDPs)**

5.0. There are 5 ITDPs as given below:

**Table - 3**

Sl. No.	Name of the ITDP	Date of Est.	Total Population	ST Population
1.	Mysore (undivided)	1977	3165018	102102
2.	Kodagu (Virajpet)	1977	488455	40312
3.	Puttur (D.K.)	1977	1567820	61568
4.	Udupi (Udupi)	1981	1126444	44591
5.	Chikmagalur (Mudigere)	1981	1017283	26534

5.1. The State Government has neither issued any guidelines for preparation of project reports of ITDPs nor prepared any project report. Each Zilla Panchayath prepares an annual action plan for the district including ITDP area involving the officers of Zilla Panchayats of ITDP, Development department, which is discussed at the state level and if necessary modifications are made in it.

5.2. "The State Government is following sectoral approach for earmarking the state plan funds for the TSP and pooling of funds under the state sector TSP is being partially followed". The reply of the State Government is not explicit. The State Government has not opened a separate major budget head in which allocations made by the concerned departments of the Government for TSP are credited. 3% of the total allocation to each line department is being earmarked for TSP under separate minor head of the concerned department. The population criteria is being adopted for allocation of TSP funds to the different

ITDPs. The expenditure incurred by the departments during the period from 5<sup>th</sup> Plan to 9<sup>th</sup> Plan is given in the table below:

**Table - 4**

( Rs. in Lakhs )

Sl. No.	Department	V Plan 1975-1980	VI Plan 1980-1985	VII Plan 1985-1990	Annual Plan 1990-1991	Annual Plan 1991-1992	VIII Plan 1992-1997	IX Plan 1997-2001
1.	Agriculture	680	1094	1693	876	735	3809	4931
2.	Horticulture	482	912	1424	572	581	2975	4089
3.	Animal husbandry	853	1283	1698	263	276	2637	3092
4.	Forest	608	1326	1908	-	192	2904	3675
5.	Rural industries	346	861	1326	136	89	1689	1968
6.	Cooperation	-	-	-	-	-	-	-
7.	Minor irrigations	418	624	963	68	21	1024	1526
8.	Drinking water	55	86	78	13	27	166	296
9.	Rural electrification	74 colonies 500 B.Jyothi	86 colonies 538 B.jyoti	135 colonies 794 B.Jyoti	25 colonies 302 B.Jyoti	22 colonies 264 B.Jyoti	206 colonies 1592 B.Jyoti	225 colonies 2500 B.Jyoti

5.3. The special central assistance sanctioned by the Government of India is distributed to the ITDPs, PTGs and dispersed tribals according to the utilization of these funds. **The Commission recommends that the project reports should be prepared for each ITDP indicating the dimension of the problems faced by the STs in each area and the measures adopted / proposed to be taken to tackle them.**

### **Asset evaluation**

6.0. Nidhi Datastrata, Mysore conducted an asset evaluation study of the beneficiary oriented TSP schemes during 2000-01 and found that "the beneficiaries have not secured adequate assistance to improve their income owing to fringe benefits. It is found that the average value of assets vary from

\* *The figures furnished by the State Government in Tables 1 & 4 do not tally.*



Rs.226/- to Rs.10,000/- provided to individual beneficiaries, thereby they have not been able to cross the poverty line due to inadequate assistance and meagre benefits to individuals. Reason being individual departments, have set the physical targets separately without focusing family as a unit. Some of the programmes chalked out by certain departments were not found to be viable and useful to the beneficiaries. Different development departments prepared programmes for the economic development of ST's apart from civic amenities. There is very little scope to implement the schemes like fishery, horticulture, animal husbandry in the districts of Bellary, Bijapur, Raichur, Gulburga, Koppla, Bagalakot, Gadag and Haveri districts, due to lack of infrastructure facilities, water facilities, fodder etc. Local conditions are rather more important for the success of the programme. Adequate water facility and other sources are very much needed to implement the schemes of fishery, horticulture and sericulture."

**6.1.** The study has suggested that the present system of assigning physical targets to individual department should "be dispensed with, as it has not yielded desired result, colony/cluster wise action plan is to be prepared keeping in view the background of tribals, their experience, inclination, local condition to provide assets. The problems of beneficiaries and their actual requirement are the basic factors to identify suitable schemes. Involvement of beneficiaries is also very important for success of any programme. As such the beneficiaries are to be taken into confidence while preparing need based action plan. It is very necessary to provide the assistance / assets to the adult members of the family to keep them engaged in some profession to enable them to improve their economic status." A few other suggestions made for involvement of the tribals in planning and execution of schemes is given in *Appendix II*. **The Commission recommends that the State Government should modify the beneficiaries' programme in the light of the suggestions made by the Asset Evaluation Study.**

## **Large sized Multi-purpose Co-operative Societies (LAMPs)**

7.0. Karnataka State LAMPs Co-operative Federation Ltd., Mysore has been functioning since 1997-98. 20 LAMP societies were functioning in the state at the end of March, 2003; 5 societies in south Canara district, 4 in Chamarajanagar district, 3 each in Udupi and Kodugu districts, 2 each in Mysore and Chickmagalur districts and one in North Canara district. The societies have a membership of 63,738 persons. The Share Capital given by the government was Rs.303 lakhs and members' share was Rs.58 lakhs. The government subsidy was Rs.114 lakhs and the working capital was Rs.10.14 crores. The Federation has incurred an accumulated loss of Rs.8.82 lakhs as on 31.3.2003. Two societies in Mysore district and one society each in Udupi and South Canara districts were incurring losses. Under the centrally sponsored scheme, an assistance of Rs.52 lakhs was given for minor forest produce operations. The Federation purchases *Seegakai*, honey and tree mass from member societies. The Federation has taken up powdering and package of *Seegakai*, and proposes to take up processing of honey also. It has advanced Rs.25.00 lakhs to the 10 LAMP societies for collection of MFP. The Commission during its interactions with the tribal members of the LAMP societies was informed that they are not getting benefit of the price at which the MFP is sold. **The Commission recommends that the working of the LAMP Cooperative Federation should be evaluated and action taken to revamp it so that the tribals collecting MFP get adequate return of the profits earned by the society by its sale.** The Commission met members of the Virajpet taluk LAMPs in Coorg district. The Society requested that a petrol bunk may be allotted to them since there is heavy vehicular traffic and land for taking up afforestation programme.

## **Education**

8.0. The State Government is running ashram schools, primary schools and high schools, pre-matric and post-matric hostels and also giving scholarships to ST students studying in various classes. The Tribal Department is running 122 residential ashram schools for ST students studying from 1<sup>st</sup> to 5<sup>th</sup> standard. The

general schools are run by the Education department. There is no difference of syllabus and curriculum in the schools maintained by the Tribal & Education departments. The rates of scholarships are as follows:

1.	Classes 1 to 4	-	Rs.75 per annum
2.	Classes 5 to 7	-	Rs.50 p.a.
3.	Classes 8 to 10	-	Rs.100 p.a.
4.	Merit scholarships 5 to 7 <sup>th</sup> std.	-	Rs.75 p.a.
5.	Incentive scholarships to ST girls studying in high schools in addition to scholarship mentioned above.	-	Rs.500 p.a.
6.	Post matric scholarships - day scholars - - hostlers	- -	Rs.90 – Rs.190 p.m. Rs.450 p.m.
7.	Special cash award to 1 <sup>st</sup> five meritorious students in SSLC of each district.	-	Rs.5,000
8.	Special cash award to 1 <sup>st</sup> five meritorious students in PUC of each district.	-	Rs.10,000
9.	Financial assistance to the students studying in ... ..	M.Phil - Phd. - IIT/IIM/IISc -	Rs.8,000 Rs.10,000 Rs.50,000
10.	Financial assistance for 1 <sup>st</sup> to 10 <sup>th</sup> rank holders in SSLC, PUC, Degree & first three ranks in Post Graduation.	-	Rs.5,000

**8.1. The Commission has observed that the amount of scholarship given to the students studying in classes I to X is very meagre and even the amount of scholarship sanctioned to the PTG students is very low. The State Government has not indicated how many ST students belonging to educationally backward communities and PTGs have received special cash awards and assistance to pursue higher education in IIT/IIM/IISc. The Commission recommends that educationally backward tribal communities**

and the PTG students specially should be given adequate monthly scholarship so that they are not a burden on their families. The Commission also recommends that means test should be applied for disbursement of scholarships.

### **Drop-out rates**

8.2. The following table indicates drop-out rate of STs at various stages of school education:

**Table - 5**

YEAR	1 TO 5 <sup>TH</sup> STD.	1 TO 7 <sup>TH</sup> STD.	1 TO 10 <sup>TH</sup> STD.
1997-1998	31.55	37.76	58.58
1998-1999	27.41	44.60	54.74
1999-2000	30.66	27.05	61.00
2000-2001	17.81	37.11	62.58
2001-2002	12.94	33.56	69.50
2002-2003	25.75	34.37	64.35

8.3. It will be seen from the above table that the drop-out rates in classes 1<sup>st</sup> to 5<sup>th</sup> become alarmingly high in the higher standards of school education. This is primarily due to the fact that the rates of scholarship are very low which should be enhanced as recommended in the above para.

### **Health**

9.0. Alienation of tribals from their forest resources for their livelihood, exploitation by the non-STs as unorganized labour, displacement due for claims have resulted in the deterioration of the health status of the STs. Sale of illicit liquor in the tribal areas has lead to alcoholism and related problems.

9.1. An accurate and reliable baseline data on the health infrastructure and health status of the tribals is not available. The health infrastructure in tribal areas is extremely poor. As per 1991\* census only 54.8% of the villages in ITDP areas of Mysore, Chikamagalur, Kodagu and Dakshina Kannada had some medical facilities; the average distance between the village and medical facility was about 8 kms. The visits by the health workers were grossly inadequate, 33% received weekly visits, about 17% received fortnightly and 27% received monthly visits.

\* State Task Force Report.

**9.2. Disease like G6PD (Genetic Metabolic Disorder) deficiency and sickle cell anemia specific to tribals is prevalent among 20% of the tribal population. The common diseases like malaria, tuberculosis and STDs are endemic in the tribal areas. However, tribals who still have access to forest resources have retained their traditional health care system better than others. The tribal development department has not indicated separately information of the number of CHCs, PHCs and Sub-centres located in or near the tribal settlements. They have supplied figures in respect of these centres for the state as a whole from which, it is seen that a large number of posts are vacant in the category of specialists, doctors and paramedical staff. The Commission during its interaction with the tribal representatives was informed that PHCs and sub-centres are not easily accessible from the tribal settlements and do not have essential diagnostic facilities, drugs and facilities for treatment and referral support. The State Government has introduced mobile health units to cater to the needs of the tribals living in the inaccessible areas. But due to the vacant posts of doctors and paramedical workers, the facilities cannot be availed by the tribals. There is no system of transporting emergency cases to the hospitals. In tribal areas there are many Ayurvedic practitioners, who were rendering health care services to the tribals. In a report published by the Ministry of Tribal Affairs, it is stated that the population of the Jenukurubas, a PTG decreased from 29,092 in 1981 to 26,608 in 1991. The State Government is running through voluntary agencies, 2 PHCs and sub-centres to provide health facilities and tribal girls who have passed 7<sup>th</sup> standard have been trained by conducting short-term Auxiliary Nurse-Midwives (ANM) training courses and posted in the tribal areas.**

**9.3. Drinking water and sanitation facilities in the tribal settlements are poor. A study has revealed that only 51% of the hamlets have bore well facilities, 23.4% have open wells, 17% have tanks, 6.4% have river water and 11.3% have tap facilities. Voluntary Agencies are providing health care facilities to the tribals living in B.R. Hills, M.M. Hills of Chamarajnagar district and at H.D.**

**Kote. There should be increased collaboration between the voluntary and government sector.**

**9.4. The Commission reiterates the recommendations\* made by Dr. H. Sudershan, who has done pioneering work among the tribal areas of the state in the field of education and health and it is hoped that the health department of the State Government will take urgent action to implement them so that the health conditions of the tribals are improved. The recommendations are -**

- i) A rapid survey of the health status of the tribals should be carried out and region specific and tribe specific health plans made.**
- ii) The norms for PHCs and sub-centres in tribal areas should have geographical and population basis and they should be flexible.**
- iii) Tribal girls should be selected and trained as ANMs and posted in tribal sub-centres. They should also be trained in traditional medicine and health practices.**
- iv) Traditional healing systems in tribal areas must be encouraged and documented and there should be integration of modern medicine with the traditional systems. Herbal gardens in tribal areas should be promoted.**
- v) Genetic diseases like Sickle Cell Anemia, G6PD deficiency, which are specific to tribals should be tackled by providing adequate funds and expertise, for their treatment, research and rehabilitation with the support of medical colleges.**
- vi) Secondary and tertiary care, transport facilities for emergency services and obstetric care are essential.**

**\* State Task Force Report**

- vii) Health education, Participatory Rural Appraisal (PRA) exercises and micro planning, convergent community action, training in communication skills, mobilization of local health resources are essential.
- viii) Ensure nutrition security through kitchen gardens and encouragement to grow nutritionally rich food crops. Public distribution system should distribute cereals like ragi, bajra, oil and pulses instead of polished rice and sugar.
- ix) Proper functioning of the anganwadis in tribal areas should be ensured through appointment of local tribal staff and using locally available foods.
- x) A Health Monitoring Information System (HMIS) of the health infrastructure, human resources, vital statistics and other health indicators specially for the tribals is mandatory and should be an on-going process.
- xi) There should be increased collaboration between the government and the NGOs in tribal areas. The voluntary agencies must be involved in all health and development activities undertaken by the government.
- xii) Tribal housing with adequate and safe drinking water and sanitation facilities and smokeless chulhas should be ensured.
- xiii) The Mobile Health Units in tribal areas should be made fully functional by filling up the vacant posts, providing equipment and drugs.
- xiv) Ban sale of liquor in tribal areas.

### **Primitive Tribal Groups (PTGs)**

**10.0.** There are two PTGs in the state. Jenukuruba, whose population was 23,597 in 1991 are living in the districts of Mysore, Chamarajanagar and Kodagu. The other PTG, Koraga, whose population was 11,566 in 1991 are living in

Dakshina Kannada and Udupi districts. Jenukurubas collect honey, herbs, roots and fruits and they are concentrated in HD Kote and Hunsur Talukas of Mysore district. Koragas are engaged in basket making and working as labourers and some as scavengers in Mangalore town. Both PTGs are landless. The State Government should take benefit of the Ministry of Tribal Affairs' scheme for starting model schools for tribal people so that the PTGs can be provided educational facilities.

**10.1** Jenukurubas living in Bandipur Tiger Reserve were shifted outside the reserve to 5 villages. The construction of Kabini reservoir project also displaced them. Out of 377 Project Affected Families (PAFs) of both these projects 223 have got lands and 154 families are still landless. The State Government had approached the Government of India and after obtaining their approval, 154 tribal families will be settled on 200 ha. of forest land providing housing, education, economic activities and irrigation facilities to these families. **The State Government should avail of the grants from the Ministry of Tribal Affairs to open educational schools for PTGs.**

### **Nagarahole National Park**

**11.0.** Rajiv Gandhi National Park (RNP), Nagarahole covers an area 643.40 sq. kms. spreading over the districts of Kodagu and Mysore. 1,550 families comprising a population of 6,145 persons are living inside the park. 950 families with a population of 3,720 persons are living in 29 tribal *hadis* in Kodagu district and 600 tribal families with a population of 2,425 are living in 25 *hadis* in Mysore district. The relocation of these families under the centrally sponsored Beneficiary Oriented Tribal Development Scheme (BOTD) was sanctioned in 1999. The scheme provides Rs.one lakh per family, which includes Rs.36,000 each for construction of a house and land development, Rs.9,000 for community facilities, Rs.8,000 each for pasture and fodder plantations and woodlot and Rs.1,000 each for transportation of household goods and cash incentives for shifting.



11.1. The Government of Karnataka has obtained the approval of the Union Ministry of Environment & Forests for diversion of 1931 ha. of land for the relocation of the tribal families. The relocation and resettlement was started in 1999-2000 and so far 250 families have been relocated till March 2002. Voluntary rehabilitation has been taken for the tribals living in Nagarahole. 2 ha. of forest land to each of the tribal families has been given. The Government of India has neither released any assistance during 2003-04 nor communicated the revalidation of unspent balance of 2002-03. The rehabilitation programme has therefore come to a standstill.

11.2. The Commission observes that after having obtained the voluntary consent for relocation and resettlement of 1,500 tribal families of RNP only 250 families have been relocated and recommends that the remaining 1,250 tribal families should be resettled without any loss of time and the Government of India should release the necessary funds to the state government.

### **Settlement on land**

12.0. During the tour at Mangalore, the Commission was handed over a proposal amounting to Rs.15.22 crores for rehabilitating the landless Koraga families formulated by the district authorities for purchase of 500 acres of land for cultivation and 50 acres for construction of colonies, houses, schools etc. in 5 talukas of Dakshin Karnataka district. The Commission pointed out a number of short coming in the proposal such as (i) the beneficiaries would be living far away from the land, which they will be allotted, (ii) the quality of the land was not good enough to take up agriculture on sustainable basis and (iii) 25% loan component in the land cost may be difficult for a tribal to repay since agriculture may not be very remunerative.

12.1. The Commission is happy to note that prompt action was taken by the Deputy Commissioner, Mangalore to revise the scheme after holding detailed discussions with the beneficiaries. The Deputy Commissioner has informed that

inspection of the land, revealed that the 20 acres of land purchased for Rs.20 lakhs in Puthige village, Moodabidre Hobli, Mangalore Taluk was not levelled land, some portion of the land is rocky and the remaining portion can be used for agriculture and horticulture provided watershed development activities are undertaken and assured means of irrigation are provided.

12.2. Under the revised plan, one acre of land belonging to each beneficiary is divided into two portions. 10 cents of land for construction of house, kitchen garden and poultry and remaining 90 cents would be earmarked for agriculture and horticulture activities. Two bore-wells and one open well will be provided by Karnataka SC/ST Development Corporation. 20 houses under Ashraya scheme will be provided to the beneficiaries and the Gram Panchayath has been asked to contribute some additional funds from their resources. Comprehensive watershed land development programme amounting to Rs.7.46 lakhs has been prepared and submitted to the SC/ST Development Corporation. Animal husbandry department will be providing poultry birds and horticulture department will be providing seedlings of coconut and jasmine for cultivation. A dedicated and enlightened person out of these 20 families would work as a coordinator to follow up of all the schemes and organizing the beneficiaries.

12.3. The Commission hopes that the Deputy Commissioner would pursue the scheme and the ST department will ensure that the scheme is approved and the Karnataka SC/ST Development Corporation will provide necessary financial help for the bore-wells. The Commission observes that if schemes of this type are drawn up in consultation with the beneficiaries and resources of different departments are pooled, it will be possible to rehabilitate the landless Koraga families.

### **Koraga (PTG) forced by circumstances to work as Scavengers**

13.0. During the Commission's meeting at Mangalore, it was informed that 228 families of Koragas are living in 12 colonies in dilapidated houses in the city. 33 families have built their houses on land, which does not belong

to them, one family has no house and 100 families need basic amenities like drinking water, electricity etc. The Mangalore Corporation has earmarked Rs.40 lakhs for construction of houses for them at a cost of Rs.50,000 each. It was also learnt that 63 Koragas are working as scavengers on daily wages in Mangalore Corporation for the last 10 years. The Commission was unhappy to find that the Koragas, who belong to PTGs have been compelled to work as scavengers in the Mangalore Corporation and recommends that the services of the daily wagers should be regularized and houses proposed to be built and should be registered in their names and allotted to them on permanent basis.

### **Mini Hydro Electric Power cum Irrigation Project**

14.0. The Commission visited Banjarumale where 72 families of Malekudiya, which is one of the most backward tribes are living for generations in D.K. district. The Commission had to cover a long distance on foot through a thick forest to reach the village and was happy to find that the Project Coordinator, ITDP, Puttur with the help of district authorities, volunteers and engineers from Dharmastala has constructed a mini hydro electric project at a cost of Rs.12 lakhs and saved Rs.1 crore to the Government in extending electricity to the village without destruction of trees.

14.1. The expenditure incurred in construction of project was Rs.12 lakhs, 50% of which was contributed by the Tribal Department and the half of the remaining amount each was contributed by the tribal beneficiaries and Tides organization. By utilizing the perennial supply of water 8 KWs of electricity is generated sufficient for 72 families and utilizing the water also for irrigation. The tribals are growing coconut and fruit trees.

14.2. The Commission recommends that such projects which are eco-friendly and meet the basic needs of the tribals in their habitations should be drawn up wherever there is feasibility of undertaking such projects.

## **Model Residential School**

15.0. During the tour Commission was informed that a model residential school was started in the year 1995 at Madhya for Koragas. The school has a capacity to provide co-education to 250 students from 1st to Xth standard. However, it was learnt that a number of posts of teachers and non-teaching staff and warden were vacant. The Commission during its subsequent visit was happy to note that all the posts have been filled and that there are now 122 students studying in the school. The Project Officer has started counseling classes with the help of expert teachers from voluntary organizations, organized cultural programmes and even a tele film on the activities of the school has been made. The Project Officer proposes to improve the school garden, play ground and construct a compound wall. **The Commission feels that the Tribal Development Department should monitor the schemes to ensure full utilization of the facilities created for the spread of education among the Koragas.**

## **Dairy units**

16.0. One of the programmes taken up for the welfare of Koraga tribals was giving 37 Koragas dairy units as well as dairy farming training. Each person was given two cross-jersey cows at the rate of Rs.12,000 each, Rs.6,500 for the construction of a cow shed and insurance and transport at the rate of Rs.1,500. This programme has helped the Koraga families to live a better life. These families are linked with the nearest Karnataka Milk Union for supplying milk to hotels and local consumers. **This is a success story and can be replicated elsewhere.**

## **Self employment made popular**

17.0. The Project Coordinator of ITDP, Puttur undertook in the year 2002-03 a programme of self-employment for the educated youths in D.K. district by securing admission to 142 tribal youths to undergo job training courses in plumbing, automobile, welding, fabrication, electrical motor rewinding, electric

wiring etc. at a cost of Rs.7.59 lakhs and all these persons were able to secure jobs in the district. For the tribal youths who have not passed S.S.L.C. examination training was imparted in driving, masonry, tailoring etc. Some of these young boys have been able to secure jobs as drivers, tailors etc. and also purchased their own auto rickshaws.

### **Tree Pattas**

18.0. The Government of Karnataka in February 2001 started a scheme of "Tree Pattas" for tribals. The *tree pattas* are given free of cost to them. This scheme covers reserved forests, roadside, canal-side excluding the national parks and areas assigned to the LAMPs for collection of MFP. Tribals, who are forest dwellers are allowed 100% usufructs of MFP collected by them from the specified areas and permitted to plant species of tamarind, *nelli*, *antwala*, *segekayi*, *alalekayi* etc. and also grow bamboo on such land. For the above purpose, one compact block for each tribal colony in which 2 ha. of land per family is assigned free of cost. **This is a good scheme, which can help the tribals and the Commission hopes that the tribals will be motivated to take benefit of the scheme.**

### **Scheduled Areas**

19.0. There are no scheduled areas in the state and the State Government feels that no area fulfills the criteria to be declared as Scheduled Areas. The State Government has not set up a Tribes Advisory Council (TAC) and stated that they would consider the question of setting up a TAC in future. **The Commission recommends that a TAC should be set up under para 4(1) of Part B of the Vth Schedule of the Constitution in which apart from ST MLAs, representatives of PTGs and other tribals along with NGOs and social activists should be nominated for deliberations on the problems of STs.**

### **LAND**

20.0. The Karnataka SC/ST Prohibition of Transfer of Certain Lands Act, 1978, applicable throughout the state lays down that any person belonging to SC/ST

who is granted land by the Government or to his ancestors should obtain prior permission from the Government before the land is transferred to non-tribals. It is understood that the distribution of agricultural lands by ownership is 18.5%, with highest of 45.8% among the Sholagas and 7.0% among the Hasalaru. The State Government has not made any evaluation regarding the implementation of this measure. **The State Government has also not collected information about the land acquired under the Land Acquisition Act, 1895 from ST persons.** The State Government had laid down a policy of distribution of 50% of available surplus lands to SCs/ STs, which was raised to 75% in 1992. Out of 1,23,412 acres of surplus land distributed 4,338 acres was given to 1,250 STs. **The Commission recommends that State Government should enact anti-alienation land legislation to protect the tribals from alienation of their land and also undertake a study of the assigned lands given to the tribals.**

### **Mangalore Port Employees**

21.0. The Commission met the SC/ST Employees Welfare Association at Mangalore, who represented their grievances as follows:

1. Roster is not maintained in the prescribed form and duly signed by the appointing authority.
2. The backlog reserved vacancies for STs are not being filled.
3. In the case of registered cargo handling wing, out of the total working strength of 958 there were only 6 STs with a shortfall of 59 persons in various categories.
4. The new Mangalore Port Trust Board takes important decisions such as appointments, promotions, framing/amending of recruitment rules, awarding the work on contract basis, allotment of shops, fixing user agencies and the interests of the STs are not safeguarded.

21.1. **The Commission recommends that atleast one ST person should be nominated to the New Mangalore Port Trust and the reservation orders should be followed scrupulously.**

**LIST OF SCHEDULED TRIBES OF KARNATAKA STATE**

(The Scheduled Castes & Scheduled Tribes Orders [Amendment] Act, 2002)

1. Adiyani
2. Barda
3. Bavacha, Bamcha
4. Bhil, Bhil, Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Rawal Bhil, Tadvi Bhil, Bhagalga, Bhilala, Pawra, Vasava, Vasave.
5. Chenchu, Chenchwar
6. Chodhara
7. Dubla, Talavia, Halpati
8. Gamit, Gamta, Gavit, Mavchi, Padvi, Valvi
9. Gond, Naikpad, Rajgond
10. Gowdalu
11. Hokkipikki
12. Hasalaru
13. Irular
14. Iruliga
15. Jenu Kuruba
16. Kadu Kuruba
17. Kammaru (in South Kanara district and Kollegal taluk of Mysore district).
18. Kaniyan, Kanyan, (in Kollegal taluk of Mysore district)
19. Kathodi, Katkari, Dhor Kathodi, Dhor Katkari, Son Kathodi, Son Katkari
20. Kattunayakan
21. Kokna, Kokni, Kukna
22. Koli Dhor, Tokre Koli, Kolcha, Kolgha
23. Konda Kapus
24. Koraga
25. Kota
26. Koya, Bhine Koya, Rajkoya
27. Kudiya Melakudi
28. Kuruba (in Coorg district)
29. Kurumans
30. Maha Malasar
31. Malaikudi
32. Malasar
33. Malayekandi
34. Maleru
35. Maratha (in Coorg district)
36. Marati (in Kanara district)
37. Meda Medari, Gauriga, Burud
38. Naikda, Nayaka, Chollivala Nayaka, Nana Nayaka, Naik Nayak, Beda, Bedar & Valmiki.
39. Palliyani
40. Paniyan
41. Pardhi, Advichincher, Phanse Pardhi, Hararishikari
42. Patelia
43. Rathawa
44. Sholaga
45. Soligaru
46. Toda
47. Varli
48. Vitolia, Kotwalia Barodhi
49. Yerava
50. Siddi (in Uttar Kannada district)

## **Appendix-II**

### **Suggestion made by the Asset evaluation study of beneficiaries programme in the TSP areas:**

1. Comprehensive socio economic community surveys should be regularly conducted to obtain precise & up-to-date population profile of the areas which would enable proper selection of eligible beneficiaries belonging to the different status categories of the transient and dynamic client system, there by ensuring specificity and reach of coverage target population groups.
2. Attempts should be made to make the facilities easily available at their door steps particularly living in the far flung places. This is a long-term policy recommendation.
3. Enough lead-time needs to be planned while implementing the programme so that more community participation would be possible. Since this is a key feature which decides the long-term affectivity of the scheme.
4. The programme should result increased income earning capacity of the targeted beneficiaries. This might be well done in strong cooperation from development department with local resource personnel/organization and also an active participation of the beneficiaries in decision making and support to the programme.
5. More emphasis in the training to the targeted beneficiaries should be given in the areas of community involvement and awareness building.
6. There is a need to educate scheduled tribe people by arranging group discussion and examine them thoroughly before distributing the assets. Some of the beneficiaries expressed their ignorance and its importance. A special attention and care need to be taken in this regard.
7. Package benefits scheme is adopted in all the development departments and should be given in seasonal period.
8. More concentration should be given to industrial based activities so that employment opportunities can be created.
9. Best award/rewards etc. may be instituted to encourage the beneficiaries specially showing good performance.



The seminars cum workshops may be organized especially for those who are involved in the TSP programme by the tribal department.

# Report on the State of Kerala

## PART - I

### Introduction

The State of Kerala is situated at the south western part of India in the north-south direction with a coast line of 580 Kms. along the Arabian sea on the west and with the mountains of the western ghats on the east. The erstwhile Kerala consisted of three political regions viz. two princely states of Travancore and Cochin and Malabar, which was under the direct administration of the Madras State. During the British period Malabar was ruled directly by the English and Travancore – Cochin was controlled through their Resident Commissioners. Travancore and Cochin States were integrated to form 'Travancore – Cochin State' on 1<sup>st</sup> July, 1949. However, Malabar remained as part of the Southern Madras Presidency. Under the States Re-organization Act of 1956, Travancore – Cochin State and Malabar were united to form the State of Kerala on 1<sup>st</sup> November, 1956.

1.2 The vital statistics in respect of Kerala are given as under:-

Total geographical area	38,863 Sq. Kms.
Total population of the state (2001 census)	318.38 lakhs
ST population (2001 census)	3.64 lakhs i.e. 1.1% of the total population of the State
Sex ratio(2001) *	1058 (for the state) 1022 (for the STs)
Literacy (1991)	89.81% overall for the State (93.6% males and 86.17% females) 57.22% STs (63.88% males and 51.07% females)

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\* It may be seen from the above Table that sex ratio of females per 1,000 males in 2001 was 1022 which was quite favourable as compared to 995.90 in 1991.

## The Scheduled Tribes (STs)

**1.3** As per the Constitution (Scheduled Tribes) Order 1950, 35 communities were notified as STs. The list has been modified vide the Scheduled Castes and Scheduled Tribes Order (Second Amendment) Act, 2002 by making addition and substitution etc. Certain tribes notified as STs under Constitution (Scheduled Tribes) Order 1950 were omitted under the said Second Amendment Act of 2002. The final list that has now emerged is as under:

1	Adiyan	2.	Arandan, Arandan
3.	Eravallan	4.	Hill Pulaya, Mala Pulayan, Kurumba Pulayan, Karavazhi Pulayan, Pamba Pulayan
5.	Irular, Irulan	6.	Kadar, Wayanad Kadar
7.	Kanikaran, Kanikkar	8.	Kattunayakan
9.	Kochuvelan	10.	Koraga
11.	Kudiya, Melakudi	12.	Kurichchan, Kurichiyen
13.	Kurumans, Mulla Kuruman, Mulla Kuruman, Mala Kuruman	14.	Kurumbas, Kurumbar, Kurumban
15.	Maha Malasar	16.	Malai Arayan, Mala Arayan
17.	Malai Pandaran	18.	Malai Vedan, Malavedan
19.	Malakkuravan	20.	Malasar
21.	Malayan, Nattu Malayan, Konga Malayan (excluding the areas comprising the Kasargode, Connanore, Wayanad and Kozhikode districts.	22.	Malayarayan
23.	Mannan (to be spelt in Malayalam script in parenthesis)	24.	Muthuvan, Mudugar, Muduvan
25.	Palleyan, Palliyan, Palliyar, Paliyan	26.	Paniyan
27.	Ullatan	28.	Uraly
29.	Mala Vettuvan (in Kasargode in Kannur districts.)	30.	Ten Kurumban, Jenu Kurumbas
31.	Thachanadan, Thachanadan Moopan	32.	Cholanaicken
33.	Mavilan	34.	Karimpalan
35.	Vatta Kuruman	36.	Mala Panickar

**1.4** The STs at S.No.6, 8, 10, 14 and 32 have been declared/listed as Primitive Tribal Groups (PTGs). These PTGs live in the districts of Wayanad, Malappuram, Palghat, Thrissur and Kasargode. The ST population is distributed in 14 districts of

the state ranging from 0.14% in Alapuzha to 17.11% in Wayanad district. The next higher concentration i.e. 4.67% is in Idukky district. The overall decadal growth rate of PTGs is estimated at 18.17% against the decadal growth rate of 22.75% for all the STs in the state as per the 1991 census.

**1.5** The Paniyan and Adiyar communities in Wayanad district are backward as most of them are landless agricultural labourers. According to the state Government there are 22,052 landless ST families. Another 32,131 ST families own less than one acre of land. The Cholanaickens are forest dwellers in Nilambur region of Malappuram district. Malai Aryan in Kottayam and Idukky, Kanikkar in Trivandrum, Kuruchchan in Wayanad and a few ST communities in the state have shown appreciable progress in their level of socio-economic development as compared to other ST communities. It is seen that majority of ST communities are engaged in agriculture and allied sectors. Cultivators form nearly 16% only. The participation of STs in the industrial sector is almost nil and marginal in tertiary sector. The health and nutrition status of PTGs, is far below the general level. 24.20% of rural ST populations were reported to be below the poverty line as against that of 9.38% for the State as per BPL survey of 1999-2000.

### **Scheduled Area**

**1.6** There is no Scheduled Area notified under the Fifth Schedule of the Constitution of India in Kerala. However, some tribal groups demanded that certain areas should be declared as Scheduled Areas. **The Commission observed that even the districts like Wayanad and Idukky with comparatively larger concentration of ST population did not have a preponderance of the STs in a Tehsil or development block in these districts which is one main criteria for notifying areas as Scheduled Areas under the provisions of the Fifth Schedule of the Constitution of India. The preponderance of the ST population can be found in some of the Panchayats and small tribal pockets. The Government of Kerala suggested that Gram Panchayats having 50% or more tribal population may be considered for notification as Scheduled Area under the Fifth Schedule.**

## **PART - II**

### **Land Alienation**

**2.1** After independence many State Governments enacted anti-alienation laws to protect the lands of the tribals and restoration of alienated lands back to them. After 20 years of the formation of the Kerala State, the State Legislature passed unanimously the Kerala Scheduled Tribes (Restriction on Transfer of land & Restoration of Alienated Lands) Act, 1975 for protection of tribal lands and restoration of illegally alienated lands. The Act received the mandatory assent of the President of India on 11<sup>th</sup> November 1975 and included in the 9<sup>th</sup> schedule of the Constitution to ensure that it is not challenged in any court of law. However, the rules operationalising the Act were formulated a decade later in 1986 with retrospective effect from 1982, "not even 1975, let alone an earlier date which is what honouring the constitutional spirit would have required". "It is estimated that 8,879 applications for restoration of alienated lands totaling more than 10,177 hectares" were filed. Under the Act, the tribal "beneficiaries have to pay a sum, which is the total of the amount received, if any, as consideration for the transaction and the amount spent for improvements on the land before the commencement of the Act, as compensation for the restoration of their lands". The compensation was to be determined by the Revenue Divisional Officer (RDO) of the concerned district. The Act, provides for loans to be given to the tribals, which they could pay back in 20 years. However, "the Act is silent on the loss incurred by the tribals, whose lands were grabbed by the settlers". Taking into consideration the incapacity of the adivasis, they did not come forward to take loans for restoration of their lands. The Government admitted that, "for example, in the case of Revenue Divisional Office, Ottampalam, compensation has to be paid in as many as 974 cases involving an amount of Rs.317 lakhs, but so far no tribal has applied for a loan."

**2.2** "Despite the rules coming into force in 1986, the government made no real attempt to implement the act. The High Court of Kerala passed an order in October 15, 1993 on a petition filed in 1988 by Nalla Thambi Thera, a resident of Wayanad, directing the government to 'dispose' of the applications pending before them within six months". The Additional Advocate General gave an assurance that "utmost steps would be taken for the disposal of the applications and that the Act would be

enforced in all its rigour. The Government appealed for more time again and again and the High Court kept extending the time. The RDOs were ordered to file affidavits once a month in the High Court showing the progress of the disposal of applications during that month. The RDOs were empowered under the Act to determine the validity of the applications and as the tribals were ignorant of the complex laws and procedures they could not get their land rights recorded. Out of 8,879 applications only 4,524 valid applications for restoration of 7,640 acres of land were dealt with by the RDOs. The State Government instead of restoring the lands of the tribals sided with the settlers to resist the implementation of the High Court order". The State Government took shelter against the resistance in restoring the lands to the tribals and the High Court asked "Can a democratic state with the rule of law as its beacon light, bow to such illegal implementation of a welfare legislation to benefit the oppressed classes." Clearly it cannot the Court ordered that the "state and the district superintendents of police of all the districts are directed to afford the needed protection to carry out the restoring possession of the tribals".

**2.3** The State Government came out with the plea that tribals have not taken loan for payment of compensation to the non-tribals, who have occupied the land. "The Court turned around and asked why land in which no compensation is payable and for which appeals are not pending have not been restored. The state had no answer. The Government then claimed that the lands cannot be restored 'overnight'. The Court reminded that the Act was passed in 1975, the judgment was passed in 1993 and it was then the year 1996, the court asked "is it overnight"? The Court declared that the government has "no will to implement the legislation."

**2.4** Faced with the deadline of September 30, 1996, the State Government attempted to bring an Ordinance to amend the 1975 Act in early 1996, but the then Governor refused to approve it on the plea that it was the election time and the election code did not permit it. After the elections, the Government brought similar Ordinance, but this also could not get the clearance from the then Governor, who was the Governor of Karnataka and also incharge of Kerala. Thereafter the State legislature passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Act, 1996 on September 23, 1996.

This amendment could not receive the assent of the then President. Obviously, the State Government was not able to convince the centre and the President on the genuineness and legality of the Act.

**2.5** The then State Government passed "The Kerala Restriction on Transfer by and Restoration of Lands of Scheduled Tribes Bill on February 23, 1999. Under this Act only land in excess of 2 ha. will be restored while alternate land would be given elsewhere in lieu of alienated land upto 2 ha. The repeal of the 1975 Act, included in the ninth schedule by the 1999 Act is also questionable. This Act exempts lands alienated between 1982 -1986 upto to 2 ha. The Act further provides that a fund called 'ST rehabilitation and welfare fund' would be created to provide loans to the tribals for payment of compensation to the settlers wherever necessary as well as for construction of houses and other welfare measures. **The Commission strongly feels that there is no justification that the tribal should be asked to compensate the non-tribal, who has illegally occupied his land for the last more than 40 years and if he has constructed any buildings or made improvements in land, he has also enjoyed the benefits out of this investment. The Commission, therefore, recommends that no compensation should be paid by the tribals to non-tribals, who had grabbed their land.**

**2.6** It will be clear from the above paragraphs that the rights of the STs enshrined in the Constitution have been consistently violated by the State Governments that have ruled the State since 1975 by avoiding the implementation of the 1975 Act under one pretext or another.

**2.7** By an interim order in October, 1999, the Division Bench of the State High Court directed the State Government not to implement the provisions under Sections 5, 6 and 7 of the Act of 1999 and this order was stayed by the Supreme Court vide order passed in November, 1999 on a SLP filed by the State Government. Later on in August, 2000, the Supreme Court disposed off the SLP filed by the State Government in this case with the observation that the interim stay order passed in November, 1999 and August, 2000 would continue till disposal of the petition filed by the respondents before the High Court.

**2.8** The validity of Kerala Scheduled Tribes (Restriction on Transfer of Land and Restoration of Alienated Lands) Act, 1999 has since been challenged in the Supreme Court and the final judgment is awaited. Thus, the provisions of this Act also could not be enforced. The tribals who have been the victims of land alienation process are at the receiving end of these legal wranglings. The State Government has informed that 8088 cases involving 6,817.28 ha. were filed for restoration of lands under the Act of 1975, of which only 1,201 cases (183.93 ha.) were decided in favour of tribals. But in fact, land could be restored in respect of 3 cases only. As per 1999 Act, no land has been restored so far.

**2.9** A survey conducted in 1977 in Attappady (Palghat district) showed that 3943 tribal families lost 10, 106 acres of their land. After 1977 and a decade prior to the survey, alienation took place and the tribal communities lost their lands to the land hungry immigrants. The study further showed that the non-tribals get tribal lands for cultivation on lease with nominal rent and once the non-tribals occupy land they seldom return it to the tribal owner. The survey also suggested that large chunk of tribal land remains in the hands of the non-tribals on paid-up rent basis which eventually leads to sale deed. The study suggested that (i) the anti-alienation law should be modified to the effect that all land in possession of non-tribals in Attappady must be presumed to have been acquired by such persons or their predecessors and the non-tribals should be required to prove their land rights, (ii) the procedure of restoration of tribal lands should be simplified. At all stages a competent official like a Sub-Collector should be made a necessary party in all cases where tribal lands are involved. (iii) the procedure for the sale of tribal lands should be revised. The tribal land should not be sold without the prior permission of the District Collector. (iv) the procedure of legal aid should be simplified so that tribals can fight out litigation and a mobile court should try cases relating to the transfer and alienation of tribal lands. (v) A survey of land in the possession of the tribals in accordance with the Pattayam should be conducted and alienated tribal land should be restored to them.

**2.10** Another survey was done by Kerala Institute of Research, Training and Development (KIRTADs) based on a number of case studies. The earlier survey



done in 1977 also mentioned some case studies. **The Commission feels unhappy that the State Government did not take these studies at all into consideration and should have referred these cases for investigation and proper action which indicates a lack of commitment on the part of the State Government to protect the interests of STs.**

**2.11** It was brought to the notice of the Commission by some tribal groups that land lobby with the vested interest have taken the land related issues to the courts of law to thwart the efforts made by the State Government in this regard. A question arises as to why and how the State Government have in all these years not been able to protect the interests of the tribals in land and allowed the land alienation process to continue unabated. **The Commission deliberated on the complex issue of non-implementation of Land Alienation Act of 1975 and the subsequent enactment by the State Legislature in 1999 which has further diluted the whole scheme of restoration of alienated tribal lands. The population of ST is 1.1% of the total population of the State. The Commission after due deliberations have come to the conclusion that the state Government should formulate a programme of action by establishing a Land Protection Force for the implementation of alienation laws and chalk out a programme for rehabilitation of the tribals who have been rendered landless as a result of non-implementation of the land alienation laws. The Commission hopes "that Kerala, the land of Gods" will protect the tribals.**

### **Resettlement of landless STs**

**2.12** The Ministry of Environment and Forest conveyed to the Government of Kerala on 6<sup>th</sup> February, 2004 approval under Forest (Conservation) Act, 1980 for diversion of 7693.2257 hacs. of reserved forest/vested forest land in Kasargode, Kannur, Wayanad, Palakkad and Malappuram districts for the settlement of landless tribals in the State. The Ministry also intimated to the State Government that the net present value (NPV) of the forest area diverted shall be deposited by the State Government in Compensatory Afforestation Management and Planning Agency (CAMPA). The Ministry in their communication dated 18<sup>th</sup> February, 2003 clarified

that NPV shall be charged in all those cases which have been granted in principle approval after 30.10.2002 and NPV will be calculated at the rates ranging from Rs.5.80 lakhs - Rs.9.20 lakhs per hectare depending upon the quality and density of land in question converted for non-forestry use as per the orders of the Apex Court and that the collection process of NPV should be completed within a period of two months. It is estimated by the State Government that the collection charges for 7694 ha. would amount to Rs.577 crores. The State Government has filed an I.A. petition in the Supreme Court on 8<sup>th</sup> March, 2004 for exemption from payment of NPV. **The Commission feels that the Government of India should support the State Government so that the problem of resettlement of landless tribals may be solved. A Tribal Rehabilitation Commissioner of the rank of Chief Conservator of Forest has been appointed for integrated development and rehabilitation schemes/works in respect of the tribals to be settled on 7,694 hectares of reserved/vested forest.**

**2.13** The State Government has identified lands in Aralam, Sugandhagiri, Pookot, Alakode farms to the extent of 7,121 acres for distribution to landless STs and the process of taking possession of these lands has started. The Aralam Farm, a central farm is being purchased at a cost of Rs.40.19 crores for the allotment of around 3,500 acres to landless tribals. The State Government has informed that 3,705 acres in Sugandhagiri farm, 1,313.79 acres in Pookot farm and 723 acres in Alakode Estate are available for distribution.

## **Land Assignment**

**2.14** In Nov. 2001, the State of Kerala had to take, in pursuance of the demand placed by the tribals, an executive measure to protect the interest of the tribals and set up a Tribal Re-settlement and Development Mission (TRDM) with the objective of achieving overall socio-economic development of tribal families particularly those who are landless or those who owned less than one acre of land; assigning suitable cultivable land to the eligible tribal families; assisting the State Planning Board in the Preparation of Master Plan for the Tribal Welfare/Development ensuring the re-settlement of landless tribal families and for en-scheduling the area occupied by the tribal families etc. The Mission started functioning from Nov., 2001 at the State Level. An Empowered Mission Committee was also formed to take policy decision regarding the activities of this Mission with the Chief Secretary as Chairman with some other Secretaries as Members. At the District Level Missions were formed for the District Level coordination of the activities of Missions with District Collector as

Chairman and some other District Officers as Members. A Cabinet Sub-Committee was also formed to take policy decision on Land Distribution and Development.

**2.15** The task assigned to the TRDM is identification of assignable land, assignment of land and development of land assigned. The Mission's priority was to identify lands such as revenue lands without any legal objections, Public Sector Undertakings land without any problems; forest land including vested forest with the approval of the Central Government. At the formative stage of the Mission it had the report that the lands to the extent of 69,053 acres were available for distribution. This figure about identified land was brought down to 21,775 by the District Collectors. The Commission was informed that the tribals could not get physical possession of such lands as ownership was disputed. Thereafter, progress about the assignment of land could not be achieved as in many cases, the land identified had many legal problems as to the status of the land etc. During the year 2002-03, there was a budget provision to the tune of Rs. 51.50 crores for their rehabilitation work. The total cost of the project is estimated at Rs. 172 crores to be executed in 3 years time-period. A Master Plan with Rs. 1450 crores was also envisaged. The Commission is not impressed by the plans drawn up and quantum of funds allocated. The Commission observed that the State Government has not been able to achieve concrete results in giving lands to the landless tribals and rehabilitating them.

**2.16** State Government has distributed 2892.98 acres of land to 2024 tribal families upto 26.12.2003, details of which are as under:

<b>Sl. No.</b>	<b>District</b>	<b>No. of Families</b>	<b>Land distributed in acres</b>
01.	Wayanad	40	40
02.	Kannur	165	178.60
03.	Kozhikode	318	498
04.	Ernakulam	168	400
05.	Idukki	1074	1615
06.	Alappuzha	112	27.70
07.	Kottayam	19	19
08.	Kollam	128	114.68
	<b>Total</b>	<b>2024</b>	<b>2892.98</b>

2.17 On 13.11.2002, the Commission visited Pooppara village of Udumpanchola Taluk in Idukki district where 47 tribal families belonging to Mannan Tribe have been allotted one-acre land to each of them on 1.1.2002. Of the 47 families, 32 families have already settled in the village. In addition to growing agricultural crops, such as tapioca, paddy, arhar dal and vegetables, they earned Rs. 80/- per day as daily wage while working as labourers in cardamom plantations. They also collected honey and sold it for Rs. 90/- per Kg. to the forest Society. Km. Valsala is the lone SSLC pass tribal girl in the village who wants to become Anganwadi Worker or a teacher provided a school is approved for the colony. It was desired that the tribals may be trained and oriented for growing cash crops and running trade and commerce and transport business. Shri Mohan of Plot No. 9 was willing to enter into transport activity. Mrs. Leela of Plot No. 15 complained that the person who occupied Plot No. 15 in the past has been threatening her for vacating the Plot in his favour. She desired that the police should take stern action against the non-tribal who harassed the new allottees of the land and had an evil eye to usurp the property.

### **Recommendations**

2.18 **The Commission recommends that an Integrated Master Plan of re-settlement of the displaced tribal families should be formulated which should assure infrastructural development for employment and income generation for the tribals in the areas earmarked for their re-settlement/rehabilitation. The Master Plan should also have a provision for adequate housing development and for the supply of safe drinking water. This recommendation is made in the context of an ill-planned housing development under rehabilitation programme at Karapuzha in Wayanad District. The Commission further recommends that in those areas where the tribals are being settled adequate infrastructural facilities for education and health service should be provided. In fact under the TRDM programme there should be a built-in provision for this.**

**2.19** The Commission was told that there had been encroachments not only of tribal land and habitat but also of the graveyards belonging to the tribals by the non-tribals. The Commission recommends that the non-tribals who had made encroachments on tribal lands and graveyards should be evicted forthwith. The Commission further recommends that the act of encroachments on the land, habitat and graveyards belonging to the tribals should be made punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

## **PART - III**

### **Forest**

**3.1** In erstwhile Travancore State, the tribals were permitted in 1903 to cultivate lands in forest areas and the then Govt. in 1910 also extended certain concessions. In 1911, Hillmen Rules were promulgated for protecting the rights of tribals and restricting the entry of non-tribals in tribal areas. These rules were questioned by the Court later. Another big blow upon the tribals was caused by the implementation of Forest Conservation Act, 1980 as entire tribal area in Kerala State was shown under the Reserve Forests. As a result of this, fate of tribals living in 701 habitations (approximately) in the forests worsened. The Forest and Revenue officials prepared record of land and other possessions of their own but it was not acceptable to tribals. They felt as if they have been badly cheated. The tribals eke their livelihood out of collection of minor forest produce and they supplement their income through food gathering and fishing. Consequent upon the nationalization of forests in 1974, the right to collect MFP from forests was exclusively assigned to the SC/ST Cooperative Development Federation in 1978. Forest Deptt. does not levy any royalty or lease rent for this purpose. The SC/ST Federation executes the work through Tribal Cooperative Societies.

**3.2** According to an estimate 23,622 ST families are living inside the forests in 701 settlements. The Forest Department estimated that 21,665 families have 26,290 ha. of land with them and 2007 families are landless. Government decided to issue record of rights after joint verification by the Revenue and the Forest

Departments. Accordingly 10,443 families were given record of rights for 5004. 02 ha. of land. Steps have also been taken to issue of record of rights to the remaining families. The settlers will have to be provided with other facilities in addition to land. Infrastructural facilities and other assistances for income generating programmes have to be taken up including self employment programme. During 2003-04 an amount of Rs.4 crores has been budgeted for tribal resettlement. In addition to this an amount of Rs.5 crore have also been allocated by the Government of India for the purpose. Similarly, an amount of Rs.5 crore was also to be earmarked from the corpus fund 2003-04 of the Department for meeting the expenditure for land distribution. Altogether Rs.14 crores have to be given to TRDM. As mentioned earlier, the Commission finds that achievements of TRDM on the ground are insignificant. The State Government should handover complete charge to TRDM for identification of land for settlement of landless tribals as well as those who possess less than one acre of land outside the forest areas on the lands identified by the Collectors and available from various non-functional projects and Tribal Rehabilitation Commissioner under the Forest Department who will oversee the rehabilitation of tribals on the reserved forest and all funds/assistance will be routed through him. The TRDM role should be confined to look after the tribals outside the forest area, TRDM should also see that the tribals living in the forest areas for generations are provided all basic amenities alongwith income generating programmes.

3.3 The Commission during the visit to Wayanad district was informed that in order to update record of rights of land under the possession of tribals, district administration has undertaken joint verification exercise in 133 tribal settlements having an area of 463.96 hectares of land. It has been found that 1,676 families (367.14 ha.) were eligible for issue of record of rights out of 1,683 families for which actual verification was carried out. The district officers have issued record of rights in case of 1,647 persons and thus 29 cases are yet to be settled. District officers have informed that *pattas* have not been issued so far.

**3.4** The problems faced by the tribals are numerous. For example, they have to pay for timber for construction of houses, Kurumbas (PTG) are not allowed to graze their goats in the forests and record of right for tribals living in the forest, prior to 1980 has not been given. Although steps have been taken for regularization of over 27,000 acres of land encroached by the non-tribals on the fringes of the forest areas, but cases of tribals were not considered. **The Commission, therefore, recommends that the ownership can be given to the tribals where the possession of the land is in the forest area. Some of the tribals have been in occupation of such lands for many generations and that these are under cultivation.**

**3.5** The building structures in some of the tribal habitats, often called tribal colonies, have been there for many generations and from the very appearance these are the old constructions/old settlements. Whatever may have been the reasons, the fact is that they do not have the ownership of these lands. Obviously, due to the ignorance of the tribals in these settlements/habitats they could not get such land recorded in their ownership and, therefore, technically these lands continued to be the forest land on the revenue record. **Such occupation of the forest land by the tribals, which are treated technically an encroachment, can be rectified through scrutiny done to establish eligibility under the Forest Policy guidelines and such cases can be recommended by the State Govt. to the Govt. of India for clearance and thereafter pattas can be issued to them.** However, for the present the Central Govt. may not allow regularization of encroachments in respect of eligible cases in view of the Supreme Court Order, dated 23.11.01 restraining the Govt. of India from regularizing the encroachments. **All the eligible cases as per guidelines of the Govt. of India for regularization should not be summarily rejected in view of the Apex Court restraint. Instead such cases should be processed and sent to the Govt. of India for their consideration. The final decision will rest on the decision on the restraint imposed.**

### **Intellectual property rights**

**3.6.** Thiruvananthapuram based Tropical Botanic Garden Research Institute (TBGRI) using the traditional knowledge of Kani tribe who provided valuable inputs formulated *Jeevani*, a herbal product to enhance immunity levels, anti-fatigue and anti-stress properties. Kanis received a one-time payment of Rs.5 lakhs when the product was licensed. TBGRI applied to the Indian Patent Office for a process patent in 1996 but has not got the same so far. The Research Institute filed another application in 1998 but has not obtained a trade mark for the brand *jeevani*.

It is understood that a herbal product manufacturer of Coimbatore, Tamil Nadu was given the licence to manufacture and market the drug in 1995. It is not only that this manufacturer is marketing this product but a U.S. based company has also acquired a registered trade mark for *Jeevani* in 1999. In this battle between the various manufacturers it is the tribals who have suffered and the Kani tribals who were supposed to get 1% royalty on sales earned a paltry Rs.2,000 in 2003. **The Government of India and the State Government of Kerala should examine the matter thoroughly and see that the interests of the tribals are safeguarded.**

## **PART - IV**

### **Tribal unrest – a major issue**

4.1 According to State Govt., about 22,052 tribals are landless and half of them are in Wayanad district alone. Landlessness among the tribals is the major cause of unrest.

4.2 Ms C.K. Janu, Chairperson of the Adivasi Gothra Maha Sabha (AGMS) met the Commission at Thiruvananthapuram and submitted three memoranda. The main points raised by her were that special investigation might be carried out in regard to the killings of 101 tribals during last three years in Palghat district by the mafia and others. The agreement made on 16-11-2001 between the AGMS and Kerala Government for allotment of land to landless tribals should be implemented and the lands should be identified out of various non functional projects run by various departments for acquiring land. The VETAN community at present in the list of Scheduled Castes should be transferred to the list of STs.

4.3 Tribal unrest has been simmering among the tribals in various parts of the State due to several factors, some of which are as under:

#### **Idukki district**

4.3.1 With the clearance of a project for metal crusher unit in Manjapara village under Vazhathope Panchayat, adjoining agricultural fields have been damaged due to dust particles and children and old people have been getting chest infection. The residents of Kanjikuzhi Gram Panchayat in Idukki district have alleged that the land on which the Mannan tribal community (75 families) had been growing cardamom was taken over by the Forest Deptt. and they were a helpless lot. Residents of Venkagayapara settlement have alleged that they were displaced from Malhikattan settlement but no assistance has been provided to them. Government of Kerala had



given land for growing cardamom to tribals in 1971 but subsequently it was taken away by the Forest Deptt. Thus, many tribal families have been uprooted.

### **Kottayam district**

**4.3.2** Mala Araya Mahasabha Panchavayal Panchayat pointed out that about 1,000 persons have obtained false/fake tribal certificates, thereby denying opportunities to bona fide persons.

### **Wayanad district**

**4.3.3** It was brought to the notice of the Commission that problem of unwed mothers among the tribals is mounting up day by day and the tribals in general, are very much worried on this account.

### **Atrocity on Tribals**

**4.4** District Administration of Wayanad, despite having special mobile squad does not deal firmly the cases of atrocity on tribals. A few cases for illustration are as under:

- (a) Murder of Shantha at Chooralmala village of Meppodi police station
- (b) Obstruction of right of way to tribals at Kadalmadu, Kadalikunnu Kattunaicken (primitive tribal group) colony
- (c) Encroachment of tribal graveyard at Chethikkodanna tribal colony in Nenmeni village of S. Bathery taluk; Problems faced by Kattunaickens (primitive tribal group) of Kadalmadu, Kadalikunnu tribal colony in Thomathuchal village, Sulatan Bathery taluk were mainly relating to obstruction to pathway by the non-tribals during May 2001. The case has been registered with the Ambalavayal police station, but no action has been taken.

**4.5** The Commission observed that in the Southern States of Kerala, Tamil Nadu and Karnataka, the population of STs as per 1991 census put together in these States is about 28 lakhs. The majority of the STs habitats in the

**Southern States of Kerala, Tamil Nadu and Karnataka are situated in and around the Western Ghats. The Commission recommends that a sub-committee of the South Zone Council under the Ministry of Home Affairs should be formed to look into the tribal discontentment and unrest and overseeing comprehensive socio-economic development of the STs in and around the Western Ghats.**

## **PART - V**

### **Classification of STs**

**5.1** The Commission during its interaction with the tribal representatives and voluntary organizations has come to the conclusion that the State Government should investigate to find out whether some ST communities have received disproportionate benefit of reservation policies for entry into Government services and admission in educational and technical institutions. A study of reservation of posts for STs has revealed a high degree of imbalance in the representation of STs in state services. One ST community Mala Arayans has received disproportionate reservation benefit in services and admission to professional courses as compared to other ST communities. A scrutiny of the entry of Mala Arayans in Government services from 1950 onwards reveals that an overwhelming number of them have enjoyed fruits of reservation policy.

**5.2** State Government has stated that the beneficiaries of post matric studies and reservation in services have gone to a few STs communities and several other tribal communities have been totally excluded. They have suggested "rotation of reservation benefits among various tribal groups". In this connection the Commission would like to mention that the Government of Karnataka has informed that "A Commission to examine inter-se reservations has been set up under the chairmanship of Justice N.Y. Hanumanthappa, retired Chief Justice of Orissa High Court to ensure that the benefits of reservation reach those who deserve it the most". **The Commission recommends that the Government of Kerala should appoint a Commission to ensure that the benefit of reservation should flow to ST communities on "rotation basis".**

**5.3** It was brought to the notice of the Commission that most of the offsprings of inter-caste marriages are deriving benefits as STs. There have been a number of cases of such persons examined by the Vigilance Committee of the State Government and in some cases the High Court of Kerala have pronounced judgments against ineligible persons. In a recent judgment the Apex Court has indicated that the tribal way of life in the matters of celebrations of festivals, customs,

traditions should be the criteria to identify whether a member of a converted ST is really an ST for purposes of enjoying constitutional privileges and safeguards.

## **PART - VI**

### **Tribal Sub-Plan (TSP)**

6.1 The State of Kerala, although having no Scheduled Area under the provisions of the Fifth Schedule of the Constitution, has adopted a concept of Tribal sub-Plan from the Fifth Five Year Plan onwards (from 1974-75) which is a multi-pronged strategy for the overall development of the STs in the State. The strategy adopted has developed proper linkages with the Panchayati Raj and Nagar Palika system of the administration in the State. The thrust of the strategy under TSP as mentioned at different official fora where the Commission held discussions, is for the protection of the tribals from all types of exploitation and for safeguarding the interests of the STs in the State. The statistics showed that there has been allocation of funds to TSPs, which sometimes have been more than proportional to the tribal population in the State exclusively for the development of STs in the State. In the early parts of the Plan periods, the State transferred nearly 67 per cent of the TSP provisions to the local bodies like the Panchayats for planning and implementation of the development programmes and projects for the STs with their active participation and the balance almost about one-third portion formed the pooled TSP funds for State level programmes and projects and that strategy continued upto the year 2000-01. Under the Panchayati Raj set-up, a single-window type system was established for effective participation of tribals. As tribals are less in number in the Panchayati Raj institutions and, therefore, to protect their interest, the State Govt. had issued orders for setting up of tribals Gram Sabhas for the formulation of TSP schemes and selection of the tribal beneficiaries.

6.2 In the year 2001-02, TSP allocation given to the local bodies/Panchayats was resumed as per the demand of the tribal groups in the State. The entire TSP budget was assigned to the STs Development Deptt. responsible for tribal development both for formulating and implementing the TSP projects by enlisting participation of

the tribal Oorukoottams (tribal neighbourhood groups). The State Govt. also re-constituted the District Level Working Groups in all the districts having tribal population with District Collector as Chairman. However, some percentage of TSP funds is assigned to the local bodies/Panchayats with the clearance of the District Level Working Group. Now the ST Development Deptt. formulates the programmes in the field of education, housing, health and for overall economic development etc.

**6.3** During the year 2002-03, the flow of funds to the TSP was Rs. 85 crores which is 2.3% of the State Plan outlay. In addition, the Govt. of India has sanctioned during that year, funds for the tribal infrastructural development and for the water supply and sanitation and re-settlement of the landless ST families etc. to the tune of Rs. 23 crores with further addition of the Special Central Assistance. The total funds available for welfare of the Scheduled Tribes for the year 2002-03 were Rs. 121.34 crores.

**6.4** The Commission observed that the Tribal Development Wing of the Department has done work for the rehabilitation of the tribals by way of supplementing the efforts of the Line-Departments. They have promoted rubber cultivation as a measure of poverty alleviation programme under SCA and TSP. They have already covered 5,649 ST families under the SCA for self-employment programmes. About 1,500 families including bonded labourers have already been settled in around 3,000 hac. of land comprising vested forest land with necessary employment opportunities in the settlement area. Under the Free Ration Scheme, over 65,000 ST families have been benefited during the year 2002-03 as per the reports submitted.

### **Administrative set-up**

**6.5** Scheduled Castes and Scheduled Tribes Development Deptt. of the Govt. of Kerala is headed by an officer of the rank of Secretary and supported by a Director, STs Development and Director of Kerala Institute of Research, Training and Development Studies (KIRTADS). Execution of programmes in the districts is monitored by District Level Committees with District Panchayat President as

Chairman and Sectoral Officers as members. Progress reports on TSP schemes furnished by the district collectors to the State govt. and Director, Tribal Development are reviewed with heads of departments. Programmes of tribal development are executed through 7 Integrated Tribal Development Projects and 8 Tribal Development Offices, details of which are as given below:

Sl.No.	ITDP	Sl.No.	TDO
1	Nedumangad	1	Punalur
2	(Thiruvanthapuram)	2	Ranni
3	Idukky	3	Moovattupuzha
4	Nilambur (Malappuram)	4	Palakkad
5	Kanjirapally (Kottayam)	5	Sultan Bathery
6	Attapady (Palakkad)	6	Manantavady
7	Kalpetta (Wayanad)	7	Thamarassery
	Kannur	8	Kasargode

**6.6** There are Tribal Extension Officers, 34 of them in the field attached to the Project Officers. There are 9 Tribal Development Officers covering the dispersed tribal population in the State and that there are 14 Tribal Extension Officers to assist them. **The Commission was happy to note that the State Govt. has appointed about 1,000 Tribal Promoters from among the tribals for working in the State to assist the Project Officers, Tribal Development Officers and the Panchayats implementing the tribal development projects and programmes. The Commission observed that the Deptt. with a Wing/Branch for the Tribal Development is not well equipped with the staff particularly the technical staff and professionals for the implementation of major projects and programmes, and therefore recommends that sectoral departments should be entrusted with higher responsibilities.**

### **Primitive Tribal Groups (PTGs)**

**6.7** The Commission visited several institutions and settlements of STs in Wayanad, Thrissur, Idukki and Attapady ITDP in Palakkad district and interacted with the tribal representatives and government officers.

**6.8** According to a socio-economic survey of PTGs conducted by the Scheduled Tribes Development Department of Kerala State in 1996-97, the total population of five PTGs, namely, Cholanaicken, Kattunaicken, Kurumba, Kadar and Koraga was 16,678 (4406 families), which formed about 5% of total tribal population of the State.

Profile of PTGs is depicted in the table below:

	<u>Area of habitation</u>	<u>Population</u>
1.	Cholanaicken Malappuram District	384
2.	Kattunaicken Waynad, Malappuram and Kozhikode	11,871
3.	Kurumba Palakkad District.	1,602
4.	Kadar Trisoor and Palakkad	1,472
5.	Koraga Kasargode	1,349

Literacy rate of PTGs during 1996-97 survey was 26.10%, highest among Koragas (54.07%), followed by Kadars (40.79%), Kurumbas (32.36%), Kathunaickens (20.77%) and the lowest was 9.17% among the Cholanaickens. 559 PTG children (28%) did not join the schools even after attaining 6 years of age, and among them the number of children belonging to Kattunaicken tribe was 298 (53%). The Commission is happy to note that there is a spread of education among the STs in Kerala, but there are certain vulnerable tribal groups like PTGs, who require focused development.

**6.9** Although Kerala is one of the progressive States of the country, PTGs in State are still in pre-agricultural stage and their rate of literacy is low. This is a paradoxical situation. Their needs for development are housing, removal of malnutrition, better health care and all weather roads in tribal habitations.

Cholanaickens live in rock shelters called 'Kallulai' or in open campsites made of leaves. All of them live in forest and eke their livelihood out of minor forest produce and casual wage labour mainly in forest areas. They are also employed as watchers on forest protection works. Kurumbas were earlier shifting cultivators and food gatherers. They are proficient in making baskets using bamboo, reed and

rattan etc. Kadar are nomadic in nature and subsist on forest produce collections. Landlessness is acute among them. Kadar children have not found schooling attractive even today. Their habitations do not have access to safe drinking water and health care facilities. Kattunaickens in the past used the bark of trees for clothing and had very little contact with outsiders. They are considered as an aboriginal race of the state, who are the descendents of a dynasty which was glorious and supreme centuries back. Their headman – Muttum is given great respect. They give preference to any job which is related to forest operations, forest watchers or to work even as “Mahouts”. They are tactful hunters and good collectors of MFP, Wax, Honey etc. Landlessness is the major problem among them. Koragas are subjected to practice of untouchability in the rural areas and in the past some of them worked as bonded labourers and slaves. They also worked as scavengers in some parts of Kasargode district.

**6.10 Income** - Out of 4406 PTG families, 4332 families (98.32%) have annual income of less than Rs.5,000/- and thus all of them lived below poverty line.

**6.11 Ration Card** - All the PTGs were given ration cards and Vikas Pathras during 1992-93 but during 1996-97 the availability position was as under:

	<u>% families not having Ration Cards</u>
Kurumbas	37.35
Kattunaicken	31.50
Kadar	17.44
Cholanaicken	26.14
Koraga	3.84

**6.12 Electrification-** Out of 4406 PTG families, 3690 families (83.74%) have no access to electricity in their settlements. None of Cholanaicken and Kurumba habitaion has been electrified so far.

**6.13 Road-** Ten percent of PTG families have all weather motorable roads through their colonies, 79% have roads within a radius of 3 kms. and 11% families have to walk more than 8 kms. to reach the nearest motorable road.

**6.14 Health-** Health infrastructure in PTG habitations is poor. Only 1.33% of families have dispensary/PHC in their settlement, 16.09% families have the facility in 1 km. radius and others have to walk long distances to avail the facility. The diseases with which PTGs mostly suffer are T.B., Sickle cell anemia, leprosy and hepatitis.

**6.15 Land-** Out of 4406 PTG families, 1512 (34.32%) are landless, most of whom belong to Kadar tribe followed by Kattunaickens. As regards ownership of land, 37.60% families possessed less than 25 cents, 17.95% have 50 cents to 1 acre and 11% have more than 1 acre of land.

**6.16 Housing-** 53% PTG families have their own houses constructed with government assistance and 19.33% did not own any house, and the remaining 27.67% families did not have good houses. Kurumbas and Kattunaickens required improved housing structures.

**6.17** The Commission recommends that 398 settlements of PTGs in Kerala State should be categorized into two specific parts, i.e. one , PTGs in Forest areas and, two, PTGs in Revenue areas and welfare and development of PTGs should be entrusted upon the Forest and Tribal Development Departments respectively. The Forest Department and Tribal Development Departments should prepare familywise and Settlementwise action plans for next 20 years. Progress of PTGs should be monitored and reviewed by the State Government quarterly and by the Government of India half yearly. The Commission further recommends that government servants selected for working among the PTGs should be carefully drawn and well looked after. At least one NGO may be prepared and promoted to take up work among each of the PTGs.



## **SECTORAL PROGRAMMES**

### **Agriculture and horticulture**

**6.18** Kerala is known for a large variety of agricultural and horticultural crops, such as paddy, rubber, cardamom, nutmeg, tea, coconut plantain pepper, ginger, turmeric, coffee, vegetables, spices etc. For the development of tribals, a few exclusive projects were launched by the State Government and these were Sugandhigiri cardamom project, Pookode dairy project, Cooperative Farming Society Attapady, Vattachira Collective Farm, Sholayar Girijan Society and Priyadarshini Tea Estate. Extension Wing of Kerala Agricultural University, Cardamom Board, Spices Board and Rubber Board provide their expertise to the tribals.

### **Irrigation.**

**6.19** Major and medium irrigation and power projects set up in the tribal areas are Idukki Hydro Electric Project, Malampuzha and Kanhirapuzha in Palakkad district, Edamalayar Hydro Electric Project in Ernakulam district and Peppara water supply scheme in Thiruvananthapuram district. Karapuzha irrigation project in Wyanad district has so far not been commissioned, as its catchment area lies in the forests. 128 tribals displaced from the areas are being resettled and compensation has been given to them. Minor irrigation/lift irrigation projects have had no adverse effect upon the tribals.

### **Visit to Karapuzha Irrigation Project**

**6.20** The Karapuzha irrigation Project was initiated in 1977 for which land of tribals (Kuruman, Kurichan and Paniyan) as well as non-tribals was acquired and compensation paid. In addition to compensation for the acquisition of land, 162 houses were also constructed at a cost of Rs.126.30 lakhs. Land at the rate of 0.75 acre per family is yet to be distributed for which land has been identified. Facilities like approach road to the rehabilitation colony, water supply arrangements and

electrification are under process with the Irrigation Department. Some of the displaced tribal families brought to the notice of the Commission their untold miseries, such as payment of highly inadequate compensation for tribal's land as compared to land held by non-tribals. A tribal family got compensation of Rs.6,000/- for one acre of land as against some of non-tribals receiving Rs.5 lakh for one acre land. House design is such that space is inadequate for one family. It was suggested that two houses might be given to one family and basic amenities of drinking water, electricity and an upper primary school may be ensured.

### **ST Cooperative Societies**

6.21 The Kerala State Federation of Scheduled Castes and Scheduled Tribes Development Cooperatives Limited was established in 1981 for overall development of the socio-economic conditions of Scheduled Castes and Scheduled Tribes through its member societies. There are 95 Primary Tribal Cooperatives (PTC) affiliated to the federation with a membership of 9,000 and the federation helps 30 PTC in the marketing of MFP. 95% of the sale price of MFP collected by the federation is given to the member societies. They pass 80% of the same to tribals for collection charges. The federation also provides advance to the societies for collection of MFP.

6.22 The ST Cooperative societies are functioning under the Cooperative Department. The federation has started a powdering unit in Wayanad which was later shifted to Thrissur. A honey processing unit is also functioning as well as an Ayurvedic Medicine Manufacturing unit is producing about 200 items for marketing. 30 Cooperatives have been assisted for construction of MFP godowns. The ST Development Department had sanctioned during the year 2000 an amount of Rs.40 lakhs for implementing Grain Bank Scheme through nine Tribal Cooperative Societies to benefit tribal population of Wayanad, Attappady, Parambikulam. A rapid study of five tribal cooperatives by KIRTAD has revealed that the manpower deputed to work in the societies are not able to address themselves to the problems of STs. The staff needs training and constant guidance to take proper decisions. The

societies should hold regularly their meetings annually or bi-annually to enable the members to share their experiences; self help groups of women should be involved and projects should be assigned to them for implementation.

## **Industries**

**6.23** Malabar Cement Ltd. is the only major industry in the State located in tribal area known as Nadupathy in Puthussery Panchayat of Palakkad district. In lieu of acquisition of land for formation of road leading to the mines the factory has recruited 70 tribals for manual labour since 1983. Village and cottage industries working for the tribals are weaving units operated by Khadi and Village Industries Board and Industry Deptt. Tribals are also being trained in plastic and cane oriented handicrafts and furniture works. State Government has introduced vocational training programmes in computer repair and maintenance of household electrical and electronic equipments.

## **Tourism**

**6.24** State Government has informed that tribal youth would be trained in tourism related activities and financially assisted in starting different ventures, such as restaurants, transport services, tourist guide, hotel management, food processing etc.

## **Communication Strategies and Communications**

**6.25** State Government has posted 1000 tribal volunteers in various parts of the state to act as a link between the tribals and development agencies. Road network and audio visual media are wide spread throughout the state. Awareness programmes in legal literacy has received wide applause throughout. Efforts are on to reach tribal hamlets located in the reserved forests. Possibility of air and railway linkage with tribal areas is rather remote.

## **Public Distribution System (PDS)**

**6.26** PDS network is looked after by the State Civil Supplies Department. Outlets of the PDS have been opened everywhere within a radius of one kilometer.

### **Lack of awareness about Tribal Co-operative and Finance Development Corporation.**

**6.27** In all these years of planned economic development, the tribal communities in the State have not seen their economic prospects beyond land cultivation and the collection of the forest produce. There are, in fact, no other avenues available for self-employment and income generation for the tribals in the State. There are no industrial and commercial activities in and around tribal habitats, which are mostly located in the interior and in difficult forest terrain. One important outlet for self-employment is to build an entrepreneurship for running small shops and running taxies, bus services and trucks etc. Kerala SC and ST Finance and Development Corporation provides soft loans to the tribals interested in making investment in the small trade, commerce and industrial activities. The Commission observed that in almost all the places of tribal habitats in the districts visited, the tribals were not aware of the availability of finances for investment from the Corporation. **The Commission recommends that the State SC and ST Finance and Development Corporation should provide extension services and help the tribals to avail of the soft loan facilities.**

## **Education**

**6.28** As the population of tribals is dispersed throughout the State, the ST students attend schools located throughout the State and these schools are run by the Education Department. Enrolment of ST students at different levels in 2001-02 was as given hereunder:

<b>Level of Education</b>	<b>Number</b>
1. Primary	26835
2. Upper Primary	18414
3. High School	13650

4.	H.S.School	2623
5.	Post Graduation	
	(a) Degree	993
	(b) Post Degree	135
6.	Technical Courses	
	(a) Engineering	180
	(b) Medical	186
	(c) Paramedical	14
	(d) Polytechnic	55

**6.29** The STs Development Department has given priority to educational development of STs by giving educational concessions from pre-primary stage to post-graduate level. Apart from exempting them from all kinds of fees they are given incentives as under:

- (i) Incentives to parents for sending their children to schools - @ Rs.10 p.m. per child – in classes I to V
- (ii) School bag, chappals, books and stationery and uniform to the children of PTGs
- (iii) Uniforms to ST children in classes I to IV
- (iv) Assistance of Rs.2500 to those who score 1st class in class X and XII
- (v) Ayyankali Memorial Talented Search and Development scheme –through test held at Class IV and Class VII

**6.30** Tribal Development Department ensures the payment of lump sum grant and stipend and other educational benefits to nearly 60,000 pre-matric students and 4,000 post matric students. An amount of Rs.431 lakhs was budgeted for this purpose during 2002-03. The Dept. runs 104 pre-matric hostels (70 for boys and 34 for girls) for providing educational facilities to 5,000 ST students. Eleven hostels have been set up by NGOs receiving grant from the State Govt. and 7 are supported by G.O.I. A hosteller is given Rs.125 towards uniform allowance and Rs.250 p.m. towards mess charges. In an evaluation study brought out by the State Tribal Research Institute, it was suggested that tuition system may be introduced in the pre-matric hostels and Infrastructural facilities upgraded. Kerala SC/ST Residential

Educational Society runs 18 Model Residential Schools of which four are exclusively for PTGs. One such school follows CBSE syllabus and others the State-syllabus.

## Vocational Training

### Visit to Ambedkar Memorial Rural Institute For Development (AMRID), Kalpetta (Wayanad District)

6.31 Ambedkar Memorial Rural Institute for Development (AMRID) was set up in 1990 to meet the educational needs and providing training for seeking employment opportunities by the students of Wayanad district especially the Scheduled Castes and the Scheduled Tribes.

The main activities of the Centre are as under:

1. Printing press-two letter presses and one mini Auto print Offset press (Training and Job Works)
2. Handicraft work (Training cum production Centre)
3. Typewriting Institute (20 trainees)
4. Tailoring Institute (41 trainees)
5. Autorikshaw Driving Institute (64 trainees)
6. Plastic welding unit (Production Centre)
7. Computer Training Centre (61 trainees)

Community wise details of Tribal trainees are given in the table below:

Scheduled Tribe	Typewriting	Tailoring	Computer	Autorikshaw	Total
Paniyan	4	3	3	19	29
Kuruman	13	26	34	19	92
Kuruchan	3	12	12	17	44
Adiyan	-	-	-	7	7
Kadar	-	-	-	1	1
Kattunaikan	-	-	-	1	1
<b>Total</b>	<b>20</b>	<b>41</b>	<b>49</b>	<b>64</b>	<b>174</b>

6.32 The training courses are conducted with the funds allotted by the Tribal Development Department, District Industries Centre, Local bodies and other implementing departments under various schemes. A total number of 1984 students were given training in various courses from 1990-91 to 2001-2002.

### **Visit to Model Residential School for Tribal girls, Kalpetta**

6.33 The Commission visited the Model Residential School for tribal girls at Kalpetta and observed that the rooms for inmates were congested, the number of Paniyan girls which is a predominant tribe in Wayanad district was small and recommends that Paniyans along with PTGs should get preference in admission to Model Residential School, Kalpetta. The Commission also visited Nivedita Vidya Niketan, Kanyampetta,

**The Commission observed that although the literacy rate of STs in the state is comparatively better than the all India average for the tribals, even 2% seats reserved in Kerala for the STs in technical institutions/professional courses were not fully utilized. The Commission, therefore, recommends that the State Government should take urgent steps to ensure that ST students reached the post matric stage of education particularly in Technical/Professional streams for which necessary facilities should be provided by coaching and preparing the tribal students for the entrance tests conducted for various technical courses.**

### **Health**

6.34 Out of 959 PHCs and 5094 Sub-Centres in the State, 69 PHCs and 268 sub-Centres are located in the tribal areas. Although medical facilities are available throughout the state their reach is limited in the tribal areas for want of medical personnel and indoor patient facilities. With the assistance of grants from the Govt. of India under Article 275(I), Eight Mobile clinics and 3 health care projects for specialized treatment and also a chain of outdoor patients clinics have been started in Idukki and Wayanad districts and elsewhere in Attapady, Nedumangad,

Thodupuzha and Palakkad. Govt. of Kerala has also started implementation of Comprehensive Health Care Insurance Scheme to cover entire tribal population of the State. In order to provide incentives to Medical Doctors to serve in the tribal areas, weightage is given for securing admission in P.G.Courses. In the voluntary sector, Vivekananda Medical Mission in Wayanad and Amritha Institute of Medical Schemes and Research are most popular institutions in extending health care to tribals. Traditional Health and Medical practices are very popular not only amongst the tribals but throughout Kerala State. The Govt. has identified indigenous medical practitioners and the herbs used by them. A four year certificate course in indigenous medicines has been introduced in the state for giving training. Based on research findings, the Pharmacopia has been tested and an MoU has been signed in collaboration with Regional Research Laboratory, Srichitra Medical Centre and Tribal Research Institute to get a patent from Govt. of China. A draft intellectual property right bill has also been prepared to cover other areas of medical practices. State Govt. has informed that the Central Council for Research in Ayurveda and Sidha has not taken up any project in Kerala so far, which should be undertaken.

**6.35 The Commission was informed that Muthuvan Community of Idukki District still practices a system of delivery at home where pregnant women are kept in separate huts called "valyma pura" for delivery and convalescence for 16 days. It is felt that in the absence of ANMS, traditional birth attendants may be trained in midwifery and some allowances paid to them. State Govt. has posted 1000 tribal youth as S.T. promoters in health care and allied subjects with the hope that they will bring about a social change among the tribals.**

### **Visit to Hospital run by Swami Vivekananda Medical Mission (KERALA), Muttill Wayanad, Kerala State (11-11-2002)**

**6.36** The Swami Vivekananda Medical Mission, Kerala started its activities in 1972 in the backward hill district of Wayanad where facilities for drinking water, approach roads and sanitary latrines were not available. Malnutrition, unhygienic habits and insanitary conditions of living were the main causes of diseases. The Centre of activities of the Mission was a free dispensary at Muttill, near Kalpetta, the present



headquarters of the District. On 4.7.2000, a ten bedded hospital was inaugurated by Shri Juel Oram, the then Hon'ble Minister for Tribal Affairs. The Govt. of India sanctioned an amount of Rs.8,93,100 during the year 1999-2000.

### **6.37 Activities carried out by the Mission are as under:**

#### **(1) Hospital at Muttill**

The Mission's hospital provides all the basic facilities such as

1. Out patient department, 2. Free dispensary, 3. General ward,
4. Minor operation theatre, 5. Laboratory conducting all kinds of tests
6. Labour ward, 7. X-Ray unit, 8. E.C.G. unit, 9. Cardiac Monitor and Nebuliser, and 10. Ambulance

More than 180 patients are treated daily on an average in the out patient department. No fee is charged from the tribal patients and medicines are given free. Patients who require expert treatment are taken to the District Hospital at Mananthavady or to the Medical College Hospital, Calicut in the hospital ambulance. Normal cases of delivery are attended at Muttill itself.

#### **(2) Sickle Cell Anaemia Diagnostic and Counselling Centre**

The incidence of Sickle Cell disease, a disorder of haemoglobin found among the tribal people of Wayanad was noticed by the Medical Officer of the Mission. This led to detailed studies by the experts from the Calicut Medical College and from the Genetics Department of the All India Institute of Medical Sciences Delhi. As a result, the AIIMS prepared a three-year project "**Central Programme for Sickle Cell Disease in Tribal Population**" which is being implemented in Wayanad. The Centre so far screened 60,980 persons and found that 1,838 persons were suffering from the disease and 8,328 persons were carriers of it.

#### **(3) Pain and Palliative Care Clinic**

A Pain and Palliative Care Clinic has been set up in the hospital for supporting patients with chronic pain on account of advanced cancer, Sickle Cell Anemia and other such conditions since May 1998 with a daily average of 20 patients.

#### **(4) Preventive, Control and Treatment of Tuberculosis**

As the incidence of Tuberculosis is found in large numbers among the tribal people, special attention is being given for the prevention, control and treatment of the disease.

The mission is also running dental, orthopedic, ophthalmology and gynaecology clinics.

A gynaecology specialist lady doctor visits the hospital once a month.

**(5) Mobile unit-** The Mission's Mobile Unit takes medical care of the tribals at the very door steps of the ailing, living in distant localities and to those unable to reach the hospital at Muttill or the Government hospitals in the district. Weekly sub-centres have been opened in different parts of the district, viz one at Chulloliyode near Tamilnadu border, another at Kallor near Karnataka border and a third at Cherukara in the north west part of the district. Patients are examined and given medicines, and cases requiring hospitalization are taken to the Mission Hospital in the ambulance. An average of 75 patients are treated at each centre every week. The mobile unit conducts diagnostic and treatment camps in tribal colonies on six days in a week. In the camps immunization and distribution of Vitamin "A" are also conducted. The mobile unit has been conducting such medical camps in several Tribal villages of Attapaddy area in Palghat district and also in the Nilgiris district of Tamilnadu. Another activity taken up by the mobile unit is the medical inspection of children in nursery schools, primary schools and hostels for tribal children.

**(6) Health Education (Swasthya Mitra) -** In achieving the aim of the World Health Organization "HEALTH FOR ALL BY 2000 AD" the Mission has initiated a scheme of Health Awareness Campaign called SWASTHYA MITRA among the tribal people.

**6.38** The services rendered by the Mission have been helpful to ailing poor tribals. Number of tribal beneficiaries has grown from 5000 in 1973 to about 59,000 in 1999. Number of medical camps held also increased from 113 in 1985 to 358 in 1999.

**6.39** The Secretary, Health of the State Government apprised the Commission that in some tribal areas Sickle Cell Anaemia and Chest Diseases were common. The patients belonging to tribal communities are being provided medicines free of cost. The State Government is also contemplating to provide health insurance to all the tribal families which are in the category below-the poverty-line. **The Commission recommends that the Department of Health should introduce health card system for the tribals so as to enable the health institutions to provide treatment facilities and medicine free of charge particularly for the reason that the tribal population is dispersed all over the 14 districts of the State and most of these communities live in small tribal pockets.**

### **Housing**

**6.40** Govt. of Kerala accorded high priority to construction of houses during Ninth Five Year Plan period and according to an estimate number of houseless S. T. families were 25,000. Houses are constructed by five agencies, namely, Scheduled Tribes Development Department, Rural Development Department, Forest Department, Kerala State Development Corporation for SC and ST and the local bodies. During IX Plan, 2938 houses were constructed by the S. T. Development Deptt. and assistance was provided by the local bodies for developing 1584 plots and repairing 9120 houses. A provision of Rs. 75,000 per house in inaccessible areas has been approved by the State Govt. **The Commission recommends that houses should invariably be constructed only on non-disputed lands and patta of ownership of house site may simultaneously be given to them.**

**6.41** The tribal population is dispersed all over in 14 Districts and tribal habitats are smaller in size with the average population of about 300 which are named as tribal 'colonies'. Most of the communities have been living in these small habitats for generations. **The Commission recommends that the old as well new settlements should not be named as "colonies". These habitations should be recorded in the revenue papers and named after the traditional name of the place of habitation. Usage of word "colony" should be done away forthwith.**

## **Drinking water**

**6.42** According to the State Government supply of drinking water is assured to the tribals by the Tribal Development Department, local bodies and the Kerala Water Authority. During IX Plan period, 1914 water taps were installed in tribal areas in addition to 2427 dug wells. During X Plan, Giridhara project costing Rs. 12.50 crores is being implemented in Wayanad district.

## **Atrocity**

**6.43** The Commission was informed in Idukki district that the Police did not take prompt action against atrocity/harassment done to the tribals by the non-tribals. These cases were not even registered by the police. A few cases are cited below:

(a) State Government provided funds for house construction and after some time a report is lodged with the police that the house site on which house is constructed does not belong to the house-owner. As a result of which the house is demolished and the tribal is harassed. (Ref. V. K. Sasikumar, Savitha Niwas, Nayar Para, Udabanchola – Mariapuram Panchayat).

(b) An enquiry was not held into the alleged burning of tribal houses in Malhikettan village on 12.05.2002.

## **Money lending and debt redemption**

**6.44** As there is no Scheduled Area in Kerala State laws regulating money lending and providing debt relief to tribals have not been enacted. However, loans are made available to tribals by the Girijan Service Cooperative Societies, Self Help Groups and Village Sabhas (Oorukouottams).

## **Bonded Labour**

**6.45** In accordance with the provisions of Bonded Labour System (Abolition) Act, 1976, 823 cases were identified, of whom 710 were rehabilitated by the end of 1983-84, 48 persons could not be traced out, 62 persons did not require any rehabilitation

and 3 had died. A sum of Rs. 9.34 lakhs was utilized for the rehabilitation of bonded labourers in the plantations at Kanhiramgad, Kunhome and Lekkidu units of Priyadershini tea estates.

## **Excise**

**6.46** Although sale of liquor has been prohibited tribals are permitted to brew their own traditional liquor for meeting domestic and social requirements. It was represented to the Commission that the production of spurious liquor centered around tribal habitations by the outsiders is widely prevalent and more than 25% of the tribals are addicted to alcohol. **The Commission recommends that illicit distillation should be curbed and a movement of temperance by involving voluntary agencies should be started.**

## **Panchayats**

**6.47** As there is no Scheduled Area in the State the Panchayat Extension to Scheduled Areas Act, 1996 is not applicable to the State. However, out of 17086 elected members in local self-government institutions, 193 belong to STs.

## **Personnel Policy**

**6.48** Govt. of Kerala does not have a separate personnel policy for its employees for working in the tribal areas for the reason that "tribal areas got increasingly integrated with non-tribal areas". **The Commission are happy to note that 300 tribal youths were recruited as Forest Guards and 1,000 tribal youth as Promoters.**

## **Public hearing at Kalpetta (11-11-2002)**

**6.49** On 11.11.2002 a meeting of tribals hailing from various parts of Wayanad district was held at the campus of Vivekananda Hospital Mission at Kalpetta. The meeting was attended by about 100 tribals and views were expressed by about 11 persons. Memoranda were presented by 21 persons. Smt. Radha Raghavan MLA

from the reserved ST constituency of Manantwady also spoke before the Commission. She stated that Wayanad district has poor infrastructure for health facilities, thereby the health status of tribals is very poor. A Scheduled Tribe Committee if set up by the State Govt. for Wayanad district may perhaps look into the plight of tribals deeper. Landlessness and lack of house sites are two very grave issues which require primary attention. It was suggested that –

- (a) reservation for tribals in services should be ensured and 100% tribals recruited on specific posts by the Forest and other alike departments.
- (b) an area of 5 kms. around the forest lands may be declared “Tribal Zone” and tribal development facilitated.
- (c) One Lok Sabha Constituency may be reserved for tribals of Kerala State.
- (d) A Cultural Centre in the name of tribal martyr- Thalakkara Chandu of Kuruchia tribe may be established at Panamaram.
- (e) Financial assistance for house construction may be raised from Rs. 35,000/ to Rs. 50,000/-.

### **Public Hearing at Thrissur (12.11.2002)**

**6.50** In the public hearing, Shri N. C. Aiappan of Kodicherry village (representative of Adivasi Gotra Mahasabha), Miss Jasha (S. T. Promoter), Shri M. K. Santosh, Maramgode and Shri M. S. Subran, Monedy Colony besides a few others gave their views on the plight of the tribals of Thrissur District, as under:

- (a) the tribals are forced to do ganja cultivation to eke their livelihood;
- (b) each landless ST family requires at least one acre land for cultivation;
- (c) Health Cards may be issued to tribals for receiving medicines free of cost.
- (d) **Kadar tribe people prefer to starve rather than beg. They belong to PTG. They prefer only MFP related vocation. It is suggested that special identity cards may be issued by the Forest Department to the Kadars to collect MFP. Miss Kanchan, Kadar girl who has passed Pre-Degree may be considered for employment as a special case.**

## **Public Hearing at Adimali (Idukki District) on 14.11.2002**

**6.51** About 600 tribals assembled at Adimali and attended the public hearing organized by the Vanavasi Kalyan Parishad.

Important issues raised were following:

- (i) Problem of landlessness and rights of possession over land are acute.
- (ii) Owing to the forest policy of the Government, no development is being done in tribal colonies. Construction of roads, drinking water wells, houses, electrification etc. are held up.
- (iii) Unless a person has a house, he has no status in the society. As tribals do not possess rights on homestead land, they felt humiliated and downgraded.
- (iv) In cold region of Idukki, the tribals faced hardships in procuring firewood from forests.
- (v) Tribals may be allowed to grow cardamom in forest areas.
- (vi) Several NGOs are working in the name of tribal welfare and have been exploiting them. Entry of NGOs may be regulated.
- (vii) Conversion of Hindu tribals to Christianity may be stopped forthwith.
- (viii) Financial institutions and Banks should adopt a befitting policy for those who lived within the forests and did not have rights of possession on land.
- (ix) Displaced persons may be resettled timely.
- (x) Police should make efforts to protect the tribals against harassment by non-tribals.
- (xi) All tribal colonies/ settlements may be declared as Scheduled Areas under the Fifth Schedule of the Constitution.
- (xii) Tribal families may be issued Identity Cards.
- (xiii) Six monthly renewal of Community Certificates held by tribals may be discontinued.
- (xiv) Tribals may be considered for employment by way of special recruitment.

**6.52 Based on the three public hearings, the Commission makes under mentioned recommendations:**

(a) **A Forest Zone for tribals in the periphery of Forests may be carved out.**

(b) **PTGs may be issued Identity Cards by the Forest Department to enter the forests and collect NTFP.**

(c) **A vibrant cultural centre in the name of tribal martyr- Thalakkara Chandu of Kuruchia tribe may be set up in the State.**

### **Discussions with district level officers of Wayanad at Kalpelta (11.11.2002)**

**6.53** District Collector stated that the problems of tribals mainly relate to collection of non-timber forest produce, landlessness and unemployment in the 137 tribal settlements. The 1975 Act of prohibition of land alienation has not been effectively implemented due to law and order problem. In pursuance of implementation of Forest (Conservation) Act, record of right is being updated by the Joint Committee comprising the officers of Forest, Revenue and Tribal Development Departments for those lands which have been in the possession of tribals as on 1.1.1980. 2,707 STs of 67 settlements who live in the Core Area of Wide Life Sanctuary also faced problems due to the menace of wild life. In regard to education, although each village has a primary school, some of them don't have the required 40 school going children. Therefore, their schools are being manned by single teachers. After SSLC, the students have to go outside Wyanad for PDC Teachers Training and other vocational courses.

### **Brief of Discussion with State Government Officers**

**6.54** On 16.11.2002, discussions were held with the Additional Chief Secretary to the Govt. of Kerala and a few selected senior officers of Revenue, Forest, Tribal Development, Education and Health Departments. Main issues concerning the tribals in Kerala were that of landlessness, land alienation and restoration of land



and hardships faced by tribals due to Forest Conservation laws. The Commission was informed that record of rights were being readied for tribals who possessed land as on 1.1.1980. As regards fishing and collection of minor forest produce from the forests, there was no restriction what so ever. Government have set up an exclusive body known as Tribal Resettlement and Development Mission (TRDM) in October 2001 to distribute lands on priority to tribals. It is estimated that about 12,000 acres of land would be made available to the tribals very soon.

**6.55** Secretary, Education Department informed that network of educational institutions in Kerala was quite large and facilities were abundant for tribals, as 2% seats reserved for them were not fully utilized. This called for diversified education at post matric level in different streams of education.

**6.56** Secretary, Forest Deptt. stated that as a special measure, State Govt. has taken action to recruit 300 tribals as Forest Guards.

**6.57** Secretary, Health Deptt. apprised the Commission that in some tribal areas Sickle Cell Anaemia and Chest diseases were common. 11 mobile units have been functioning in tribal areas. State Govt. was also contemplating to provide health insurance to all those families which were below poverty line, and also for having an exclusive Health Policy for tribals.

**6.58** The Commission recommends that the state government should formulate a comprehensive scheme for the rehabilitation of tribals, unwed mothers, introduce Health Card system, provide better quality of rice at Fair Price Shops, ensure safe drinking water to tribal settlements and strengthen the administrative apparatus of Scheduled Tribes Development Department, so as to speed up the momentum of tribal development in the State.

## **Evaluation**

**6.59** State Tribal Research Institute (KIRTADS) has conducted several research and evaluation studies since its inception in 1970. Some of the subjects covered by it related to ethnographic studies, studies on PTGs, evaluation of development programmes in the fields of MFP, working of Hostels, Girijan Cooperative Societies,

SC/ST Development Corporation and ITDPs, other areas such as customary laws and tribal dialects. On the basis of benchmark surveys conducted during 1976-78, 1996 and 2000, the State Govt. has decided to give attention to (i) allotment of land, (ii) construction of pucca houses, (iii) income generating schemes and (iv) educational development schemes. Kerala Institute of Research, Training and Development Studies and the Planning and Economic Affairs Department have carried out evaluation studies on programmes under the Special Central Assistance. State Govt. has also decided to improve the working of pre-matric hostels. The Commission feels that there should be a full time Director of State Tribal Research Institute (KIRTADS) manned by a sociologist/Anthropologist with full complement of technical staff to enable KIRTADS to undertake studies of on going programmes, and on a continuous basis studies on alienation of land and rehabilitation of landless STs.

## **Training**

**6.60** KIRTADS imparts training to officers of Govt. departments on various aspects of tribal way of cultural life as well as the issues relating to development programmes. It has conducted 35 training programmes during the past 10 years. 45 day training programme for tribal leaders in agriculture and animal husbandry is conducted in collaboration with the Kerala Agricultural University. Ten day training programme each is organized for village officers and Tahsildars of Revenue Deptt on the role of Anthropology in planning and development administration. Similar programmes are held for police personnel, tribal extension officers, Block Development Officers, Village Extension Officers and tribal youth. Training programme in the collection of medicinal herbs is arranged for 45 days. Workshops have been held on tribal health and medicines, leadership patterns among tribal women and Panchayati Raj functionaries. Besides KIRTADS, State Govt. has also associated State Institute of Management in Government and Kerala Institute for Local Administration in imparting training to officials as well as NGOs in the development of Scheduled Tribes and implementation of Panchayatiraj set up. **The Commission recommends that health personnel, teachers, police constables and forest guards may also be given orientation training in tribal development.**

# LAKSHADWEEP

(Lakshadweep literally means Hundred Thousand Islands)

## Introduction

1. Lakshadweep is a group of islands consisting of only 10 inhabited, 17 uninhabited islands, 3 reefs and 7 submerged sand banks. Commission spent six days in Feb-March, 2003 in visiting the islands of Agatti, Bangaram, Minicoy and Kavaratti – the headquarters of the tiniest Union Territory of our country covering an area of 32 Sq.Kms.

Some relevant statistics are as under: -

<b>Territory -</b>	32 sq kms.		
	4,200 sq km – lagoon areas		
	20,000 sq km – territorial water		
	4 lakhs sq km – economic zone		
<b>Population -</b>	60, 595 (2001 Census)		
<b>Male -</b>	31, 118	28,611 (ST)	
<b>Female -</b>	29, 477	28,710 (ST)	
<b>Scheduled Tribes -</b>	<b>Total</b>	-	57,321
	<b>Male</b>	-	28,611
	<b>Female</b>	-	28,710
	<b>Percentage to Total U.T. population -</b>		94.60%
<b>Sex ratio -</b>	947 (ST 1003) (2001 Census)		
<b>Literacy rate - Total</b>	81.78	-	ST - 80.6
<b>Female -</b>	72.89	-	ST - 71.7
<b>Male -</b>	90.18	-	ST - 89.50

1.1. Lakshadweep is tucked away at 220 – 440 Kms. off the Malabar coast and lie directly in the trade route between Africa, Arabia and India (Malabar). The unique feature of the islands is its wall like coral reef made of marine live coral boulders which block the incoming waves of the outer sea resulting in a huge shallow calm 4,200 Sq.Kms of lagoon rich in marine life. The islands are believed to have been discovered by shipwrecked sailors during the reign of Cheraman, the last king of Kerala in 4 AD. Before coming under the British rule, Tippu Sultan held sway in the islands after defeating the rulers of Arackal. The first settlers were Hindus/Buddhist. Even now Hindu social stratification exists in these islands despite Islam. Buddha idols are found in Kavaratti and Andrott. The advent of Islam took place around 7 A.D. and all the islanders were converted to Islam. According to the Constitution (Scheduled Tribes) (Union Territories) Order 1951 and substituted by the Scheduled Castes and Scheduled Tribes List (Modification) Order, 1956 the inhabitants of Lakshadweep who and both of whose parents were born in those islands are treated as Scheduled Tribes throughout the Union Territory. (Source: UT Administration of Lakshadweep)

1.2 The Union Territory was formed in 1956 and it was named Lakshadweep in 1973. All islands constitute one district and divided into four Tehsils and put in charge of a Tehsildar except Minicoy, where a Deputy Collector was appointed in August 1978. The lowest revenue official in each island is designated as Amin. The Administrator appointed under Article 239 of the Constitution is the head of the U.T. As per the Lakshadweep Panchayat Regulation there is a two tier Panchayat - The Dweep Panchayat and the District Panchayat. Last election for the Panchayats was held on 20.10.2002. All the 79 seats of the Dweep Panchayat and 21 out of 22 seats of District Panchayat have been occupied by STs.

1.3 The role of the Panchayati Raj institutions, particularly in the field of poverty alleviation, appears to be gaining momentum. The population of the islands was 60,595 in 2001 and it is estimated that by 2011, it will be 85,800.. The islands have no rivers except some brackish water ponds at Bangaram and Minicoy.

## **Land System, Alienation and Settlement Operations**

### **Land System**

2. The joint property management under *Marumakathyam* namely matrilineal system of inheritance under which property descends through the female line is in vogue in the islands. But income from ancestral or *tarwad* property is equally shared among the members of the joint family which is maintained by eldest male member of the family who has no right to alienate or sell it. However, *Marumakathyam* system is slowly shifting to *Makkathayam* or patrilineal system which is resulting in sub division and fragmentation of joint family properties into individual/family possession.

### **Land Alienation**

3. The Laccadive, Minicoy and Amindivi islands (Protection of Scheduled Tribes) Regulation, 1964 (as amended in 1974) is in force to protect the alienation of tribal lands to non-tribals. The main features of this regulation are:

- (i) Both Scheduled Tribe transferer and non-scheduled tribe transferee have to obtain sanction of the Administrator for transfer of any land by way of sale, mortgage, lease, exchange, gift or otherwise or to acquire any interest in any land or in any product or crop raised on such land but such permission is not necessary if such transfer is in favour of the Government, a bank or a cooperative society or any member of the Scheduled Tribes.
- (ii) No land held or occupied by a member of the Scheduled Tribe is liable to attachment or sale in execution of any decree or order of a civil or revenue court and any transfer, attachment or sale of any

land made in contravention of the provisions of this regulation shall be void but this will not apply to attachment or sale in execution of any such decree or order in relation to debt owing to the Government, a bank, a cooperative society or any member of the Scheduled Tribe.

- (iii) Penal provision for violation of (i) and (ii) above lays down that any contravention shall be punishable with imprisonment which may extend to one year or with fine which may extend to Rs.1000 or with both.

**3.1** The Administration has informed in a written reply that no case of violation of the Regulation has been reported so far and that minimum extent of land has been acquired without causing hardship to the Scheduled Tribes in the islands. The Administration has not indicated the exact acreage of land and compensation paid to tribals. However, it was brought to the notice and observed by the Commission that the Administration has acquired large acreage of land for construction of roads, hospitals, Government offices and Police and Navy installations.

**3.2** The density of population in Lakshdweep is one of the highest in the country. As per 2001 census, the density of population per sq. km. in descending order was 2,834 in Amini island, 2,786 in Kavaratti, 2640 in Bitra etc. with a minimum of density of 1,705 in Kadmat island and the **land holding are meagre and a saturation point has been reached and it is not possible for the tribals to part with their land holdings permanently. The tribal representatives therefore demanded that no acquisition of tribal land should take place in the islands and if it is imperative they would be prepared to give the land on ground rent basis or on long-term lease so that permanent alienation of tribal land does not take place. The Commission recommends that this demand of tribals should be conceded and the land required for civil and defence departments should be minimum.**

## **Land Settlement Operations**

4. Land settlement operations were started in 1962 and it is a matter of concern that these operations have not been completed. The Administration has stated that tribals are cooperating with Government officials in land settlement operations and that after the completion of settlement register final record of land rights will be prepared and a copy will be given to the Panchayat. So far the Administration has prepared final record of rights in respect of Bitra island only. **The Commission recommends that land *pattas* should be given to the tribals in all the islands by the end of the Tenth Five Year Plan.**

4.1 In the meeting with village Panchayat members and tribal leaders at Minicoy, it was found that in *Pandaram* land measuring 11 cents per head was given to the tribals on tenancy. **In North *Pandaram*, 49.31 hectares and in South *Pandaram* 301.87 hectares of land were distributed. Although tribals have occupancy rights since 1984-86 over coconut plantations on these lands but the Administration has not yet conferred the rights to them.**

4.2 The tribals have been traditionally occupying the land in the shore area for planting coconut trees and this practice has continued for the last several decades. At the time of land survey the portion up to high-tide mark was left as Government land on a mutual agreement. There is no practice of Government paying any compensation in the event of loss of land by storm or sea erosion. In such cases, the Commission recommends that relief must be given to the affected tribals. However, the Revenue authorities are dispossessing the tribals from such lands. The Commission recommends that the customary practice of adjacent land holders getting the benefit of nominal accretion by way of alluvial action should be regularized by suitable amendments in the above mentioned regularization as per Lakshadweep Law Revenue and Tenancy Regulation, 1965.

## **Main occupation**

5. The character of these islands have decided the main occupations of the tribals which are fishing, coconut farming and coir twisting. There is no agricultural activity in the islands other than the coconut cultivation. Coconut is cultivated in 2689 hac out of total area of 3200 hectares of the island. Food articles like rice, wheat, sugar etc are transported from the mainland. There is no major industrial activity in the islands other than some small cottage industries. All the building material, fuels etc. are to be brought from the mainland.

## **Coconut farming**

6. The annual production of coconut varies from 28 to 30 million nuts. It is targeted to reach 37 million nuts by the end of Xth Plan. 3 widely grown varieties in the territory are (1) Laccadive Ordinary (LO), (2) Laccadive Small (L.S) and (3) Laccadive Micro (L.M). People prefer L.O which is a prolific bearer, the annual production on average per palm per year is 62 nuts. The oil content in copra is about 68%. 110-120 nuts of L.O provide a quintal of copra. Laccadive Micro is typical for the small size of its nuts, contains little water and quickly dries up during storage. This variety is generally preferred for making ball-copra of superior quality. The deshelled whole ball nut is preferred for puja purpose as well as desiccated copra. The oil content is about 70-72%.

6.1 Copra is procured from the farmers in the islands through a net work of primary cooperative societies at the declared support price and marketed by Lakshdweep Cooperative Marketing Federation (LCMF). A record procurement of 4244.74 m.t. of Copra worth Rs. 13.78 crores was procured in 2001-02. This came down to 1,479.32 m.t. during 2002-03. In order to provide impetus to copra procurement a rolling capital should be provided to LCMF. **During the course of the tour it was learnt that rapid sub division and fragmentation of holdings/property has taken place in the islands resulting in reducing the size of individual holding and each owner puts more plants**



**on the boundaries and fields with the result that the number of nuts are decreasing. Efforts have to be made to improve productivity of coconuts by introducing scientific farming methods, controlling rodents and use of organic manure by converting waste coconut pith into good quality manure.**

**6.2 Value addition to coconut based products like coir, coir fibre, desiccated coconut powder units, coconut milk should be encouraged to provide more employment to the tribals. For this purpose, establishment of cooperative industrial societies, organizing entrepreneurship development training programmes and promotion of self-employment programmes is necessary. Desiccated coconut producing units should be set up in each island. It would offer scope for value addition and better yield in monetary terms. Similarly coir centers in consultation with the Coir Board should be started in every island for giving training.**

### **Fishery**

**7. Fishery is the other important traditional occupation of the islands. Out of total of 12,800 tonnes of fish landed in 2001-2002, tuna landing comprised 9,343 tonnes. The islanders are now using mechanized boats, fishing implements and fishing gear for improving their fish catch. The local fisherman because their boats are small and have no storage facilities have to go back to the shore. The Administration was giving subsidy on hull and engine for the mechanized fishery boats. This scheme was discontinued in 2001-2002 and needs to be continued in the Tenth Plan.**

**7.1 Presently not even 10% of the fishery resources in the islands waters are exploited. The main reason for low fishing is traditional methods of fishing by the country crafts which have limited endurance; lack of scientific storage in the islands, absence of processing facilities and harvesting only one variety of fish namely tuna ignoring other varieties that are available for want of proper marketing network. In order to improve the endurance of the vessels used by the local fishermen and also to encourage them to go further in deep sea, harvesting different varieties of fish, it**

**is necessary that the Administration should introduce mother vessels to cater to the needs of the northern and southern group of islands. These vessels should be equipped with the cold-storage and processing facilities and local fisherman need not visit the shore for unloading the catch and collecting fuel/provisions. These measures will provide employment to the unemployed youths.**

**7.2 At present due to the absence of cold storage/blast freezers, the fishermen process the tuna fish by converting it into dried tuna called "mas" which does not offer them adequate monetary value. They are exploited by the middle men. Mas is marketed in an unorganized manner. 'Mas' which is purchased from the fishermen at Rs.50 – 60 per kg. is sold in the mainland at Rs.150/- per kg. What is lacking is marketing facilities which should be extended by the Lakshdweep Development Corporation (LDC) in marketing 'mas' in the mainland. L.D.C. should be given rolling capital for purchase of 'mas' at support prices and market the same in the mainland.**

**7.3 The U.T. administration has taken up the programme of setting up of cold storage of 10 tonnes and 5 tonnes capacity, blast freezers gradually in various islands. There is only one processing center at Minicoy; it produces canned tuna. If the carrier vessels are introduced to carry fish in frozen condition to Minicoy factory, it will improve the capacity utilization of the factory besides facilitating better harvesting. A factory can also be established at a suitable island to utilize the northern group of islands as catchment area.**

**7.4 The importance of fishing cannot be denied. It could lead to greater employment generation and thus help towards economic upliftment. Fishermen Cooperative Societies and LDC should be persuaded to take up new ventures. Modern satellite based technology should be introduced for guiding fishing operations. Poaching by non-Indians should be scrupulously checked and halted. Effective measures must be taken to prevent the entry of outsiders in the territorial water for fishing in contravention of the Lakshadweep Marine Fishing Regulation 2000 and Marine Fishing Rules 2001.**

## **Education**

8. There are 46 schools (9 nursery, 19 junior basic, 4 senior basic, 9 high, 4 senior secondary and a Navodaya school) and an ITI with 17,420 students and 813 teachers in the islands. 5280 students are awarded scholarships. Merit Scholarship is awarded to the students studying in classes V to VII and VIII to X at the rate of Rs. 30 per month and Rs. 50 per month respectively based on an examination conducted for the students of class V and VIII at the beginning of the academic session. All those students who secure 60% or more marks in the annual examination of classes IV and VII are eligible to appear for the merit scholarship examination. The students selected in the examination conducted for merit scholarship are paid the scholarship for three years. Students staying in the hostels are given free lodging and boarding. Students of classes I to VII are given wholesome mid-day meals. **It was found that the students attend early morning for 1-1/2 hours madarsas and after a break of an hour attend the school and in the evening again go to madarsas for further study. This results in the children getting hardly any time to play and do home work given at the school. It was observed that the quality of education imparted to the children in the schools is not satisfactory and a large number of children drop out and fail in their high school examination.**

8.1 There was a ban on filling up of posts of teachers which has now been lifted and 139 posts of teachers are going to be filled soon. The Commission observed that ban on filling the posts of teachers and those connected with development schemes retards the progress of tribals for years to come. Malayalam is the medium of instruction in the schools and the students after high/higher secondary education find it difficult to study in colleges where English is the medium of instruction. In Minicoy island, Mahl language which has a script and a rich literature is spoken and taught in the primary schools. Central Institute of Indian Languages, Mysore, Government of India has brought out a Mahl primer for Class I. The tribals have to compete with the mainland persons in securing jobs in private and public sectors. **It is, therefore, necessary that in all schools there should be a separate section in each class with English as medium of instruction.. In Minicoy island sufficient number of posts in primary schools should be created for Mahl knowing teachers so that the**

children can move smoothly from the tribal dialect to the school languages of Malayalam, Hindi and English in higher classes.

8.2 There is an urgent need to improve the system of education. A Teacher Training Institute could be established for in-service training. The teachers could also be sent to the mainland for training, which will also give them the required exposure.

8.3 There are no facilities of higher studies in the islands, students have to go to mainland colleges. 1,524 students are getting monthly scholarships ranging from Rs.300 to Rs.500, reimbursement of passage fare once a year and an annual lump sum grant of Rs.250 to Rs.1800. Rates of scholarships for various courses of higher studies are not commensurate with the cost of boarding and lodging. **It is surprising that Lakshadweep Administration has not opened hostels in the cities of Kerala where most of the tribal students go for studies. It is recommended that hostels should be established by the Administration in the cities of Kerala where most of the tribal students secure admission. At the same time, there is need of establishing a degree college in Kavaratti which will go a long way in meeting the demand of the tribals and save them the time and avoidable expenditure to go to the mainland.**

## **Health**

9. There are two hospitals with a capacity of 70 beds, 3 CHCs and 4 PHCs. All the posts of specialist doctors and general duty medical officers are borne on Central Government Health Services cadre and appointments are made by the Ministry of Health and Family Welfare. All the general duty medical officer posts are filled in the hospitals, CHCs and PHCs. There is no specific post of a lady medical officer but 2 are working at Govt. Hospital at Kavaratti and one at Minicoy. **There is a urgent need of appointment of lady medical officer on regular or contract basis as women with their gynaecology problems are reluctant to consult male doctors. Two posts each of Surgeon, Gynaecologist and Anaesthetist and one post each of Pathologist, Pediatrician and Eye Specialist are lying vacant for a number of years. The lack of**

specialist doctors results in unnecessary and expensive evacuation of patients to mainland by helicopter. The tele medicine facility introduced at Kavaratti Hospital cannot fulfil the dire need of specialist doctors. It can no doubt be a great help in diagnosis and treatment. **The Administration has suggested to the Ministry of Health and Family Welfare that as they have not succeeded to fill these posts, the specialist doctors should be deputed to the islands at least for 3 – 6 months by rotation for each speciality so that the specialist services can be made available to the patients at the referral hospital at Kavaratti. This proposal should be acceded to immediately. At the same time Administration and Government of India should consider reserving seats for local doctors in the PG courses in the medical colleges in the mainland and posting of senior internees in the hospitals in the islands.**

### **Sanitation and drinking water**

10. There are no streams and rivers in the islands. The total requirement of water is 34 lac litres per day. Due to peculiar terrain of the islands a very small total of infiltrated water is available to recharge the shallow aquifer which also gets contaminated by human wastes, other chemicals fertilizers etc. The islanders suffer from stomach disorders and other diseases due to contamination of water sources.. The Expert Team appointed by Rajiv Gandhi Drinking Water Mission in 1995 had suggested that rain water harvesting and sea water desalination are the only two possible alternatives for meeting the drinking water demand. The rain water harvesting to the desired extent is not possible due to the unique terrain of the islands. The UT administration had started 10 brackish water reverse osmosis plants but this experiment has not been a great success. **It is, therefore, necessary that sea water desalination plants should be commissioned in all islands to ensure that the islanders get potable water. At the same time it is necessary to make arrangements for disposal of solid/liquid waste. Establishment of sewage disposal system in all the islands in an eco-friendly manner is urgently called for. This matter should be looked into promptly by the Ministry of Urban Development and Poverty Alleviation and necessary funds provided to set up sewage disposal system in all islands.**

## **Communication**

11. Lakshadweep is a group of islands and shipping service is the lifeline between the islands and mainland as well as in the inter-island sectors. Due to various developmental activities, the transportation requirement of islanders is on the rise. The islands are surrounded by lagoons which are fenced by coral reefs all round. These reefs restrict the navigability of the islands due to shallow depth of water over the reefs. Hence the main problem of navigating these islands is that vessels with drafts more than 2 meters cannot enter the lagoons. **Hence embarkation and disembarkation of the passengers and cargo in the islands are carried out in open sea and then brought to the islands by small launches or country boats which at times during the monsoon is very risky. It is recommended that adequate number of shallow all weather barges should be made available at major islands.**

11.1A Committee was appointed by the Ministry of Surface Transport in Feb. 2000 to formulate a prospective plan for assessing long term shipping requirements of Lakshadweep for providing efficient and economic shipping services during the next 15 years. The Committee had recommended the acquisition of 3 passenger ships (two vessels of 250 passenger capacity and one with 400 capacity), 3 all-weather high speed ferries each with 150 passengers capacity, 8 landing barges, one oil barge, one LPG cylinder vessel with a capacity to carry 2500 to 3000 cylinders, two 5 tonne bollard pull tugs, a cruise vessel for tourism, two mother vessels for storage of fish catch in the Northern and Southern group of islands, a high speed ambulance boat, adequate repair/workshop facilities to be created in some of the islands. There is a lot of unemployment in the islands. It was brought to the notice of the Commission that there was only one Employment Exchange at Kavaratti and that there is no Employment Exchange / Sub-Exchange in other islands. In September 2003, 7323 males and 3134 females were registered. **Considering the large number of unemployed persons, the Commission recommends that additional Exchange / Sub-Exchange may be set up. Lakshadweep has a large number of traditional seafarers who are employed on small vessels operating in and around various islands. A number of tribals from**

Minicoy island are working with various shipping companies. For this purpose they have to go to Mumbai. The Committee referred to above appointed by the Ministry of Surface Transport has recommended setting up of a training institute in Lakshdweep for training the islanders who have basic qualification viz. 10<sup>th</sup> standard or 10+2 to become ratings or officers. This will provide an avenue to the islanders to secure employment. The Commission feels that the recommendations of the Committee deserve early implementation as it will go a long way to improve the transportation for men and material between the mainland and Lakshadweep islands and create employment opportunities in the tourism sector as well as employment to the islanders in various posts in the new vessels that may be inducted. The Commission further recommends that due to scarcity of land in the islands the training institute should be located on a ship.

#### **Flight subsidy**

12. At present the flight charges between Cochin and Agatti is very high. The present fare of Rs.4300 cannot be afforded by tribals. The Commission was informed that there used to be a flight subsidy of Rs.1000 when NEPC was operating this sector. After Indian Airlines started operating in this sector, the flight subsidy was withdrawn. Subsidized flight fare is charged by Indian Airlines for traveling in the North-Eastern region. The Commission, therefore, recommends that Indian Airlines should subsidize the fare between Cochin and Agatti on the line of North-eastern States. Agatti is the only airport in Lakshadweep and helicopter passenger service of Rs. 200 is charged from the passengers. The helicopter service is utilized by the tribals for lifting the patients requiring immediate medical attention in the absence of any other faster means of communication. The Commission therefore recommends that passenger fee charged from the tribals should be exempted.

#### **Supply of electricity**

13. There is 24-hour supply of electricity in the islands. All the houses are electrified and the domestic sector consumption on average is at 65% of the total generation. The tribals demanded that the rates of electricity charged per unit are very high.

13.1 The electricity is generated through conventional diesel system and the cost of one unit of electricity is Rs.7.71 whereas the recovery is on an average Rs.3.50 per unit. The UT administration has therefore taken a programme to instal solar power panels in all the islands. The cost of generation of electricity from Solar Photovoltaic (SPV) power panels is Rs. 3.11 per unit. With the commissioning of sanctioned projects all the inhabited islands of this Union Territory will have one Solar Photovoltaic Power Plant each. **It is recommended that gradually the conventional diesel generation of electricity should be reduced and solar power plants in all islands should be installed by the end of 10<sup>th</sup> Five Year Plan. The biomass gassifier plant of 250 kw capacity was installed at Kavaratti in 1998. It is located near the houses of the tribals. The plant will generate 15 lac units per annum and cost of generation of electricity per unit will be Rs.3.14. Due to noise pollution, the biomass gassifier plant has not gone on steam and measures are being taken to reduce noise pollution. The plant would use biomass and thereby reduce accumulation of used coconut shells. The Commission recommends that after reducing the noise levels the plant should be commissioned by the end of 2004.**

### **Tourism**

14. The promotion of tourists in Lakshadweep has been entrusted to a registered society for promotion of recreation and nature tourism managed by officers of the administration with the Administrator as its Chairman and some non officials. Keeping in view the fragile eco-system of the islands, one of the packages that is offered to the tourists called 'coral reef' which is a day tour package where tourists explore islands during the day and travel on board at night covers 3 islands namely Minicoy, Kalpeni and Kavaratti. The second package is called "marine wealth awareness programme" and the tourists stay in Kadmat island for 3 days. The tourists avail the vessels which also cater to the inter islands passenger traffic of the islands. Experience has revealed that this arrangement is not attractive to the tourists with the result that there is a declining trend in the number of tourists going to Lakshdweep. **It is necessary to have a vessel separately for tourism to cater for about 150 tourists. This recommendation made**



by the Committee appointed by the Ministry of Surface Transport, referred to earlier also deserves implementation. At present the islanders are not getting benefit from tourists visiting the islands. A well thought out scheme should be chalked out by extending financial help to the tribals in setting up motels, restaurants etc. to derive benefits from the tourist traffic.

### **Award of contract**

15. Administration is undertaking construction of various buildings and contracts for such works as well as transportation of building material from the mainland is awarded to contractors every year. It was brought to the notice of the Commission that share of the local tribals in these contracts is very small. **The Administration while awarding the civil contracts should give weightage to the local people as it is not possible for them to compete with big contractors of the mainland.**

### **Issue of bringing modification in the Scheduled Tribes Order**

16. The entry to the list of Scheduled Tribes in the Union Territory of Lakshadweep in the Part I of the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Orders, 1951 is as under:

“Throughout the Union Territory:

Inhabitants of the Laccadive, Minicoy and Amindivi islands who, and both of whose parents, were born in those islands”.

A person to be treated as a Scheduled Tribe of Lakshadweep must fulfil the following conditions:

1. the person should be an inhabitant of Lakshadweep (formerly known as Laccadive, Minicoy and Amindivi Islands).
2. The person should have been born in any of the islands in Lakshadweep.
3. Both father and mother of the person should have been born in any of the islands in Lakshadweep.

16.1 The Scheduled Tribe persons represented that birth sometimes takes place outside the islands in the following circumstances: -

1. Owing to major gynaecological problems, the patient is evacuated to mainland for specialized treatment.
2. Certain inhabitants of Lakshadweep reside outside the Union Territory on account of employment and posting.
3. Islanders engaged in trade, commerce, marine services etc. living outside the U.T.

16.2 The Lakshadweep Administration has suggested that following footnote or proviso may be made in the Constitutional Order, 1951.

“those who are born outside the islands to Scheduled Tribe parents both of whom are natives of Lakshadweep shall also be deemed to be Scheduled Tribes”.

16.3 Union Territory Administration has informed that the bill on the subject is under consideration in the Government of India.

### **Problem of Unemployment**

17. The Commission was informed of the growing unemployment among the educated tribals. There is an urgent need to alleviate the situation. **Recommendations have already been made for generation of employment opportunities in the field of coconut farming, fisheries, tourism etc. the Commission recommends some additional measures as given below:**

- (a) A Pre-Sea Training Institute
- (b) Coaching facilities for appearing in competitive exams for recruitment to Defence Services, BSF, CISF, CRP as well as the Civil Services, Banks and PSUs and for admission to professional courses.
- (c) Recruiting agencies, such as, UPSC, Staff Selection Boards, Nationalised Banks, Defence Selection Board, Shipping Establishments and others may

be urged to hold special campus interviews for the selection of personnel in one of the islands and not the mainland.

## **Employees Grievances**

18. A number of Government employees met the Commission during its tour at various places and narrated their grievances. The Commission recommends that –

- (i) **House Rent Allowances and Special Duty Allowance should be paid at a uniform rate to islanders as well as non-islanders.**
- (ii) **There should be no disparity in the wages of labourers working under the PWD and Village Dweep Panchayat.**
- (iii) **The policy of recruitment and payment of allowances to the Police Personnel should be uniform for all the UTs in the country.**
- (iv) **The reservation in appointment on compassionate grounds for the wards of deceased employees should be enhanced from 6% to 10%.**
- (v) **The Promotion policy for the post of Head Master from the Graduate Trained Teachers and Postgraduate Trained Teachers should be in the proportion of 70:30 respectively.**
- (vi) **The present age limit of STs belonging to the islanders should be raised to 35 years.**

## **Transit Hostel for Islanders in the Mainland**

19. Islanders have to visit Kavaratti and mainland at (Cochin, Kozhikole and Thiruvananthapuram) for pursuing education, undergoing medical treatment and carrying out trade and commercial activities. Hotels being costly, they find it difficult to stay in the mainland, except in emergency situations.

19.1 **The Commission recommends that Transit Hostels with board and lodging facilities at moderate rates at Kavaratti and at important places in Kerala,**

**Karnataka, Bombay and New Delhi may be set up, so that Islanders have better accessibility with the mainland.**

## **Role of Women**

**20. Women enjoy a unique position. They are held in high esteem and enjoy economic freedom and social status.** Traditionally, they have been playing a significant role in the running of their households while their men folk were away on high seas. **This rich human resource should be properly harnessed through Self-Help Groups and Womens' Development & Finance Corporation.**

**20.1** In the preceding paragraphs the Commission has given its suggestions and recommendations. We hope that combined with these and the Administrations planned on going programmes and new initiatives will result in better quality of life and empowerment for the scheduled tribes.

# REPORT ON MADHYA PRADESH

## 1. Introduction

Madhya Pradesh is located in the centre of India. It has three lakh sq Kms of land watered by 18 rivers. Its forest cover stands at 96,000 sq Kms. The State is backward and it faces challenges of unemployment, education, health care, safe drinking water, lack of power and poor infrastructure for development.

### 1.2 Statistical profile of the State

(1)	(a) Geographical area	-	3.08 lakh sq km
	(b) Tribal Sub Plan Area	-	0.93 lakh sq km (30.19%)
	(c) Scheduled Area	-	0.68 lakh sq km (22.07%)
(2)	Administrative Units		Number
	Districts	-	48
	Tahsils	-	271
	Blocks	-	313
(3)	<b>Tribal Sub Plan (TSP)</b>		
	Tribal Development Blocks	-	89
	Integrated Tribal Development Projects	-	31
	Modified Area Development Approach Pockets	-	30
	Clusters	-	6
	Primitive Tribal Groups	-	3
	Inhabited villages	-	52,143
(4)	<b>Political set up</b>		
	Gram Panchayats	-	22,029
	Janpad Panchayats	-	313
	Lok Sabha seats	-	29
	Rajya Sabha seats	-	11
	Legislative Assembly seats	-	230
(5)	<b>Population (2001 Census) in crores</b>		
	Total	-	6.03
	Male	-	3.14
	Female	-	2.88
	Scheduled Tribe (lakhs)		
	Total	-	122.33
			(20.32% to state population)
	Male	-	61.95 (50.94%)
	Female	-	60.38 (49.06%)
	Density	-	196 per sq km as against 324 for India

(6) **Literacy (2001 Census)**

	<b>M.P.</b>
Total	64.1
Male	76.5
Female	50.6

**Scheduled Tribe (1991 Census)**

	<b>M.P.</b>	<b>India</b>
Total	21.5	29.60
Male	32.2	40.65
Female	10.7	18.19

(7) **Population Below poverty line (1999-2000) in percentage**

	<b>State</b>	<b>ST</b>
Rural	37.09	56.26
Urban	38.54	52.59

(8) **Gross Enrolment Ratio (1997-2000) State**

	<b>Classes I to V</b>	<b>Classes VI to VIII</b>
Total	102.3	64.9
ST	82.4	38.1

(9) **Dropout Ratio (1993-94) Classes I to VIII State**

Total	44.7
ST	76.0

(10) **Work Participation Rate (1991 census) State**

	<b>Total</b>	<b>ST</b>
Cultivators	51.8%	63.2%
Agricultural Labourers	23.5%	29.5%

## 2. Governor's Report

2.1 Governor in his 1999-2000 report on Scheduled Areas, submitted to the President as required under the Fifth Schedule, touched under-mentioned issues.

### Administrative Set up

2.2 Scheduled Tribes and Scheduled Castes Development Department headed by a Minister and assisted by a Principal Secretary and a Secretary, is the nodal department to oversee the implementation of plans and programmes for tribal development in the State. The department is supported by a Commissioner, Tribal Development, a Director, Tribal Area Development Planning, a Director, Tribal Research Institute besides a Tribal Finance and Development Corporation. At the divisional level a legal cell and a Research Cell have also been formed. District level officers are Chief Executive officers (ex-officio Additional Director) to look after the Panchayati Raj set up and Assistant Commissioners/District Organisers, Project level officers for different projects hold the rank either of Joint Director or SDO or Deputy Director or District Organiser. At Block level, Chief Executive Officers, Janpad, Block Development Officers and Block Education Officers have been posted. Development Agencies have been formed for three Primitive Tribal Groups (PTGs), namely, Saharia, Baiga and Bharia.

## **Scheduled Areas**

2.3 With the formation of a new State of Chhattisgarh out of Madhya Pradesh, Govt. of India has rescinded the Scheduled Areas (States of Bihar, Gujarat, Madhya Pradesh and Orissa) Order 1977 and has replaced it by a separate Order known as the Scheduled Areas (States of Chhattisgarh, Jharkhand and Madhya Pradesh) Order 2003. This Order was notified on 20.02.2003. The Govt. of MP in their letter dt. 16.6.2003 has drawn the attention of Ministry of Tribal Affairs to carryout correction in the spellings of certain districts in their order referred to above. State Govt. has suggested that criteria for determining any area as Scheduled Area should be modified taking into account the following:

- (1) Entire TSP area as it exists today should be declared Scheduled Area.
- (2) All Blocks having more than 40% ST population and all Gram Panchayats having 40% + ST population should be included in Scheduled Area.

## **Tribes Advisory Council (TAC)**

2.4 TAC headed by Chief Minister, comprise Minister, Tribal Welfare as its Vice-Chairman, 17 ST MLAs representing Scheduled Areas, Chairman State Scheduled Tribes Commission and two other non-officials. During 2000-01, TAC held its meeting on 14.10.2000. At its meeting held on 26.10.1999 undermentioned major issues were discussed:

- (1) Teaching staff in Universities and colleges may be appointed on contract basis for a period not exceeding six months. (Action has been taken). **The Commission recommends that staff so appointed should include candidates belonging to Scheduled Tribes and they should be regularized as per laid down recruitment policy of the State Govt.**
- (2) Lump sum grant given to a ST student at the time of entry in Post Matric Hostels may be raised from Rs.800 to Rs. 950 (Action – under process)
- (3) *Harra* (MFP) may remain a nationalized item (no action is required)
- (4) Consent was given for enactment of Madhya Pradesh Laghu Vanopaj (Gram Sabhaon Ko Swamitya Ka Anshadan) Bill, 1999 (Action taken)
- (5) Inclusion of Wadi and Rajwar communities in the list of STs was not recommended (Action taken)

## **Protective Measures**

2.5 Various protective measures undertaken for the welfare of STs were effective implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and amendments in State laws in accordance with Panchayats (Extension to Scheduled Areas) Act, 1996 ( in particular for M.P. Land Revenue Code, 1959, M.P. Excise Act, 1915 and M.P. Panchayat Raj Act, 1993, M.P. and Gram Nyayalaya Adhiniyam, 1996)

## **3. Land Alienation**

3.1 In order to curb the practice of tribal lands passing into the non-tribal hands by fraudulent means or otherwise and to protect the rights of tribal people, Section 170 (A) and (B) was incorporated in the Madhya Pradesh Land Revenue Code, 1959. As

a result of which appearance of advocate without permission has been debarred. Instructions were issued to the District Collectors to implement the provisions of the Land Revenue Code effectively and restore the possession of alienated lands to the tribals. Under Section 170 (b) Gram Sabha has been empowered to restore the land to the original tribal landowner and where restoration of land is not complied with by the non-tribal the matter will be referred to the Sub-Divisional Officer to restore the possession of land to the tribal within three months. Upto January, 2003, 10044.771 hec. of agricultural land was restored to 10,403 tribals.

Progress of disposal of cases by the courts was as under:

Total no. of cases registered	16,098
Total no. of cases disposed	15,467(96%)
In favour of STs	8,571(53%)
Against STs	6,896(43%)
No. of cases pending	631(4%)

3.2 In respect of 43 cases, possession of 62.479 hec. of land could not be restored because of several reasons, such as, review petitions filed in High Court, stay orders by the Courts of Addl. Collector and the District Collector, construction of pucca structures/houses by non-tribals, delay in action at the level of Tahsildar, and also due to non-availability of the landowners. Progress was slow in Sidhi district. State Govt. has informed that disposal of 99% cases by Courts is generally done within a period of one year and almost all cases are decided within 2 to 5 years. After the Court orders in favour of tribals, possession of land is restored to the landowner within next one year.

3.3 The Commission during the field visit in Betul district was informed that in respect of three cases restoration of land could not be made due to passing of stay order by the court as mosques had been constructed over alienated lands. In Sahdol district it was reported that agricultural lands owned by 70 tribals of Rajendragram of Pushparajgarh Tahsil have been taken by non-tribals for mining of bauxite material by one Shri Sukhdevananda a land kingpin of Amarkantak, who is also alleged to have forcibly taken the land document, of Pito Gond of Gadhi dadar village. In Sidhi district 12 Baiga tribals were allotted lands by the State Govt. but now non-tribals have encroached upon this land in Peeperkhed-Birkania village of Chitrangi block.

**3.4 The Commission recommends that restoration alienated land to tribal should receive attention at highest level in the administration. Those found guilty should be booked under the SC and ST (Prevention of Atrocities) Act, 1989. Possession of land to a tribal may be restored within seven days of the order of the Court. District administration should take adequate steps necessary for restoring possession of land to a tribal owner of land.**

### **Settlement Operations**

3.5 State Govt. has completed revised survey and settlement operations based on decimal usages, in six tribal districts namely; Khandwa, Seoni, Mandla, Dindori, Sidhi and Jhabua during 1975-76 to 1998-99 and the work is in progress in Ratlam and Sheopur districts. Land records have been made available to all the Panchayats in the State and work relating to computerization of land record is in progress. With



regard to allotment of surplus land to the tribals, State Govt. has informed that instructions to this effect are already in force. Land earmarked for grazing is also allotted to the STs. Initially the land reserved for grazing was reduced from 7.5% to 5% and later it was further brought down to 2%. In order to empower the Panchayats and the Gram Sabhas to prevent alienation of land in the Scheduled Areas and to restore unlawfully alienated land to a tribal, the State Govt. has incorporated necessary modifications in the M.P. Land Revenue Code (2<sup>nd</sup> amendment) Act 1997 (No. 1 of 1998) on 5.1.1998. All the land records in the tribal districts have been computerized and 2,18,662 tribal land owners have been handed over 'land and loan record passbooks'. Ceiling surplus land measuring 261 hac was distributed in 1999-2000 among 171 ST landless persons along with financial assistance of Rs. 2500 per person for making the land cultivable.

3.6 The State Govt. has made undermentioned suggestions as to bring changes in the Land Acquisition Act, 1894

- (a) Consent of person may be taken prior to acquiring his land.
- (b) Panchayat or Gram Sabha may be consulted prior to rehabilitation.
- (c) Either land for land may be given or cost of land which is available in the open market at prevailing rates may be given as compensation, and,
- (d) In case land is being acquired for some industrial purpose, at least one member of the family may be given assured employment.

#### 4. Excise policy

The STs in the Scheduled Areas have been permitted to brew liquor upto 4.5 litres per person on any given time and 15 litres per family for their domestic consumption and upto 45 litres during religious and social occasions. Excise officers would visit the villages and check excise related incidents only with the prior permission of District Collector. As on 31.12.2002, 111 excise related cases were under process for being withdrawn from the courts. Licensing in *Mahua* trade has been stopped since 1.4.1996. The Act has authorized Gram Sabhas in the Scheduled Areas to reduce the possession of liquor by tribals and/or to stop the shops from vending liquor and the orders passed by the Gram Sabhas shall be given effect to by the Gram Panchayat of the area and if necessary Gram Panchayat can take assistance of Sub Divisional Magistrate concerned. Vending of liquor by contractors has been restarted by the Government throughout the State from 1.4.04, against the interests of tribals. **The Commission recommends that excise policy in tribal areas should be reviewed and contractors should be stopped forthwith from operating their activities in Scheduled Areas. The shops should be run departmentally as before.**

#### 5. Panchayats (Extension to Scheduled Areas Act), 1996 (PESA)

In compliance of PESA Act, TAC had recommended amendments in the M.P. Land Revenue Code, M.P. Excise Act, M.P. Panchayatraj Act, M.P. Gram Nyayalayas and M.P. Moneylenders Act. Amendments in the first four Acts have been carried out and process is on for covering the last Act. A training camp was organised to familiarize the officers with the salient features of the amended provisions at Bhopal on Jan 17-18, 2000. Care has been taken to ensure that customary practices, social and religious beliefs and management of community assets of tribals are given due

importance. The Commission recommends that in the Scheduled Areas, all posts of office bearers of the Gram Sabhas and Gram Panchayats should be reserved for Scheduled Tribes, irrespective of their proportion in the total population.

## 6. Tribal Sub Plan

6.1 Each Integrated Tribal Development Project (ITDP) has a Project Advisory Board comprising peoples representatives and officers. The Project Advisory Board also looks after those MADA pockets and clusters which are located in the neighbourhood of the ITDPs. The MADA pockets and clusters located elsewhere are taken care of by the SC/ST Welfare Committee of the District Planning Board. The Project Advisory Committee has been empowered to sanction works upto Rs.20 lakhs. State level Review Committee to oversee implementation of TSP is headed by Minister, Tribal Welfare.

### Flow to TSP

6.2 There are 31 Integrated Tribal Development Projects, 30 Modified Area Development Approach Pockets, 6 Clusters and 3 Primitive Tribal Groups in the State. Flow to TSP is monitored through separate budget demand Heads (41,42,68,82 and 83) which is to be kept not less than the proportion of ST population in the total state population. Flow to TSP was ensured as under.

	(Rs. in crores)	
	2002-03	2003-04
State budget outlay	4749.77	5901.75
Flow to TSP	866.42	905.91
Percentage	18.24	15.34
State Divisible Outlay	4335.34	4165.14
Flow to TSP	866.42	905.91
Percentage	19.98	21.74
SCA	91.70	80.23

Budget provision, allotment and expenditure incurred out of State Plan, SCA, grant under Article 275 (1) and beneficiaries covered under point 11-B of Twenty Point Programme (Justice to Scheduled Tribes) during 2000-01 to 2003-04 (upto Dec. 2003) are furnished at Appendix I, from which it is inferred that State administrative apparatus is not equipped to utilize over and above 85% of the funds earmarked for tribal development.

6.3 According to 1999-2000 estimates although percentage of tribal families below the poverty line is 56.26% in rural areas, the Commission during their visits to districts was informed that BPL families were much more, as indicated below:

	District	BPL ST Families
1.	Jhabua	80%
2.	Mandla	58%
3.	Dhar	76%
4.	Betul	66%

The situation cited above warrants drastic changes in the planning strategy for tribal development.

6.4 The Commission therefore recommends that flow to TSP should be increased from 15.34% to 20% of the State Plan. As geographical area of TSP in the State is 30.19% and percentage of ST population to total state population is 20.3%, flow to TSP should be more. The Commission further recommends that all those villages which are not covered by TSP should also be linked with the process of development during next phase of planning. Most backward Tribal villages may be identified, holistic plan prepared and package of services provided. In areas where Integrated Tribal Development Projects (ITDP) are under operation, activities of District Rural Development Agency should be placed under the charge of Project Officer, ITDP. This arrangement will strengthen the concept of single line command of administration.

## 7. Primitive Tribal Groups (PTG)

7.1 In Madhya Pradesh, number of PTGs is three, i.e. Saharia, Baiga and Bharia. Demographic structure and administrative set up for these PTGs is as under:

		<b>Development Agencies</b>
(1) Saharia (4.17 lakhs)	-	1. Gwalior (also for Datia district) 2. Sheopur (also for Morena and Bhind districts)
	-	3. Shivpuri
	-	4. Guna
(2) Baiga (1.31 lakhs)	-	Mandla, Dindori, Sahdol, Umaria, Balaghat, districts (5)
(3) Bharia (2012)	-	Tamia in Chhindwara district (1)

State Government provided additional facilities to PTGs during 1999-2000, such as subsidy of 30% to 263 IRDP beneficiaries, supply of medicines free of cost to 2168 persons, construction of school/ashram buildings (35), supply of mini kits free of cost for raising crops (399), hand pumps (38), land development measures (703 persons), construction of culverts, bridges (69), purchase and distribution of land for cultivation (65), dai training (50), foodgrain godowns (7), electrification of hamlets (13), construction of tanks for fisheries promotion (7) and supply of agricultural implements (492).

### **Baiga (PTG) Development Agency, Dindori**

7.2 Baigas inhabit 217 villages of Dindori district. Their population in 1992-93 was 21,233. The Project undertook family and community oriented development programmes as well as those related to development of infrastructure costing Rs. 232.53 lakhs during 1999-2000 to 2002-03. Schemes implemented are field bunding, training in bio gas, distribution of fertilizer, seeds and pesticides, pumps for lift irrigation, medical aid, cultural exchange programme, repairs/construction of educational institutions, tanks, drinking water sources, construction of approach roads, clusters, ghat cutting etc, awards to meritorious students, tool kits supply, sprinkler set and stop dams.

## **Baiga (PTG) Development Agency, Mandla**

7.3 Baiga Development Agency looks after 34,768 Baigas of 345 villages of Mandla district. Priority interventions in the development sector made by the Agency are construction of houses, residential school from class I to XII, development of infrastructure, supply of drinking water and food security, health and education

7.4 Observations of the Commission during their visit to Chada village in Baigachak of Dindori district were as under:

- (a) Except for one nurse there is no employee of the Health Deptt. in the village.
- (b) Km. Somti Udaria a Baiga girl who passed XII class examination in 1993 has still not been given an appointment as Shiksha Karmi even on contract basis. She urged the Commission to impress upon the State Govt. to give priority in employment to the educated Baiga girls of Baigachak area as against Baiga girls in general.
- (c) All the 52 villages forming Baigachak have no irrigation facility. Only 25 villages in the Baigachak have been electrified so far. The tribals have to travel nearly 30 kms. from Chada to Bajag for availing the services of a flour mill. There are instances where Naxal elements have been alluring the tribals to allow them to stay in their villages.
- (d) Punjab National Bank had earlier set up a branch at Chada but subsequently, it has been attached to Karanjia and thus the Baigas have been deprived of proximity to the bank.
- (e) The State Govt. provides relief to a victim of snake bite and lightening only when the post mortem is done. It was reported by the tribals that the affected families have to spend a lot of money for arranging the treatment of such patients borrowing money on loan from moneylenders or high rate of interest. Baigas desired that Govt. assistance should be kept as permanent advance with any government functionary.
- (f) There is necessity of a taxi transport service from Chada to Bajag and Chada to other villages in the Baigachak zone.
- (g) Baigas demanded that the PDS shops should also distribute *Kanki* (a variety of broken rice).

### **Visit to village Dhurkuta in Baigachak.**

7.5 The Commission visited another interior village Dhurkuta in Baigachak on 22.06.2003. The Baigas of this village harvest paddy, *Kodo* and *Kutki* during the Kharif season and collect minor forest products like *Aonla*, *Tendu* leaves, honey etc. The tribals of this village have been trained in rope making and each one of them earned about Rs. 20/- for 1 kg. of rope made out of *Sawai* grass and *Mowa* grass.

In a research paper published in the Bulletin of the Tribal Research Institute on "Meals position of Baiga tribe of M.P." it was brought out that only 35% of the Baiga households had whole day meal availability round the year, 61% of them had full meals only after harvest of crops and 4% only after they got wages out of relief workers. (Vol.XXVII-No.2 Dec.1999)

In a study report on Economic factor and curative health care in Baiga tribe of Baigachak area, Dindori district brought out by Regional Medical Research Centre for Tribals ICMR, Jabalpur in the year 2000 published by Dr. Baba Saheb Ambedkar National Institute of Social Sciences, Mhow (M.P.) it has been brought that average annual household income of Baiga is only Rs.6772/- and that they spend only 3% of their annual income on medicines, education and kerosene. Average expenditure on health in a year per sick person is Rs. 77.40. The study report suggested that-

- (i) The Baigas should be more familiarized with improved farming practices so that their income could be augmented.
- (ii) The Baigas' traditional occupation like basket-making should be promoted by generously supplying them with green bamboos as raw material by the forest department.
- (iii) They should be encouraged to grow fruit-bearing plants, vegetables etc. which will help increase their income in good measure.
- (iv) Literacy, especially female literacy should be improved and health education should be imparted on a regular basis.

### **Development of Bharia (PTG) – A case of NGO Participation**

7.6 Bharia is a PTG which lives in 12 villages of Patalakot area of Chhindwara district. Madhya Pradesh Vigyan Sabha has been receiving grants from the Ministry of Science and Technology in the Govt. of India for working among the Bharias through, Vigyan Ashram at Gaildubba in various spheres, such as, soil and water conservation, bio-mass, control of diseases, cattle breed improvement, appropriate technology to increase agricultural and horticultural crops, SHGs, MFP, skill development and bio-technology in agriculture. The NGO has assisted the Bharia people in growing trees, producing vermi composts and developing irrigation facilities. The tribals have been trained in cultivation of aromatic grasses and medicinal plants. Off farm activities introduced in Patalakot are *Chironji* decorticator, millet dehusking machine, leaf cup making machine, dal mill and processing of honey.

### **Saharia (PTG)**

7.7 Salient findings appearing in a study report on Saharia tribe of Sheopur district revealed that rate of literacy is very less among them, number of children per family are more, most of them are indebted and IMR is higher. They have liking for working in stone quarries. Some of the neo-allotees of land have not been given possession over land. (M.P. TRI Bulletin-2002-03, No. 341/203)

**7.8 For the development of PTGs, the Commission recommends that-**

**(a) As the Baigas of Baigachak are deprived of developmental benefits and recruitment in government services because they have been listed as STs for the entire State, the Commission reiterates the recommendation made by Dhebar Commission that Baigas of Baigachak of Dindori district should only be treated as PTG. For this purpose, all class III and IV posts in Dindori district reserved for STs should first be given to Baigas of Baigachak and thereafter claims of other STs be considered. Likewise Bharias of Patalakot in Chhindwara district should also be made eligible to get benefits in**

Chhindwara district. The Commission further recommends that all villages having 50% Sahariya (PTG) population as per 1951 census should be declared as Scheduled Area and till such time the Constitution Order is issued, the Saharias should be given due developmental benefits and preference in class III and IV posts in the districts in which they live.

- (b) Each tribal village in Baigachak and Patakot area should be assisted in forming Self Help Groups (SHG) so that employment ventures are promoted.
- (c) Budget allocated for PTG should be diverted for non-PTGs only with the approval of Divisional Commissioner in extra-ordinary circumstances.

### **Most Backward Tribal Villages/Clusters**

7.9 The Commission was urged by tribal leaders at several places that Most Backward Tribal villages/clusters should be identified and holistic development planned so that tribal inhabitants joined the mainstream villages in shortest period of time. ITDPs should pay special focus on the development of such villages.

## **ECONOMIC SECTOR**

### **8. Forest**

8.1 According to an estimate 45% of the forest area i. e. reserved forest- 58,734 sq. km., protected forest - 35,587 sq. km., village forest - 900 sq. km. fall under TSP area. In Madhya Pradesh, there are many areas where trees are standing on non-forest lands, known as "chhote and bade jhad ke jangal" and Forest Department has issued instructions to fell the trees only with their prior permission under the Forest Conservation rules. The position in two districts was reported as 65,000 hec. in Betul district and 52,000 hac in Sahdol district. The tribals expressed their anguish over hard headed attitude of forest officials in the exploitation of trees standing on non-forest lands. **The Commission recommends that management of such trees on "non forest" lands in the Scheduled Areas should be handed over to the Gram Sabhas.**

### **Access to fuel and fodder**

8.2 State Govt. in their revised policy of 1996 on extending Nistar facilities (such as collection of fuelwood, bamboo, small timber and grazing for cattle) to villagers have made following provisions:

- (i) Within the radius of 5 km. of forests, all villagers have been allowed to collect free of cost headload of fuelwood, small timber, grass and fodder, non-timber forest produce (NTFP), bamboo for domestic consumption and to take their limited cattle to forest for grazing, through Village Forest Committees, Forest Protection Committees setup in accordance with the Joint Forest Management. A pilot project to discourage villagers from taking the cattle to forest has been commenced in Sehore and Raisen districts.
- (ii) The residents of villages outside the radius of 5 km. of forest boundary shall collect forest produce through their Panchayat at market rates.

- (iii) The residents of Municipal Corporation, Municipality and Town Panchayat shall have to purchase forest produce from the local market and the Forest department shall not supply any forest produce to such abovementioned institutions.
- (iv) The policy of Nistar facilities to Basor Community shall remain unchanged.

### Regularisation of encroached forest lands

8.3 Position regarding encroachment of forest land and its regularization is given below:

Prior to 31.12.1976	29008 cases 45209.6 hac forest land Allotment of Pattas is in process
During 1.1. 1977 to 6.3.1979	38405 cases 42036.7 hact forest land GOI has been requested to allow regularization as compensatory afforestation has been started
During 7.3.1979 to 24.10.1980	2728 cases 3314.5 hac forest land compensatory afforestation is to be done

State Government has approached the Government of India for regularizing the encroachment on forest land. **The Commission are distressed to observe that cases of regularization of encroachments on forest lands have been pending for over three decades. They recommend that a senior officer may be entrusted with this responsibility who can liaise with the Ministry of Environment and Forest on fortnightly basis and get the cases settled.**

### Minor Forest Produce (MFP)

8.4 Madhya Pradesh State Forest Produce (Marketing and Development) Cooperative Federation has been working for the collection and marketing of Tendu leaves since 1989 through their district unions. Nearly 20 lakh persons got employment annually out of this trade. Gram Sabhas in the Scheduled Areas have now been conferred ownership rights on the produce. During 2000, 49.41 lakh standard bags of tendu leaves were collected. Other MFP collected in the state were sal seeds – (3.34 lakh Qtl in 2000-01), harra -(46,994 Qtl.1999-2000), salai gum-(5461 Qtl. 1999-2000), kullugum – (253 Qtl.1999-2000) and dhaoda gum- (1840 Qtl.1999-2000). An amount of Rs.57.27 crores was disbursed to district unions out of the net profit since 1998. It was informed that net profit out of the trade is distributed in the proportion of 50% to collectors of produce, 20% for regeneration of produce and 30% for the development of infrastructure. Commission was informed that Govt. of Madhya Pradesh has not declared the bonus for 2000-01 and 2001-02 so far. As a measure towards social security, 85,539 collectors of tendu leaves were insured free of cost under social security scheme. A sum of Rs. 27.92 crores was paid towards insurance. The federation organized fairs on MFP and established a sales counter known as "Sanjivani" at Bhopal. Marketing of MFP with brand name of "Vindhya Herbal" has also commenced. **In a study on collection of MFP and its**

marketing in Khargone and Khardwa districts, it has been suggested that tribals needed training in proper collection of MFP, its storage, processing and marketing. Earlier, at least 50% of the annual income of a tribal family was through MFP only, which has now come down to 4% to 10% and this calls for scientific and methodical uses of MFP. [MPTRI, Bulletin 2001-02 No. 340/302].

8.5 The Commission therefore, recommends that -

- (i) Value addition processes may be developed at the local level and a cluster based micro-enterprise approach be adopted.
- (ii) In respect of *mahua*, *aonla*, *chiraunji*, *vanjeera*, *mahul* leaves and honey, harvesting practices may be modified, and adequate care taken at storage level. Adoption of a multi product strategy for the micro-enterprise may be considered.
- (iii) At present, tribals sell *aonla* without proper gradation. They can fetch better value if they dry the *aonla* collected at matured stage.
- (iv) Mahua flowers should be allowed to retain its golden yellow colour, it should not be sticky, may be put to a draught type drier and stored in bags plastered with cowdung.
- (v) Chiraunji could be extracted at the village level by using hand *chakkis* or power driven extraction machine. The seed (*gutly*) is very popular for usage in brickklins where it is used to bake bricks. Chiraunji should be stored in polythene bags/cold storages.

#### Public participation in the conservation and development of forest

8.6 Forest department of the state government resolved on 22.10.2001 to form Forest Protection Committees and Village Forest Committees towards soliciting participation of villagers in the conservation, protection and development of forests. Detailed procedure for organizing and functioning of the Committees was laid down. The Committees were required to prepare micro plan for overall development of the area. It was also resolved that these committees will function as directed by the state government in accordance with the Panchayats Extension to Scheduled Areas Act, 1996. State government has been considering to bring an Act in this regard so that Gram Sabhas are legally endowed with the ownership of minor forest produce. On 8.4.2003, State Government decided to give 80% of net profit of teak timber and bamboo to 13,303 forest Committees, under Joint Forest Management (JFM) and 20% for training and capacity building. A study on village level Forest Cooperative Societies and MFP Cooperative Societies and their working in Jhabua district was undertaken by MP TRI during 2000-01. They have reported that Committees set up under Joint Forest Management have succeeded in checking illegal cutting/felling of trees, excess grazing and encroachment on forest lands. The societies engaged in the trade of fodder were economically sound. The JFM Committees have been working primarily under the guidance of forest staff, as they neither had adequate working capital and buildings/godown nor manpower to manage the trade.

[Bulletin 2000-01 M.P.TRI, No. 303/170]

8.7 The Commission recommends that Tribes Advisory Council should oversee the role entrusted upon the Gram Sabhas in the Scheduled Areas in the working of Joint Forest Management and the Committees set-up thereunder.



## **Forest Villages**

8.8 Forest villages are colonies of large labour force required for various forest works. According to Dhebar Commission report (1960-61) there were about 1000 forest villages in Madhya Pradesh with a population of one lakh tribals. "Rules governing the forest villager require that the forest department and its contractors shall have the first claim to the labour of forest villages on payment of market rate, the villagers may not accept other employment without the sanction of the Forest Department and are expected to obey the orders of the Divisional Forest Officer. For breach of any of these conditions they are liable to summary eviction, without compensation." The Dhebar Commission recommended that security of tenure should be assured to the tribals. Forest Department should provide necessary assistance for the improvement of the settlers holdings and cultivation. These colonies may be made model villages with facilities of schools, wells and dispensaries. Removal of these people from their normal places of habitation casts this duty upon the Department (Page 133 para 12.35).

8.9 In March 1984, the then Ministry of Agriculture suggested that the States may confer heritable and inalienable rights on forest villagers if they were in occupation of land for more than 20 years. But this suggestion was not implemented. Development of Forest Villages has also been addressed to in the National Forest Policy 1988 which States that these may be developed "on par with revenue villages "(para 4.6-Tribal People and Forests)". Suitable instructions in this regard were issued in accordance with Forest (Conservation) Act, 1980 by the Ministry of Environment and Forests in their letter dated 18.9.1990 addressed to the State Governments. Despite this exercise, there are still 925 forest villages in Madhya Pradesh for which the State Government has requested the Government of India to permit transfer of 925 forest villages to revenue department of the state. Number of forest villages in Betul, Chhindwara, Hoshangabad and Barwani was reported as 92,49,52 and 45 respectively. **The Commission recommends that Forest Villages may be converted into Revenue Villages in a time bound manner.**

## **National Parks and Sanctuaries**

8.10 There are nine national parks and 25 sanctuaries in the state. The number of STs living in these parks and sanctuaries has not been furnished by the State Government. Project formulation is under process to settle the villagers elsewhere.

## **Budget utilization**

8.11 During 1999-2000, Rs. 2055 lakhs were spent out of a budget provision of Rs. 2435 lakhs on various schemes like improvement of degraded forests, social forestry, fuel wood and fodder, project tiger, medicinal plants, construction of wells, lift irrigation, stop dam, tanks for PTGs, construction of godowns, construction of wells, lift irrigation, tanks, tubewells, development of forest villages, plantation of minor forest produce items and medicinal plants.

**8.12 The Commission recommends that expenditure under Project Tiger should not be booked under Tribal Sub-Plan. Forest produce processing units and vocational training to tribals should be made a new item in the budget.**  
**Forest Administration**

**8.13 After having toured tribal districts the Commission felt that an officer of the rank of Conservator of Forests was necessary in place of Divisional Forest Officer for better tribal-forest interface in Sidhi district.** On Dindori district, it was reported that non-tribals of Samnapur village have been putting pressure on Baiga tribals residing in forest areas to lease their cultivable lands and go deeper into forests.

8.14 Chief Secretary, Govt. of M. P. suggested that traditional rights of the tribals in the forest should be codified and compensated if violated by the Forest Deptt. The first thing that the Forest Deptt. should do is to convert the forest villages into the revenue villages or expenditure on the development of forest villages should be met by the Govt. of India in the Ministry of Forests. With regard to collection of Tendu leaves as a minor forest produce item Secretary, Forest Deptt. stated that this item is linked to demand and supply in the open market. With the increased publicity for discouraging smoking, the production of *Bidi* has come down in the country as a result the demand for Tendu leaves has also decreased. The net profit after deducting the expenditure out of Tendu leaves trades has fallen significantly.

**8.15 The Commission further recommends that -**

- (a) **Collection of minor forest produce should no longer be a target bound item, rather entire product may be accepted as a gift of nature to the mankind. We should develop our skills to harness the product and process it at local level to the advantage of society. Let us not allow untapped m.f.p. washed away by the rainwater.**
- (b) **The Gram Panchayats and the Gram Sabhas should oversee the working of Joint Forest Management related activities and the development of forest villages.**
- (c) **Development of PTGs in the forest areas should be entrusted upon the Forest Department on pilot basis.**
- (d) **Re-orientation courses may be organized for lower functionaries of the Government to improve Forest-Tribal interface.**

## **9. Irrigation**

9.1 Irrigation potential was developed in 33.43 lakh hac of which TSP area was only 4.76 lakh hac (14.23%) upto 1998-99. With the completion of 15 medium and 290 minor irrigation projects, it is estimated that 50% of area sown in TSP would be brought under irrigation. During 1999-2000, Rs. 60.39 crores were utilized out of an allotment of Rs. 76.82 crores under TSP funds.

## Narmada Valley Development

9.2 Progress of work on Man, Jobat and Maheswar Projects located in Scheduled Areas was as shown below:

	<b>Irrigation potential</b>	<b>Area likely to be affected</b>	<b>Rehabilitation measures</b>
1. Man (Dhar District) (Rs. 108.12 crores Project cost)	15,000 Hac	17 villages, 461 houses 827 families of which 799 are STs	105 families rehabilitated at Juna-pani
2. Jobat (Jhabua) (Rs. 97 crores Project cost)	9848 Hac	13 villages, 121 houses 705 families of which 700 are STs	NIL
3. Maheshwar (Khargore District) (Rs. 824 crores project cost)	400 m.w. power capacity	61 villages, 4000 families of which 36 are STs.	NIL

For other areas, 258 irrigation projects have been designed with potential of 65,643 hac during 2002-03, of which 7137 hec. have been made operational as under:

<b>District</b>	<b>Irrigation potential in hac</b>
1. Guna -	2541
2. Khargore -	1157
3. Balaghat -	1090
4. Sidhi -	950
5. Jhabua -	656
6. Chhindwara -	442
7. Hoshangabad -	156
8. Sahdol -	80
9. Dhar -	55
10. Khandwa -	10
<b>Total</b> -	<b>7137</b>

It may be seen that 36% of the total area proposed to be irrigated falls under Guna district which does not fall under Scheduled Area.

The Commission reviewed the progress on the irrigation projects in Jhabua, Ratlam and Sahdol districts. The position in brief is as under:

### Major Irrigation Project, MAHI

9.3 Mahi River Irrigation Project envisages bringing 26,430 hec. of land under irrigation at a cost of Rs.203 crores in 89 villages of Jhabua and 33 villages of Dhar district which are pre-dominantly inhabited by tribals (71%). **It has been estimated that the project will displace / affect 3778 families of 12 villages of Dhar and 11 villages of Jhabua district. It was informed that compensation for land acquired for construction of canals has not been paid and that rehabilitation measures were not taken up promptly.**

**Visit to Shahid Chandra Sekhar Azad Sagar Irrigation Project, Jobat in Jhabua district on 10-05-2003.**

9.4 The irrigation project costing Rs.117.45 crores at village Waskal on Hathni River, a tributary of the Narmada river, shall on completion benefit 2450 families of 24 villages of whom 54% are tribals. It is likely that 311 families would have to be resettled as and when project advances. Govt. have so far spent Rs. 40 crores. On the completion of project, it is estimated that additional 53560 mt of food grains and 42 mt. fish would be available. The project provided daily wage employment to 400 labourers and it may further employ another 400 to 600 labourers. **During discussion with the tribal labourers, it was informed that they were paid Rs.40 per day as wages as against prescribed rate of Rs.50.52 per day. The management was asked by the Commission to construct a work shed and arrange for drinking water supply near the dam site during the summer months.**

**Visit to Sagaria Dam cum Irrigation Tank, Block Thandla, District Jhabua.**

9.5 The dam costing Rs.44.36 lakhs has been constructed to irrigate 100 hectare of tribal land benefiting 160 families of four villages in and around Patri. The tribals have taken to growing cotton and hybrid wheat in their fields. **It was informed by the village panchayat that compensation has not been paid to those whose lands were acquired. Irrigation of fields was being done by lifting water using diesel pumps, as the area around the Tank has not been electrified so far.**

**Other Projects**

9.6 The Commission visited several irrigation projects in the districts and their observations were as under:

**(1) Jhabua district**

- (i) Daspur Block Bhodi village-** Stop dam at a cost of Rs.8.63 lakhs constructed during 2001-02 does not retain a drop of water.
- (ii) Mirajpur Block, Chhoti Bekalgaon village -** Quality of construction of irrigation tank constructed at a cost of Rs.9.80 lakhs was report to be poor.
- (iii) Petlawad block - Sagaria village-** Stop dam at a cost of Rs.29 lakhs has potential to irrigate 40 acres of land.
- (iv) Petlawad Block-** Stop dam at Dulakhedi Village at a cost of Rs.2.5 lakhs out of food for work scheme was constructed by Panchayat.

**(2) Ratlam district**

- (i) Chhayani Tank, Sailana -** Chhayani Nistar Tank has been constructed at a cost of Rs.18.24 lakhs in 2001 to irrigate 50 acres of land belonging to 156 tribal farmers.
- (ii) Amliyapada Bid Check dam, Sailana-** Shri Kodara (ST) and Shri Shambhu, (Bhil ST) were motivated by Shri Anna Hazare to organize public co-operation and build a tank. Agriculture department could provide only Rs.2.60 lakhs and remaining assistance of Rs.1.17 lakhs in the form of labour was generated by 17 tribal farmers. After the project was completed on 15.8.2001 tribal families have switched over to sowing cotton, wheat, gram, garlic and

vegetables and also fisheries. They have almost stopped going elsewhere in search of employment.

**(iii) Stop dam Dhabai Khedi, Forest Range, Sailana-**During 1997-98, Forest Deptt. constructed a stop dam for Rs.5.36 lakhs benefiting 497 local residents and their 220 cattle. Despite scarcity conditions water level has been maintained in the dam throughout the year since its construction and it has served the villagers in the vicinity of 6 km.

### **(3) Sahdol district**

#### **(i) Visit to Micro watershed, Rohaniya,**

Micro watershed project at Rohaniya village covering 772 hect. of land in a period of 5 years at the estimated cost of Rs.46.32 lakhs was approved during March, 2002. Activities undertaken so far out of an expenditure of Rs.19.22 lakhs were checking of soil erosion and development of irrigation sources, conservation of water covering 233.74 hec., forest clearance in 273 hec., fodder cultivation and pasture development in 8 hec., plantation of 472 Palash trees by 2 self help groups for promoting lac production, popularization of high yielding varieties of agricultural crops, production of bio-fertilizers, training in tailoring to 1 S.H.G., promoting dairying among 5 S.H.Gs and health camp.

District Administration has formed 24 SHGs and motivated them to take up plantation work on 56 acres of land for raising mushroom and bee keeping. The women have also been trained in improved wheat cultivation. The S.H.Gs have taken up activities of seed storage and distribution, giving money on loan for social purposes and meeting the cost of medicines when people fell sick. Some SHGS have even engaged the members in embroidery work. The Commission expressed their satisfaction over the initiatives taken by Rajiv Gandhi Water Management Mission in the tribal area of ITDP Sohagpur.

#### **(ii) Visit to Bagaiha Irrigation Tank Project**

The Bagaiha Project in Gohparu Block on completion shall irrigate 130 hac of cultivable land by 2004. It was informed that the tank will help the village community in ensuring water supply for domestic requirements, cattle, fisheries promotion along with retention of underground water. **The villagers urged the Commission that compensation for acquiring land amounting to Rs.6 lakhs may be disbursed to those whose lands were acquired.**

### **(4) Hoshangabad District**

In Hoshangabad district, Kesla Tribal Development Block has been categorized as Scheduled Area and despite this significant factor it has been left out of canal network of Tawa irrigation project. The tribals expressed their unhappiness over such neglect.

## **(5) Dindori district**

In Dindori district, tribal farmers desired that dug wells may be popularized, old ponds renovated and spring water source duly harnessed. Works taken up by the Forest Department in 86 Forest villages were reported to be successful.

### **Rehabilitation measures**

9.7 According to re-settlement and rehabilitation policy of Govt. of M.P, each displaced/affected family is to be given compensation for land under submergence as per present day value, compensation for house alongwith Rs.5,000/- towards cost of transportation of housing material, grant of Rs.18700 to a tribal family, grant of Rs.49,300 to a landless family and displaced families will be relocated at new site, where each family will be provided house plot of 60' X 90" free of cost, a community well or a tube well, village roads and drainage, primary school, Panchyat Bhawan, place of worship, community centre and playground etc. State Government acquired about 8,000 hac of land for 8 medium irrigation projects and have not been able to make land for land available to those whose lands were acquired. However, the state has agreed to cover 50% of S.T. landholders in the command area of any project as beneficiaries.

**9.8 The Commission recommends that priority should be given to raise irrigation potential in drought prone TSP areas and allocation of funds raised with the support of Externally Aided Projects and by borrowing loans from the World Bank. This will help in checking migration of tribals to other states, thereby their food, nutrition and health care would be duly taken care of.**

## **10. Power**

10.1 According to a policy decision of the State Government, electricity charges have been exempted for STs who have agriculture pumpsets upto 5 horsepower. They are also given one point electricity connection free of cost. Details are as given below:

1. No. of village electrified in State	50,400 (out of 52,143)
2. No. of villages in TSP area electrified upto 31.3.2000	26,128
3. Single point connection to STs	11.71 lakhs
4. No. of STs with pump connection	1.69 lakh

During 1999-2000, 362 hamlets of STs were given power connection. An amount of Rs. 21.03 crores was spent against the provision of Rs. 23.05 crores.



students of the Project area go to 6 schools located in the vicinity of the NTPC area. In order to improve the quality of education provided by the school in the township run by the SCST Association, it was requested that Ministry of Tribal Affairs should provide grant-in-aid to the Institution. Need for setting up a Girls' Degree College, for which the Project was prepared to contribute 5 lakh bricks to Shakti Nagar Area Development Authority of the Govt. of Uttar Pradesh was also stressed. The Commission pointed out that the roof of the school is covered by asbestos- sheet and it will not be comfortable to the students during summer.

**10.4 The Commission recommend that all tribal hamlets should be connected with electric lines, and in particular the Scheduled Area habitations. Electricity may also be provided to the tribals whose lands have been acquired and budget could be created for this purpose. One should realise the sentiments of those tribals who have given their lands for the production of electricity to the nation but their own huts languished for a single power point and their families pass nights in darkness.**

## **11. Industry**

11.1 During 1990-2000, 16,341 small and cottage industries were set up in the State, of which 5744 (35%) were located in Scheduled Areas. Number of ST entrepreneurs was 1525. Under Prime Minister Rojgar Yojana, 1334 STs were encouraged to set up industrial units. 4712 STs were provided employment in rural industry sector, (i.e. 1809 out of handlooms, 90 out of power looms and 2813 out of industrial cooperatives.) Carpet weaving, textile printing and cotton duree making are popular among the tribals of Sahdol, Dhar and Jhabua district.

11.2 M.P. Khadi and Gramodyog Board has been providing training to STs at Indore in spinning and weaving, radio and T.V. repairs. 2411 ST trainees trained so far were assisted to obtain Rs. 177.02 lakhs as subsidy for various economic pursuits. Assistance of SHGs is also being sought. During 1999-2000, 224 STs were trained, 561 persons provided with tool kits and 608 beneficiaries were engaged on spinning and weaving related jobs.

11.3 The Commission visited Carpet Weaving Training Centre run by M. P. Handicraft and Handloom Development Corporation, where 15 S. T. candidates were being imparted training under a 6 months course. Each trainee was paid stipend of Rs. 500 p. m. ITDP Sahdol provided Rs. 1.47 lakhs for this programme. The Commission also visited the Handicrafts Centre at Sahdol where ST persons are imparted 6 months training in carpet making and each trainee is given tool kit after the training is over. **The Commission recommend that suitable arrangements should be made for marketing the products.**

## **12 Mining**

Auction system of minor minerals has been dispensed with since 1.4.1996 and tribals have been allowed to collect minor minerals for construction of their houses, repair of wells and other agricultural pursuits. Panchayats/Gram Sabhas have been empowered to allot quarry leases for minor minerals under M.P. Minor Mineral Rules 1996 (as amended on 20.3.2001) A tribal can obtain quarry permit for Rs. 25 as fee. Chairperson, Zilla Panchayat Sahdol in a memorandum urged the Commission to



make available 25% of the royalty collected by way of coal mining for ploughing it back for development activities in the district. In another case, Smt. Sushila Bai, Bhil ST widow resident of Omkareswar, Khandwa urged the Commission to protect harassment done by Shri Raj Narain Singh MLA as sand quarry reserved for ST at Khandwa was fraudulently allotted to Shri Mahipal Singh brother of MLA. She was the bonafide claimant for the lease.

### 13 Roads

13.1 Road length per sq. km. in M.P. State is only 22 Km for every 100 Sq Kms. as against 30 Km for the country. During 1999-2000, 14 villages having more than 1000 population and 13 villages with less than 1000 population were connected by laying 172 km. roads in the TSP area of which coverage in Scheduled Area was 17 villages with road length of 119 km. Six major bridges were also constructed in TSP area.

13.2 The Commission reviewed the progress and quality of construction of roads at some places during their visit to the State. The progress was as given below:

District	Road Length
1. Khargone	(i) Khargone to Dejgaon (ii) Bamnala to Dejgaon

Quality of road construction was reported to be very poor.

#### 2. Dhar (i) Sodpur

Quality of road was poor taking into account the cost of construction of Rs. 15 lakh per km. Labourers were paid Rs. 40 per day as wages against Rs. 52 being the minimum wage. Need for a road from Narwali to Khadi Amba was stressed.

#### 3. Ratlam Jharniya Ukala to Sangesra

A complaint was made against Chairman, Gram Panchayat, Jharniya Ukala in Bajna for several irregularities in the muster roll.

4. **Jhabua** -(a) Culvert constructed at Naharpur Khed village in Navapada Tengada Gram Panchayat of Thandla Block at a cost of Rs. 8 lakhs by the Rural Engineering Services Deptt. was of poor quality.

(b) Quality of culvert at Khenjada village in Thandla Block constructed for Rs. 8 lakhs was poor.

5. **Mandla**- Under P.M. S. Y. contractors did not pay minimum wage of Rs. 50.50 and they paid only Rs. 35 per day to a labourer.

6. **Dindori**- Construction of road under PMSY between Samnapur and Manikpur was of poor quality.

7. **Sidhi**- The Commission visited Chitrangi in Sidhi district where road from Parsohar to Khirwa measuring 14.50 km. was under construction at a cost of Rs. 246.30 lakhs. The villagers of four villages were very happy with road connectivity. They urged that approach roads should be given priority attention in tribal areas.

**13.3** The Commission recommends that tribals working as labourers on road construction works should be paid prescribed wages and quality of works be monitored closely. Hill top villages and inaccessible habitations should receive due attention in road connectivity. Wherever necessary, culverts should be given preference over road length. State Govt. should draw a specific policy for creating wide road network in the Scheduled Areas in a time bound manner.

## **14 Agriculture**

**14.1** Basic data on agriculture in respect of the State are as under:

	<u>In '000 hect.</u>
Area as per village records	23,263
Total area sown	19,044
Total area under irrigation	4,899
Land holdings	66.37 lakhs
Average land holding	2.5 hec.
Major Crops grown	Wheat, Paddy, Jowar, Gram, Sugarcane, Oil-Seeds, Cotton,

Schemes implemented for STs under TSP were crop production, minor and mini-minor irrigation, soil conservation, agricultural research and education. The Commission was informed that crop yield of paddy per hectare in TSP area has improved from 1167 kg. in 1998-99 to 1253 kg. in 1999-2000.

### **Visit to an agricultural farm at Sidpur-Village of Nalchha Block in Dhar district**

**14.2** The Commission met Shri Anantar Singh (ST) a progressive farmer who took Rs.36,000 as financial assistance (Rs.10,000 subsidy and Rs.26,000 loan) and invested it in preparing bio-fertilizer. He prepared 10 quintals of fertilizer in one pit and sold it at the rate of Rs.250 per qtl. With this effort, he has been able to repay the loan, construct a house and now he proposed to develop a nursery of teak saplings.

### **Visit to Jawahar Lal Nehru Sahkari Agricultural Produce Processing Society Ltd., Khargone.**

**14.3** On 12.05.2003, the Commission visited a spinning Mill at Khargone, which provides employment to several persons in the tribal areas. The Society running the Spinning Mill also operates a Sugar factory and an Engineering College. The Commission noticed the simultaneous process of industrialization and imparting technical education to the local youth who got employment in the tribal area itself.

## **15 Horticulture**

Horticulture crops in the state are mango, guava, jackfruit, lemon, *amla*, *ber*, tomato, peas, potato, onion, chilly, garlic, coriander etc. For 10<sup>th</sup> Five Year Plan a provision of Rs. 30 crores (39%) was kept for horticulture in the TSP area out of state outlay of Rs. 77.43 crores. State Government could utilize only Rs.502.62 lakhs out of Rs. 635.14 lakh under horticulture programme during 1999-2000. Cashew farming also could not make a good start. Community horticulture could not go ahead because of lack of irrigation facilities in the fields of STs.

## **16 Animal Husbandry**

During 1999-2000, Rs. 711.84 lakhs (95.5%) out of Rs. 749.64 lakhs were utilized in TSP area on rearing of cattle, goats, pigs and poultry. In a study report on perception of drought and adoption of control strategy in the Jhabua region of Madhya Pradesh conducted by Dr.Baba Saheb Ambedkar National Institute of Social Sciences, Mhow (M.P) in the year 1998 it was highlighted that providing fodder for the cattle was the greatest problem faced by the tribals. It was suggested that fodder banks should be set up and the tribals may be asked to deposit their cattle at the cattle centres before they migrate to outside places and the cattle may be returned after they come back. Cattle insurance should also be done at these centres to check the loss due to death and theft and interest free loans should be given to them for sustenance. In the afforestation programme instead of planting timber, different species should be grown. In all the panchayats a separate corpus for short-term drought relief measures should be created and managed by the Gram Sabhas.

## **17 Fisheries**

Fisheries has been a traditional occupation of tribals. STs have been accorded permission to catch fish for domestic consumption from the rivers. TSP area has about 2 lakh hectares of water bodies out of 3.87 lakh hectares in the state. STs have been accorded permission to catch fish for domestic consumption from the rivers. All schemes under this sector have been acceptable to the tribals. Number of S.T. beneficiaries during 1999-2000 was 1060 in extension services, 664 in Fishermen Development Agency, 5269 in insurance of fishermen and 555 in Fishermen Cooperative Societies. In accordance with the provisions of M.P. Panchayat Raj Adhinyam, ownership of waterbodies, ponds, tanks etc for fishing has been transformed to (a) Gram Sabha / Gram Panchayat, (b) Janpad and (c) District Panchayat for water bodies upto 10 hac, 11 to 100 hec. 101 to 2000 hec. respectively.

## **18 Co-operation-Cum-Marketing**

18.1 Two-tier cooperative structure exists in the tribal area of the state i.e. Large Area Multi purpose Co-operative Societies (LAMPS) at Primary level and District. Cooperative Central Bank at secondary level, affiliated to Madhya Pradesh State Cooperative Bank Ltd. Currently 1327 LAMPS are working in 35 districts of the state,

running 7593 fair price shops. The LAMPS purchase at controlled or remunerative prices surplus agricultural and forest produce, sell to STs kerosene oil, iodized salt, chemical fertilizers and seeds, etc. and provide production and consumption credit. The 'grain-golas' are not popular as there is easy accessibility of food in the tribal areas. **During 1999-2000, Rs.150.27 lakhs were utilized out of budget provision of Rs.178.57 lakhs on various schemes, such as, contribution towards share capital, purchase of shares of LAMPS, interest subsidy on short term loans, managerial subsidy for ST service cooperative societies and investment in the share capital of LAMPS. Under consumption loan to tribals Rs.25.48 lakhs out of Rs.40.50 lakhs could be utilized from which it is evident that cooperative structure in tribal areas is weak and this required altogether a new approach.**

18.2 Primary Agricultural Cooperative Credit Societies (PACCS) are engaged in arranging credit from cooperative banks for meeting requirements of agricultural operations. As these societies have to perform duties on nominal margin they are not able to meet the cost of management. According to a study on indebtedness among the STs of Dhar district, it is noticed that 51% families are indebted and they were not prompt in repaying loan to Government agencies presuming that the loan would be written off at a later date. It has been suggested that those who are not defaulters should be given further assistance as well as incentives for having repaid the loan on time.

[M. P. TRI Bulletin 2002-03- No. 346/207]

### **Madhya Pradesh Tribal Finance and Development Corporation (MPTFDC)**

18.3 The MPTFDC registered on 29.9.94 operates with the authorised share capital of Rs. 50 crores, 51% share of which is contributed by the State Government and 49% by the Government of India. It executes the schemes formulated by the National Scheduled Tribes Finance and Development Corporation (NSTFDC), National Bank for Agricultural and Rural Development (NABARD) and National Handicapped Persons Finance and Development Corporation. (NHFDC). MPTFDC has trained 421 ST persons upto 2002-03 in various vocations, such as tailoring and embroidery, photocopying, printing press, running of *dhaba* (eating house), tent house, dairy farming, flour mills, rice mill, general store and promotion of entrepreneurial skills. Assistance provided to STs upto 2002-03 was as under:

	<b>No. of beneficiaries</b>	<b>Amount disbursed (Rs. in lakhs)</b>
1. Self employment schemes of NSTFDC	3509	5385.53
2. Beneficiaries under NABARD	34,821	8914.94
3. Beneficiaries under NHFDC	108	55.67

18.4 In an evaluation on study of the working of M. P. TFDC in Jhabua district during 2000-01, it has been pointed out that (a) activities related to transport and brick kilns have benefited the tribals as compared to others and (b) non-tribals using fake ST certificates received assistance.

[Bulletin of M. P. TRI – No. 308/173, 2000-01]

**18.5** The Commission was informed that recovery position against loans advanced is not satisfactory (which is around 25%) and that there were irregularities in selection of S.T. beneficiaries in a few districts, like, Dindori, Mandla and Dewas. The Commission, therefore, recommends that genuine STs of Scheduled Areas should be preferred and regular monitoring and follow up done. Gram Sabhas and Panchayats should be actively associated and their view points taken into consideration.

## **19 Rural Development**

19.1 Progress of works under Rural Development sector in 1999-2000 for the state inclusive of TSP was as under:

	<b>Allotment</b>	<b>Expenditure</b>	<b>Remarks</b>
1. Indira Awas Yojana for ST out of	1000	945.05	32,152 houses 77886 for the state (41.28%)
2. Swarna Jayanti Gram Swarozgar Yojana	<b>No. of Beneficiaries in ('000)</b>		
	<b>2001-02</b>	<b>2002-03</b>	
	Total 64	52	
	ST 15	15	
	% 23.43	28.84	
3. Sampoorna Grameen Rozgar Yojana	106.76 lakh mandays work was generated for STs, i. e. (37%) out of total 288.90 lakh mandaya.		

**19.2** State Government has suggested that effective co-ordination between ITDP and DRDA was necessary and that P.O. ITDP should be nominated as a member in the governing body of DRDA and vice versa. The Commission endorses the recommendation of the State government.

19.3 M.P. TRI in their evaluation report on poverty alleviation programmes undertaken in Jhabua district has stated that most of the beneficiaries belonged to large size villages and most of those below the poverty line and landless tribals were not covered. Women entrepreneurs were better users of the programme. Men took assistance for purchase of a pair of bullocks. It has been suggested that tribal women may be trained in larger number and assisted to implement poverty alleviation programme.

[M. P. TRI Bulletin, 2001-02, No. 335/198]

19.4 In a study report on "Tribal Migration and Manpower Planning in Jhabua" brought out by Dr. Baba Saheb Ambedkar National Institute of Social Sciences, Mhow (M.P), it has been brought that on an average 46.3% of the tribal population migrated out and that percentage went up to 70% in some parts. In drought years the migration was on a larger scale. Nearly all the migrants were unskilled workers and 80% of these were engaged in construction activities followed by agriculture operations and working in brick kilns. The study report suggested that job opportunities should be created within the clusters and villages, forest development, silvi pastoral management, animal husbandry, agro based and other small scale industries should be popularized.

## 20 Panchayati Raj Institutions

20.1 Elections to 3 tier Panchayati Raj institutions were held in 1994 and then in 2000. Representatives belonging to ST number 95011 (27.58%) out of a total of 3,44,424. State Government has allocated 2.91% of total revenue to the Panchayats. Gram Sabhas in the Scheduled Areas have been given powers to manage prohibition, minor forest produce, land alienation and land acquisition, weekly markets, money lending, institutions in the social sector, local development works and schemes under tribal sub-plan.

20.2 In a study report on Tribals and Panchayats in M. P conducted by Dr. Baba Saheb Ambedkar National Institute of Social Sciences, Mhow (M.P) in the year 1996, it was brought out that problems of co-ordination and co-operation between officials and panchayatiraj representatives were posing a serious challenge for the effective functioning of new Panchayat Raj Institutions. The traditional panchayats of tribals were still functional and played multiple roles for tribal community and they also acted as custodians of tribal heritage. It was suggested that a great deal of responsibility still rested on the political leaders, civil servants to provide guidance in order to make panchayat raj institutions successful.

## 21 Food Security

Jhabua and Dindori districts were selected on 20.8.1998 to provide food security to 7148 families living below the poverty line in selected 181 villages. Works executed for them included two godowns, agricultural implements, biogas equipment, toilets, improved chulhas, hybrid seeds and construction of 26 ponds, stopdams, approach road, culverts and Anganwadis.

## 22 Public Distribution System (PDS)

Supply of foodgrains under PDS is made according to following rates:

	<b>Above Poverty Line (APL) Per family per kg.</b>	<b>Below Poverty Line (BPL) Per family per kg.</b>
1. Wheat	9.75	5.00
2. Rice	12.75	6.40
3. Sugar	13.00	13.00
4. Kerosene Oil	6.10	6.10

During 2000, 56.75 lakh families under BPL were issued blue ration cards. Out of 24,900 shops 7575 shops (30%) were located in tribals areas, and 3085 fair price shops have been catering to 3158 weekly markets in tribal areas. During 1999-2000, 4,444 centres were identified which remained inaccessible for 4 months during rainy season and adequate stock of foodgrains and other essential commodities was stored with the cooperative societies. The foodgrains are also supplied to the tribal areas through M.P. State Civil Supplies Corporation by pressing into service 187 mobile shops. These mobile vans supplied foodgrains, kerosene oil, soap,

matchbox, iodised salt and exercise book etc. to the consumers. The ST hostellers have been issued BPL cards and foodgrains are supplied to them @ 10 kg. per month. The Commission was informed in Dhar district that operation of PDS was not satisfactory. In Chhindwara district, the STs did not get kerosene oil for several weeks. The District Administration booked 35 cases against the traders in 2001.

## **23 Self Help Groups (SHGs)**

With a view to mobilize Self Help Groups in a more effective manner, an experiment of setting up a Federation of Self Help Groups (600) was launched in Ranapur Block of Jhabua District. "Action for Social Advancement" (ASA) a facilitation agency between SHGs and financial service providers, such as, banks, insurance agencies was formed with key players from NABARD, Regional Rural banks, and Zila Panchayat. The Commission visited SHG formed by tribal women at village Ogdadi in Deosar block of Sidhi district. The Group collected Rs. 11,800 and level of participation of women was very encouraging. The Commission met a strong assembly of 500 women hailing from nearby tribal areas. They urged the Commission to ensure regular supply of ration at Fair Price Shops and installation of handpumps for drinking water in every habitation. The Commission visited a Dalia Kendra at Sahdol run by a Woman Self Help Group (SHG). The SHG consists of 6 tribals, a Mohammedan and 3 non-tribal members. The group has been working under the supervision of ICDS Officer and its activities varied from production of wheat gruel to making of *wadis*, *papad*, pickles and grinding of edible condiments. Out of a business of Rs. 16.62 lakhs the SHGs earned profit of Rs. 37,000/- which was equally distributed among the women. Smt. Bhuria Bai (Gond ST) is a widow and she has been actively participating in the activities of the manufacturing the product under the brand name of "Vindhya Valley". The Commission was very much impressed with the performance of the SHG. The Commission visited Kodlajagir village in Khargone district where tribal women have been organized to form a SHG to take up the work relating to collection of milk and its transportation to the nearby market places. The venture was successful.

24 Commission met a women self Help Group in village Jampukudi of Sailana in Ratlam district which carried trade in supply of improved poultry birds (Girirajagirani) soya grain bank, goatery and marketing of garlick. They also visited Khaiya Ka Tapra, village Rajakhori of Shivgarh Block in Ratlam district where women were trained to rear goats, grow aonla trees and organize soya grain bank.

## **SOCIAL SECTOR**

### **25 Education**

25.1 School Education- Educational institutions are run by the Education Department in the State but Tribal Development Department also administers school education in tribal areas through following institutions:

25.2 Institution	Number (2002-03)
1. Junior Primary and Primary School	12,643
2. Middle School	4369
3. High School	510
4. Higher Secondary School	476
5. Model H.S. School	9
6. Girls education complex	3
7. Pre-matric	1146 (34274 seats)
8 Post Matric hostel	82 (4665 seats)
9. Ashram School	614 (28630 seats)
10. Sports Complex	14

### Tribes having low rate of literacy

25.3 According to 1981 census, tribes having literacy rate of less than 5 were three, details of whom are as under:

S. No.	Name of Tribe	Literacy Rate	Population	Area of habitation
1.	Pardhi	1.4	1816	Bhopal, Raisen and Sehore districts
2.	Saharia (PTG)	2.7	2.62 lakhs	Gwalior, Morena, Shivpuri, Guna, Sehore, Vidisha districts
3.	Baiga (PTG)	3.6	2.49 lakhs	Mandla, Sahdol, Sidhi, Jabalpur, Balaghat districts

**25.4 The Commission recommends that special education package may be devised and proposal sent to the Ministry of Tribal Affairs for seeking financial support under the Central Sector Scheme of development of PTGs for promoting literacy, pre-primary and primary education among Baiga, Pardhi and Saharia tribes, who number over five lakh persons. Female education among tribals should receive priority attention of planners, educationists and anthropologists in all those villages of the state where their literacy rate is less than 10 according to 2001 census. If necessary, a Mission Authority may be set up by the Ministry of Tribal Affairs in collaboration with Government of Madhya Pradesh for promotion of literacy and education in low literacy clusters/hamlets inhabited by the STs.**

### Schemes

25.5 Important schemes being implemented for providing school education are mid day meals, school uniforms for girls, distribution of textbooks, pre-matric scholarships, and incentives to girls for seeking admission in middle schools etc. Other schemes are mentioned below.\*

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\* Note- Stipend to hostellers, merit scholarship, book banks, vocational training, student welfare, student hostels, reimbursement of Board Examination fees and tuition fees, education in tribal dialects in classes I & II, grant to NGOs, etc.



## Steps to improve enrolment and check dropout

- (a) a primary school has been opened within a radius of one km. of each habitation as provided in the Jan Shiksha Adhinyam, 2002. Literacy drive 'Padhna Badhna' was launched in all the tribal areas.
- (b) Mobilization camps were organised in villages to bring never enrolled or out of school children to school. This drive resulted in enrolment of additional 32638 boys and 24244 girls at primary level and 1103 boys and 5292 girls at middle level of education during 2002-03.
- (c) With the implementation of Sarva Shiksha Abhiyan, gap in gross enrolment ratio (GER) of ST and general population being 12% in 1996 has narrowed down to 5.2% in 2000. GER of ST girls needs to be improved from 87.8% at par with ST boys (94.4%).

## Measures taken to improve secondary level education during 1999-2000

25.7 Teachers (3327) were given training in science, maths and english subjects through satellite coaching. Meritorious ST students securing first division in class VIII and 55% or more marks in class X were given coaching for appearing in X and XII Board examinations by experienced teachers. Twenty five ST students were provided training in office management and hands on practice on modern technology to enable them to secure employment in private sector. Thirty nine ST students who scored highest marks in class X in tribal districts were taken for three day excursion tour around Republic day 2003. A science conference for 300 ST children at Betul was organized to develop their liking for learning science. 45 children were sponsored to participate in a conference in Goa during December 1999. Pre-recruitment training for securing jobs in Army was arranged at Chhindwara, Betul and Khandwa in which 46 ST students took part and nine boys were finally selected. ST students pursuing technical education in scheduled areas were provided special coaching, bookbank facility, teacher guardianship and drawing kits.

## Visit to educational institutions

25.8 The Commission visited following educational institutions:

	<b>District</b>	<b>Place</b>	<b>Particulars</b>
(1)	<b>Khargone</b>	Bhikangaon Khargone	Girls H. S. School Girls Hostel Boys Hostel

District Administration suggested that capacity of 40 seated girls hostel may be raised to 100 and the 100 seated boys hostel may be developed into a campus of excellence.

(2) **Barwani:** (NGO run girls ashram for STs at Niwali). The parents of girls pleaded before the Commission to impart education to girls in agriculture, animal husbandry, horticulture and home science, so that they are more useful to tribal society.

(3) **Ratlam** - At Sailana one girls hostel (150 seated) building is being constructed at a cost of Rs. 1 crore and a vocational training centre is run by Model HS School for 50 ST candidates in four trades, namely electrician, electricmotor / oil engine, Radio and Television and Automobiles. A water cooler made by a trainee for Rs. 2700 fetched Rs. 3500 in the market, thus leaving a margin of profit of Rs. 800. Each trainee is provided hostel accommodation free of cost and stipend @ Rs. 350 pm towards mess charges.

(4) **Dhar** - The Commission visited Govt. Girls residential educational complex Kukshi, Dhar on 10.05.2003. The 315 students were selected on merit on the basis of results of examinations of classes VI, IX and XI. For the present hostel accommodation is available for 100 girls and hostel for another 350 students is under construction. Eighty five percent seats are reserved for ST, followed by 10% for SC and 5% for others. Admission of 45 girls each is made in classes VI to XII in various faculties such as science, arts, commerce and home science.

Examination result in class X was as under:

	Appeared	Passed	%
2001	39	32	82
2002	40	34	85

Result in class XII was as given below:

	Appeared	Passed	%
2001	33	33	100
2002	39	35	90

	I Div	II Div
2001	24	9
2002	23	12

25.9 It was informed that several girls of this Institution have been admitted in professional colleges. Two of them have joined as Dy. Collectors, one as Naib Tahsildar and one has done M.E. in computer engineering. **The Commission has observed that residential educational complex for girls has been a successful model institution and they recommend that a residential college for girls may be set up in the Scheduled Areas of the state. Education in Computer learning should be made available to each student in such residential institutions.**

### School buildings

25.10 The Commission was made aware of shortage of buildings for running educational institutions. Paucity of adequate accommodation and suitable buildings were chief reasons for poor educational attainments in tribal areas. The classes are added, schools upgraded in the same school premises but construction of new school buildings was not given priority.

For citing illustration, undermentioned table may be seen:

District	Particulars of shortage of buildings Schools			
	Primary	Middle	High/Higher	Hostel/Ashram
Jhabua	69	49	8	6
Barwani		230		
Dhar		26	2	
Chhindwara	152	359	119	24
Mandla	106	100	40	12
Betul	37	271	50	35

**25.11 The Commission recommends that buildings for running educational institutions should be accorded priority attention in tribal areas.**

#### **Extent of dropout**

25.12 Taking into consideration number of ST students enrolled in class I and those who reach upto class XII, dropout rate ranges between 80 to 84 in the Gond region of Seoni and Hoshangabad districts and 93% among the Bhils of Dhar district.

**25.13 The Commission recommends that close monitoring may be done at classes VIII and X so that dropout at class XII is significantly arrested. Principals of Higher Secondary Schools should entrust upon a few trusted teachers this responsibility. Exceptionally motivated teachers may be considered for awards and incentives.**

#### **Vacant Posts**

25.14 It has been seen out of data collected from a few districts that posts of Upper Division Teachers remained vacant in large number in the schools located in tribal areas, followed by those of Principals in the Higher Secondary Schools. It was reported that posts of teachers particularly in science, mathematics and english remained vacant for most of the time in several schools. Details have been furnished at Appendix II.

#### **Examination Results**

25.15 During 2002 High School and Higher Secondary School examination results of ST students as compared to overall students were as under:

	Total No. of Students	ST Students
1. No. of students appeared (Class X)	5, 43,120	46,180
2. Passed	2,03,106	12,905
3. Percentage	37.39%	24.94%
4. No. of students appeared (Class XII)	2,92,605	22,583
5. Passed	1,93,248	13,687
6. Percentage	66.04%	60.60

25.16 It is inferred from the above table that performance of S.T. students in SSLC (Class XII) examination is better than class X. **The Commission, therefore, recommends that quality coaching may be ensured for ST students in classes XI and XII by experienced teachers. If necessary a Monitor may be appointed in each district to oversee the teaching in classes XI and XII.**

25.17 Examination result of ST students at SSLC level during 2001-02 of Govt. Model H.S.School, Sailana in Ratlam district was 91%. Jhabua returned a percentage of 81% and Chhindwara (46%). At class X level, pass percentage for Seoni district was 24% and for Mandla only 11%. (Appendix III)

**25.18 The Commission was informed that not a single student could pass class VIII in 2002-03 in three Middle schools of Thandla block of Jhabua district. Zero result was reported in class V and class XII by school at Agral in Meghnagar block of Jhabua district. Likewise, pass percentage was zero at Middle school, Pati in Barwani district. Mandla district also showed unsatisfactory results.**

### **Observations**

25.19 With regard to educational backwardness, the Commission has observed several shortcomings and weaknesses and during interaction with the representatives of tribals, some of which are as under:

- (i) Education has not yet been recognized as priority by the tribals as compared to land, forest, collection of fuel wood and fodder and water for self, cattle and fields. However in Karanjawani village of Mathwad region in Jhabua district, a primary school is being run by tribal villagers with their contribution. This shows that the tribals want their children to be educated and that the teachers appointed by the Tribal Welfare Deptt. are not discharging their duties.
- (ii) A school on an average runs for hardly 130 days in a year in tribal areas.
- (iii) Problem of teacher absenteeism is very acute. Undisciplined teachers are responsible for playing with the career of tribal students.
- (iv) Some teachers are in league with Panchayatiraj functionaries and politicians, as a result of which control over teachers is totally missing. Posting and transfer policy of teachers should be tribal friendly and not employees friendly.
- (v) Teachers generally do not fail students in classes I to V in order to protect their salaries and they even allow the students 'copying'. Such students subsequently come out with poor results.
- (vi) 70% teachers do not stay in villages because of non-availability of government accommodation for their families and bleak prospects for education of their children.
- (vii) Some of the lady teachers go to schools situated at a distance of 50 to 60 kms. from their place of residence because of lack of residential accommodation.
- (viii) In Barwani district, teachers hardly take classes for 3 days in a week.
- (ix) In Betul district, many teachers do not go to schools for four months during rainy season. Although parents send their children to schools, teachers are absent.
- (x) In Sidhi district, the Commission was informed that a few teachers had obtained the signatures of village sarpanchas 6 months in advance, certifying their attendance.
- (xi) Teachers appointed on contract basis performed better than the regular employees.
- (xii) Text books are not made available to students at the beginning of academic session.

- (xiii) As number of schools run by NGOs or private agencies was practically nil/highly inadequate in tribal areas, there was no alternative with the parents but to send their children to ill equipped government schools.
- (xiv) Performance of government run schools is not upto the mark as compared to those run by Christian Missionaries and Saraswati Vidyalayas.
- (xv) Allocation of funds is not given due weightage for the construction of school buildings, hostels, ashram schools and teachers quarters.
- (xvi) Even today, children belonging to Thakur, Kol and Chamar communities sat in separate rows in schools in Sidhi district.
- (xvii) State Govt. has decided to provide hostels for SCs/STs boys and girls in each Block.
- (xviii) National Council of Applied Economic Research, New Delhi in their Bench Mark Survey on Human Development Profile of SC and ST in Rural India (2000) has observed that there was only one teacher for 50 students in M. P. as against 25 students in Himachal Pradesh.

**25.20 The Commission recommends the following:**

- (i) **A National Policy on Education for Tribals may be formulated**
- (ii) **Medium of instruction in class I and II should be through tribal dialect.**
- (iii) **English and Hindi may be introduced from class III onwards and there should be atleast one good residential higher secondary school at block level.**
- (iv) **Education in science and mathematics should be given special attention.**
- (v) **Administration and control over teachers should be very strict. Those not found upto the mark should be shown the door. Exercise to drop inefficient teachers should be carried out every year by a committee comprising of officials and non-officials.**
- (vi) **Principals may be authorized to engage lecturers/teachers in subjects like science, mathematics and english at their level and to pay honorarium to such teachers on the basis of periods for which they were engaged.**
- (vii) **Teachers' children may be admitted in departmental hostels, and other residential institutions at government cost.**
- (viii) **Education Committees set-up at Gram Panchayat level should be fully authorized to have control over the teachers in primary schools in tribal areas.**
- (ix) **Talented students may be taken to good schools elsewhere, even out of the State at the cost of State Govt.**
- (x) **Post –matric hostels may be constructed at cosmopolitan places where more than 20 tribal students belonging to Madhya Pradesh pursue education. Such places could be Delhi, Mumbai, Ahemdabad, Bangalore etc.**
- (xi) **Children of employees studying in Madhya Pradesh whose parents have been transferred to Chhattisgarh should be allowed all the facilities by the Government of Madhya Pradesh and vice-versa by Chhattisgarh State for atleast next 5 years.**
- (xii) **Upto middle schools, teachers may be appointed on contract basis, renewable after every two years.**
- (xiii) **Performance of schools showing highly unsatisfactory results at SSLC level in Scheduled Areas should be reviewed by the TAC every year and suitable remedial measures taken. Teachers found guilty should be dismissed from service.**
- (xiv) **The Tribal Development Department has over the years spread a wide network of educational institutions in the tribal areas but now time has come when quality education at secondary level is essential. Therefore, State Govt. may consider transferring administration of Middle and Higher Secondary Schools from the control of Tribal Development Deptt. to Education Deptt. in a phased manner. This will enable tribal students to compete with others in getting admission to professional/vocational courses.**

- (xv) **Teachers quarters should be attached to school buildings in tribal areas and efforts may be made to provide residential accommodation to all teachers in a phased manner by the end of Tenth Five-Year-Plan period.**

## **26 Health**

26.1 Indicators of health as given below show the poor infrastructure available in the State:

	<b>Madhya Pradesh</b>	<b>India</b>
Birth rate	30.3	25.0
Death rate	9.7	8.1
I.M.R. per 1000	85	64
No. of beds in allopathic Hospitals per one lakh Population	35	92

25.2 The position in tribal areas, and in particular the Scheduled Areas is rather more vulnerable. National Council of Applied Economic Research, New Delhi in their Benchmark Survey on Human development profile of SC and ST in Rural India (2000) has stated that villages dominated by STs are generally deficient in the supply of health care facilities.

26.3 The position of availability of public health institutions, infrastructural facilities and personnel in some of the tribal areas of the State during 2002-03 is furnished at Appendix IV. It is noted therefrom that malaria, water borne diseases and cases of snakebite are many. Posts of specialist doctors and paramedical staff were vacant at several places. During their field visits, the Commission was informed in Jhabua district that the Doctors in the PHC at Thandla charged Rs. 2/- from every patient as donation to the Red Cross fund and collected Rs. 10/- per patient for writing prescription. As there was no stock of medicines in the PHC, the patients had to visit chemist's shops for their purchases. The patients were directed by the doctors to meet them in the evening at their respective residences for good quality treatment. The three PHCs and one CHC in the Block had neither X-Ray equipments nor any pathological laboratory. In Petlawad area of the district common health related problem was that of underweight newborn children, who are taken to adjoining Ratlam district for treatment. The post of nurse at Jamli Sub-centre was vacant for the last four years.

26.4 The Commission also observed that public health infrastructure and availability of qualified personnel in tribal areas has not improved much over the years and therefore, **it recommends that norms for setting up public health institutions in tribal areas should be relaxed keeping in view the low density of population, inaccessible area and poor communication system. Availability of ambulances in interior areas even at sub centre levels needed to be ensured. Forming a pool of specialists and lady doctors at district level may be implemented and out of this group, doctors may be deputed to different health centres on weekly/fortnightly basis. Participation of private doctors, nursing homes and other agencies available at nearby places should be encouraged.**

## 27 Drinking Water

27.1 As on 1.4.2002 out of 2,22,890 habitations in the State, safe drinking water has been ensured in 208448 where water supply is made available @ 40 litre per day. In other villages lesser quantity of water is supplied. Out of 3,80,083 hand-pumps, 3,36,429 (88.5%) were in order for water supply. 4187 villages have been covered by piped water supply and 1940 villages used ground water.

27.2 Special attention has been focused to ensure water supply to 3 PTGs, namely, Saharia, Baiga and Bharia by sanctioning tubewells in the district of Gwalior, Datia, Shivpuri, Guna, Morena, Mandla, Balaghat, Sahdol and Chhindwara. Eighty four villages were reported affected by fluoride thereby making drinking water unhealthy in Chhindwara district. For the repair of hand pumps, a provision of Rs. 15,000 was made by a Gram Panchayat, which was reported to be highly inadequate in the rocky and hilly areas. In Dhar district 16% villages were problem villages. In Petlawad Tahsil of Jhabua district water scarcity was acute in Samirgarh village as there was no trace of water upto 400 feet in 220 villages. Executive Engineer, Public Health Engineering Department informed that there was no water even upto 1200 feet in 12 tube wells. The Department tried construction of 45 wells and 35 tube wells but water could not be reached. In order to meet the scarcity of water, supply was ensured through water tankers. In Sarangi and Kudwas villages water was not available despite spending Rs. 39 lakhs. In Pati area of Barwani district ground level water has gone down considerably and as a result the tribals faced hardships in getting drinking water.

27.3 According to a study report (M.P.T.R.I. Bulletin, 2001-02, No. 337/200) on the impact of schemes for supply of drinking water in Karahal Block of Sheopur district, it was found that tribals were reluctant to go to other hamlets where handpumps have been installed. Each hamlet required atleast one handpump. The study report has also concluded that wherever tribals used handpump water, there has been decline in diseases. Need for effective and timely maintenance of handpumps was also stressed.

## 28 Housing

State Government has decided to allot 15% of all types of houses constructed by the housing boards and housing plots to ST persons. **The Commission recommends that the reservation for STs should be atleast 20% in proportion of ST population to total state population.**

## 29 Art and Culture

Adivasi Lok Kala Parishad is popular in tribal areas for organising tribal fairs, drama performances and folk dances. A collection of tribal musical instruments has been made by them. Gondi folklores are also being translated into Hindi.

### 30 Reservation in Services

As on 31.12.1999, 20,733 posts reserved for STs were vacant in different categories, of which 19,220 posts could be filled up and remaining 1513 were vacant. Category wise position is given below:

Category	Vacant posts During 1999	Posts filled during during 1999	Vacant Posts as on 1.1.2000
I	176	27	149
II	1484	992	492
III	16,139	15,419	720
IV	2,934	2,782	152
<b>Total</b>	<b>20,733</b>	<b>19,220</b>	<b>1513</b>

### 31 Unrest in tribal areas

(i) Shri Mahipal Bhuria, spokesman of Catholic Diocese of Jhabua district urged the Chairman of the Commission vide his letter dated 03.02.2004 to make efforts to bring peace and harmony among the Bhils following Christian, Hindu and other indigenous faith. He alleged that certain unsocial elements have created gulf between the two groups, as a result of which tribal identity is being lost. It may be recalled that on an earlier occasion Christian tribals of Amkhut Panchayat of Kathiwara Block of Jhabua district had caused disturbance in a religious discourse organized by the Hindu Bhils, which resulted in firing leading to death of one tribal, Arjun Pal. Subsequently, they damaged the village deity at Puniawat village. This was brought to the notice of the Commission by Sarpanch, Amkhut, Kathiwada block in his memorandum dated 2.2.2004.

(ii) Shri Panchhi Lal Saket of Jhabua in his Memorandum dated 23.02.2004 brought to the notice of the Commission that his daughter, Ku. Sujata (9 years) was raped and killed by an official of Church at Jhabua on 11.01.2004. This incident led to tension in the district.

(iii) Shri Shankar Tadwala Bhilala of Alirajpur and Shri Benedict Damore of Jhabua in a Joint memorandum have urged the Commission to motivate NGOs with secular credentials to take up social work activities in tribal areas to ease the social tension.

### 32 Jail Reform

The Commission visited Alirajpur jail in Jhabua district on 10.5.03 and Sahdol jail on 21.06.2003. Attendance of prisoners was as under:

Category	Alirajpur	Sahdol
Male	Under trial 182	164
	Convicted 10	24
Female	Under tribal 4	20
<b>Total</b>	<b>196</b>	<b>208</b>



During discussions with jail inmates, it was found that they were booked for different offences, such as, murder, theft, assault due to dispute over land, elopment, looting a bus, dacoity, kidnapping and unlawful assembly. In Sahdol jail offenders of excise related offences were many. The jail inmates urged the Commission to provide electric fans during summer, to which the jail authorities reported that ceiling fans are not provided as sometimes a prisoner tries to commit suicide in the jail barracks. **The Commission desired that pedestal electric fans could be kept during peak hours as a measure of reform.** On finding several young tribal boys in the jail, the Commission expressed their concern and suggested that a survey of such boys should be carried out on regular basis and plan for their rehabilitation prepared and implemented after their release from jail. **Possibility of funding rehabilitation projects for released tribal prisoners out of grant under Art 275 (1) may be explored for Scheduled Areas, the Commission observed. An MLA of Sahdol suggested that 10% of the sales proceeds produced by the jail inmates may be given to them towards their rehabilitation. The Commission agrees with the suggestion.**

### **33 Research, Monitoring and Evaluation**

33.1 Madhya Pradesh Tribal Research Institute set up in 1954 had undertaken anthropological studies and detected 912 fake/false ST certificate during 2001 to 2003, prepared anthropological notes on 60 communities, conducted research studies (78 since 2001-02) and trained 641 officers (1998-2003). Commission held discussions with Director Tribal Research Institute, Bhopal and other officers on 25.06.2003. Director informed that TRI carried out several studies, such as, on the working of education guarantee scheme, functioning of Panchayatiraj institutions, working of schools run by Christian missionaries, NGOs and the Government, and also on alienation of tribal land among others. The State Government had also entrusted upon them the assignment of verification of community certificates especially in regard to the Halba Koshti and Majhi communities. The Commission has observed that the TRI had done good work during the past but of late, the standard of output of the Institute has come down. One of the reasons appears to be that Director is an Administrative Officer of junior rank unlike the previous years when a sociologist/anthropologist used to head the institute. The attitude of an Administrative cadre officer is very different from that of a Research Scholar who approaches the problem with an open mind and brings forth all the dimension of the problem to assist the State Government in taking a policy decision in the matter. One of the drawbacks that the Commission has noticed is that the State Govt. does not take appropriate action on the suggestions and recommendations made by the TRI in their studies.

**33.2 The Commission therefore recommends that the Director of TRI should be a Research Scholar of eminence. It is further recommended that Director of the TRI also be entrusted with the responsibility of the Directorate of Tribal Area Development Planning. The Commission also feels that State Government should allocate sizeable funds to make it possible for the Research Officers/Investigators to tour the tribal areas for collection of data on a continuous basis.**

**Visit to Baba Saheb Ambedkar National Institute of Social Sciences, (BANISS)  
Mhow, Indore (12.05.2003)**

33.3 Commission held discussions with Director General, BANISS, faculty members of the Institute and the Research Fellows on tribal issues. Commission was informed that the Institute guided students for M.Phil and Ph.D. courses and supervised research projects, some of which were –

(a) dry farming and agriculture development, migration of tribals, policy of *tendupatta* (*m.f.p.*), post-matric scholarships, drought prone area Baiga tribe, food security, IRDP and training of Panchayatiraj functionaries.

(b) extension activities on education for protecting environment, orientation of teachers for working in tribal areas, Essay and poster competitions on tribal related issues and rallies for generating awareness.

(c) Ph. D. scholars were guided in their studies on self employment scheme, Bharias of Patakot, criminal tendency among the Bhils, nutritional status of Bhil and Khairwar women etc.

**33.4 The Commission recommends that studies in Naxal affected areas and aspirations of post-matric students in tribal areas may be undertaken by TRI and BANISS. A separate cell for tribal studies may also be set up in the BANISS for focused attention upon the tribals of Western Madhya Pradesh.**

## **34 Unresolved Issues**

34.1 State Government in their draft TSP for 2002-03 has stated that major and persistent problems that have by and large remained unattended are:

(1) Land alienation, (2) indebtedness, (3) tribal-forest interface, (4) ineffective implementation of M.P. Panchayatiraj (Second Amendment) Act, 1997 and M.P. Panchayatiraj (Amendment) Act, 1999, and (5) displacement and lack of proper rehabilitation. When one sees the TSP 2002-03 prepared on the basis of strategy for X Five Year Plan and beyond, the above listed issues are lost sight of in overall strategy of the state in achieving targets by 2007, like reduction of poverty-ratio to 20% , universal access to primary education, increase in literacy rate to 72% by 2007, reduction of IMR to 45/1000, increase in forest and tree cover to 25% and all habitations to have access to potable drinking water by 2012.

**34.2 The Commission therefore recommends that monitorable targets should, in future, be fixed in TSP for-**

**(i) habitations fully covered by supplying safe drinking water, (ii) Suo moto registration of land alienation cases by government employees including the revenue, police, excise and forest personnel, (iii) restoration of alienated lands, (iv) building up of economic assets through banks and other financial institutions, (v) cultivable land brought under irrigation, (vi) economic returns out of forests in the form of wages, sale proceeds of minor forest produce and**

bonus received out of joint forest management ventures, (vii) displaced tribal families rehabilitated, (viii) issuance of patta to tribals by the Forest Department towards regularization of encroachments, (ix) employment generation and community works for execution given to the Self Help Groups and (x) ensuring attendance of teachers and students in schools, health personnel in primary health centres and alike institutions and also of availability and supply of foodgrains by Public Distribution Shops. The Commission recommends that ten point monitoring schedule (as above) may be reviewed half yearly by the State and annually by the Ministry of Tribal Affairs.

### **Discussion with Chief Secretary of the Govt. of Madhya Pradesh**

35 According to the Chief Secretary of the State Govt. the felt needs of the tribals are basically fivefold i. e., land, forest, water resources, health and education. The tribals of the State are the producers but their marketing is done by the non-tribals and the money earned is not ploughed back to the tribal areas. Citing an example of forest resources, he said that forests are for the national good although the trees are standing on the lands of the State. The State Govt. does not get full returns of the trees and the forest products. He suggested that at least 30% of the revenue out of the forest and mining resources should reach the State for development. Whenever land is taken away under the Central Forest Act, its compensation should be provided to the State Govt. Commissioner, Tribal Development suggested that TSP Area and the Scheduled Area should be made co-terminus for improved administration. Although policy of improved administration in Scheduled Areas provides for incentives and compensatory allowance to employees, leave travel concession to visit home town, facility of stipend to stay in departmental Post matric and pre-matric hostels and ashram schools (upto 2 children of employees) additional 10 days earned leave and 7 days additional leave and a separate policy for appointment, posting, promotion and transfer has been adopted by the State, administrative set up in Tribal areas is still very weak and government employees do not have the capacity, knowledge and capability to come to expectations. Chief Secretary Govt. of Madhya Pradesh apprised the Commission that the State hardly got 1 or 2 IAS Officers from the Govt. of India annually and therefore it was very difficult for them to place their services as Project officers at the ITDP level in the tribal areas. The problems of the State are complex as most of the districts are backward. The State is not a soft choice for the government employees. The other administrative handicap is that 70% of its employees are those who are in the age group of 40 years and more and the active workforce of less than 40 years is hardly 30%. The State has hardly 5% of its workforce, which is less than 30 years in age. The development of the State, therefore, is dependent on the performance of middle aged employees for whom the backward and tribal area appear to be uncomfortable, if not hostile.

## **Recommendations**

**36 In order to effectively implement the TSP strategy in the State, the Commission recommends that-**

- (a) TSP area and Scheduled Area should be made co-terminus.**
- (b) There should be one ITDP for one district and the P.O. ITDP should be an IAS officer of the rank of Additional Collector or an Officer of Indian Forest Service. He may also perform the duties of P.O. DRDA.**
- (c) Bhopal Declaration, 2003 has only touched the fringes of ST issues and this should be delinked from Scheduled Castes Development. It may be reformulated.**
- (d) Existing personnel policy for tribal areas has not given desired results. This may be modified in the context of aspirations of employees in the 21<sup>st</sup> century.**

## Flow of State Budget to Tribal Sub-Plan

**(a) State Plan**

(Rs. in Crores)

Year	State Plan	Budgetary Support	Divisible Amount	Tribal Sub-Plan				
				Budg. Prov. (% to B. Sup.)	% to divisible amount	Allotment	Expenditure	% to allot.
2000-01	3250.92	3085.92	2779.96	700.63 (22.70%)	25.20	658.32	566.96	86.12
2001-02	3306.09	3141.09	2900.52	623.85 (19.86%)	21.51	620.20	505.46	81.50
2002-03	4749.77	4584.77	4335.34	818.83 (17.86%)	18.89	866.42	708.41	81.76
2003-04	5901.75	5761.86	4165.14	899.41 (15.61%)	21.59	905.91	479.04 (upto Dec.'03)	52.88

**(b) Special Central Assistance**

(Rs. in Crores)

Year	Budget provision (Including suppl.)	Released Amount from GOI	Expenditure	% to released amount
2000-01	120.62	62.57	87.89	140.47
2001-02	72.02	78.33	62.25	79.47
2002-03	91.70	78.33	87.94	112.27
2003-04	80.23	70.50	14.30 (upto Dec.'03)	20.28

**(c) Article - 275 (1)**

(Rs. in Crores)

Year	Budget provision (Including suppl.)	Released Amount from GOI	Expenditure	% to released amount
2000-01	18.50	20.58	16.40	79.69
2001-02	58.77	43.46	52.87	121.65
2002-03	72.05	40.52	34.43	84.97
2003-04	48.53	35.36	Nil	(upto Dec.'03)

**(d) Coverage of ST families**

(Rs. in Crores)

Year	Target			Achievement			% to total
	IRDP	Non-IRDP	Total	IRDP	Non-IRDP	Total	
2000-01	0.35	1.74	2.09	0.39	1.95	2.34	111.96
2001-02	0.35	1.74	2.09	0.23	1.91	2.14	102.39
2002-03	0.35	1.75	2.10	0.17	2.03	2.20	104.76
2003-04	0.35	1.75	2.10	0.11	1.39	1.50 (upto Jan.'04)	71.43

## Vacant Posts of Teachers

District	Institution	Particulars of vacant posts
Jhabua	Degree College, Thandla	6 posts out of 15 posts of teachers were vacant in subjects, such as, Economics-2, Commerce-2, History-1 and Sports officer-1

## H. S. Schools

Staff (2002-03)	Sanctioned Posts	Vacant Posts	%
Principal	114	86	75
Head Master	307	38	12
Lecturer	434	109	25
UDT	1349	149	34
LDT	4209	52	1
Office staff	357	70	20

In Petlawad Block all the posts of Science lecturers were vacant.

## Chhindwara district

Post	Sanctioned	Vacant	%
Principal	153	62	40
Lecturer	428	45	10
Head Master	455	53	13
UDT	942	337	36
LDT	5701	1192	21
PTI	49	19	39

**Note:** Shortage of lecturers and UDTs in Science was 74, followed by English 52 and Maths 43.

**Betul district**

<b>Post</b>	<b>Sanctioned</b>	<b>Vacant</b>	<b>%</b>
Lecturer	413	89	22
UDT	1522	352	23
Asstt. Teacher	5286	379	7

**Mandla district**

<b>Post</b>	<b>Sanctioned</b>	<b>Vacant</b>	<b>%</b>
Principal	62	8	13
Headh Master	156	40	26
Lecturer	183	33	18
UDT	862	365	42
	<b>1263</b>	<b>446</b>	<b>35</b>

**Excess teachers viz-a-viz vacant posts**

<b>Block</b>	<b>No. of Posts of Teachers</b>
(a) Better off Blocks	Excess Teachers
Mandla	35
Nainpur	21
Bichhua	14
Mawai	03
	<hr/>
	73
	<hr/>
(b) Interior Blocks	Vacant Teachers posts
Ghugri	24
Bijadandi	02
Narainganj	18
Niwas	16
	<hr/>
	60
	<hr/>

**Appendix III**

S. No.	District	Examination Results (in percentage)			
		Analysis of Result			
1.	Jhabua	V	VIII	X	XII
	2000-01	58%	56%	54%	79%
	2001-02	61%	59%	40%	81%
2.	Barwani	Pass percentage at Middle School was less than 20%.			
3.	Ratlam	Govt. Model HSSchool, Sailana			
		<b>Middle</b>	<b>HS</b>	<b>HSS</b>	
	2000-01	75%	97%	82%	
	2001-02	100%	100%	91%	
4.	Chhindwara	V	VIII	X	XII
		74%	49%	26%	46%
		District administration has terminated the services of 12 teachers and initiated action against 100 teachers whose performance was poor.			
5.	Betul	X	XII		
	State average	25%	62%		
	District average	29%	52%		
	STs	16%	NA		
6.	Seoni	Appeared	Passed	%	
	Class X	1457	353	24%	
7.	Mandla				
	High School	10.59%			
	Middle	31% (1996 out of 6359)			
	Primary	62% (7378 out of 11,960)			
(1)	Govt. New Middle School Padao, Mandla	No. of students			
		Appeared	Passed	%	
		33	1	3	
(2)	Primary School Fatah Darwaja, Mandla (class V)	21			
		Nil		0%	
(3)	Girls Primary School, Padao, Mandla (class V)	15		2 13%	



## Health infrastructure in selected districts

Sl.	DISTRICT	POSITION																																						
1.	Betul	1500 children died of malaria in 2001. 5900 mosquito nets were distributed @ 2 nets per family. Cases of snake bite are many. Diarrhea is very common. 48 posts of doctors out of 71 were vacant.																																						
2.	Mandla	Nine posts of specialist doctors out of 10 were vacant. Posts of Radiographer and Pharmacists were also vacant at CHC Niwas. Diarrhea, dysentery, malaria and jaundice were commonly prevalent.																																						
3.	Dindori	Out of 21 posts of doctors, 8 posts were vacant in PHCs.																																						
4.	Seoni	Six posts of specialist doctors out of 9 and 17 out of 75 class II doctors were vacant. The Commission visited Ghansor in Seoni district where a CHC building with 100 bedded facility has been constructed at a cost of Rs.1.25 crores and the hospital has not become functional because it was not inaugurated.																																						
5.	Chhindwara	27 posts out of 38 class I doctors and 31 out of 166 class II doctors posts were vacant. The doctors were placed under suspension for dereliction of duty.																																						
6.	Jhabua	<p>Major diseases - Malaria, T.B. and Leprosy  District Hospital - Community Health Centres 10  Primary Health Centre - 30  Sub center 346 Ayurvedic Centre - 45</p> <table border="0"> <thead> <tr> <th rowspan="2">Staff</th> <th colspan="2">No. of Posts</th> </tr> <tr> <th><u>Sanctioned</u></th> <th><u>Vacant</u></th> </tr> </thead> <tbody> <tr> <td>Doctor</td> <td>107</td> <td>28</td> </tr> <tr> <td>Medical Specialist</td> <td>4</td> <td>2</td> </tr> <tr> <td>Surgeon</td> <td>4</td> <td>4</td> </tr> <tr> <td>Child specialist</td> <td>4</td> <td>3</td> </tr> <tr> <td>Eye specialist</td> <td>1</td> <td>1</td> </tr> <tr> <td></td> <td><b>120</b></td> <td><b>38 (32%)</b></td> </tr> <tr> <td>Radiographer</td> <td>14</td> <td>7</td> </tr> <tr> <td>Lab. Tech</td> <td>42</td> <td>16</td> </tr> <tr> <td>Compounder</td> <td>54</td> <td>26</td> </tr> <tr> <td>Nurse</td> <td>69</td> <td>16</td> </tr> <tr> <td></td> <td><b>179</b></td> <td><b>65 (36 %)</b></td> </tr> </tbody> </table>	Staff	No. of Posts		<u>Sanctioned</u>	<u>Vacant</u>	Doctor	107	28	Medical Specialist	4	2	Surgeon	4	4	Child specialist	4	3	Eye specialist	1	1		<b>120</b>	<b>38 (32%)</b>	Radiographer	14	7	Lab. Tech	42	16	Compounder	54	26	Nurse	69	16		<b>179</b>	<b>65 (36 %)</b>
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7.	Dhar	In Dahi Block, two posts of doctors out of sanctioned 4 were vacant. Number of T.B. patients was as high as 125 and X-ray machine was out of order. The Block in interior area does not have an ambulance.
8.	Ratlam	As against the requirement of 32 sub-centres in ITDP Sailana, there were only 24 such centers. Lady doctors were not willing to serve in the rural areas.
9.	Barwani	<p>In Barwani district, six posts of Grade I Medical Officers, 2 posts of District Health Officers and 4 posts of doctors in PHCS of Roshar, Gandhawal, Moyada and Bandhara Bujurg were reported to be vacant. Whereas Dais could be appointed for all the 707 villages of the district, Public Health Workers could not be trained for 34 villages as persons with requisite educational qualifications, were not available. Major diseases noticed in the district are as under:</p> <p><b>T.B. - 123 new cases</b>  <b>Leprosy - 31 new cases</b></p> <p>The Commission was informed that 10 vehicles out of 28 were out of order. Out of 235 sub-health centers government buildings were available for 88, panchayat buildings for 27 and remaining 120 centres were housed in rental accommodation.</p>
10.	Khargone	In Bhikangaon PHC, requirement of a female nurse was stressed by the villages.
11.	Sahdol (Pushprajgarh Block of Anuppur Tahsil)	Out of 7 posts of doctors only one was filled up.
12.	Sidhi	Appointment letters were issued to nearly 20 doctors but none reported for duty. Out of 10 posts of specialists, 8 were vacant Medicines to cure snake bites were not available at any of the PHCs.

# Report on Maharashtra

## Part - I

### Introduction

1. Maharashtra State became an entity consequent to the linguistic reorganization of States of India effected on 1 May 1960. As a sequel to the agitation for a Samyukta Maharashtra, all the contiguous Marathi –speaking areas which previously belonged to 4 different administrative hegemonies – districts between Daman & Goa that formed part of the original British Bombay Province, five districts in the north and west of the Nizam's dominion of Hyderabad, eight districts in the south of the Central Provinces (Madhya Pradesh) and a sizeable number of native ruled State enclaves lying enclosed within these areas merged with the adjoining districts.

1.1 Area - 3.08 lakh sq. kms.

1.2. Percentage of India's total area - 10%

1.3. Population

Census year	Total (in crores)	%age of India's total population	Total decadal growth	ST (in lakhs)	ST decadal growth
1991	7.89	9.27	25.36	73.18	26.79
2001	9.68	8.87	22.57	85.77	17.20

Population (ST)	1991	2001	Decadal growth
Rural	64,05,814	74,86,537	16.87%
Urban	9,12,467	10,90,739	25.02%
Total	73,18,281	85,77,276	17.20%

1.4. Ranking of ST population in relation to India's - 3<sup>rd</sup>

1.5. Sex Ratio

Census	India	State	ST
1991	929	934	968
2001	933	922	973

1.5.1. Sex ratio among STs of the State is much better than the State as well as all India average, which is appreciable.

1.6. No. of ITDPs - 24

1.7. Forest cover - 17%

- 1.8. Percentage of industries around greater Mumbai - 40%
- 1.9. Percentage of work force employed by industry - 16%
- 1.10. Availability of roads - 58 kms.for every 100 sq.kms.
- 1.11. No. of revenue divisions - 6
- 1.12. No. of revenue districts - 35
- 1.13. Panchayat Samitis - 296
- 1.14. STs as per 1950 orders - 47 (population given in **Appendix I**)  
No. of STs as per 2002 orders - 45
- 1.15. Scheduled Areas
- |                        |   |        |
|------------------------|---|--------|
| Districts covered      | - | 15     |
| Villages covered       | - | 5009   |
| Towns covered          | - | 12     |
| Total area in sq. Kms. | - | 46,425 |
- 1.16. PTG groups - 3[(i) Katkari/Kathodi (ii) Kolam and (iii) Madia Gond
- 1.17. PTG population - 4.49 lakhs (6.14 % of ST population)
- 1.18. ST population covered by TSP strategy - 75% (54.88 lakhs)  
Dispersed tribals covered by OTSP strategy - 25% (18.30 lakhs)
- 1.19. Literacy rate (1991)

Unit	Male	Female	Average
General	76.56	52.32	64.44
STs	49.09	24.03	36.56
PTGs	29.00	20.00	24.50

1.20. BPL status\*

Percentage of STs living below BPL – 90.89%

Name of ITDPs above state average of 90.89%

(i) Gadchiroli	97.25%	(vi) Bhandara (Deori)	92.65%
(ii) Thane - Shahapur	96.59%	(vii) Ahmed Nagar(Rajur)	92.60%
(iii) Thane - Jawahar	95.53%	(viii) Nashik (Trimbuk)	91.08%
(iv) Raigad (Pen)	94.56%	(ix) Jalgaon (Yawal)	91%
(v) Chandrapur - Rajur	94.52%		

\* Source: Universal Bench March Survey, 1980. 528

Chandrapur-Chimur 92.69%

1.20.1 All India poverty line (NSS 1997-2000 for STs for State as a whole for rural and urban areas)

Rural 43.56% Urban 42.98%

1.21. Drop out rates at secondary stage<sup>@</sup>

Unit	STs	All students
Boys	71%	52%
Girls	77%	57%
Average	73%	54%

## 2. Scheduled Areas

The Scheduled Areas in the state were originally specified by the Scheduled Areas (Part A States) Order, 1950 (C.O. 9) dated 23.1.1950 and the Scheduled Areas (Part B States) Order, 1950 (C.O.26) dated 7.12.1950). With the introduction of the Tribal Sub-Plan (TSP) strategy, the Scheduled Areas were enlarged and were re-specified under the Scheduled Areas of Maharashtra Order, 1985 (C.O.123) dated 2.12.1985 after rescinding the above mentioned Orders. The State Government has not informed the areas that they wish to include in the Scheduled Areas.

### 2.1. Annual Report on the administration of Scheduled Areas of Maharashtra State

In compliance of paragraph 3 of Fifth Schedule of the Constitution, the Governor of the State submits an annual report on the administration of Scheduled Areas in the State to the President of India. The Union Ministry of Welfare (now Ministry of Tribal Affairs) addressed a communication to the concerned States in Jan.,1987 stressing the need for regularity in its submission and making a qualitative improvement in its format.

**2.1.1.** The present report made available to the Commission is for the year 1999-2000. The report running into 115 pages, gives in a passing manner the role of TAC and does not mention the working of protective laws/regulations enforced in the Scheduled Areas. Though there is reference to the role of TRI in conducting research in general and specific areas of economic activities, the summary of researches conducted and their important findings have not been highlighted. The report describes the implementation of the various TSP programmes but it does not give any qualitative analysis of the programmes and work being done by voluntary agencies. Legal protection to the tribals against their exploitation by traders, money lenders and other exploitative agencies has been described but important dimensions of problems in restoration of alienated lands has been skipped over.

**2.1.2.** The Commission feels that the sweeping powers given to the Governor in enforcing general laws fully/partially, enforcing special regulations for ensuring peace and good government in the Scheduled Areas are woefully missing in the report. The Commission recommends that a small Cell should be set up in Governor's office to apprise him about the working of regulatory safeguards in the Scheduled Areas

<sup>@</sup> Source: Maharashtra State/General Education/Statistical Information, 2000-01.

including the extension of the provisions of PESA Act to Maharashtra in 1997.

### 3. Tribes Advisory Council (TAC)

Maharashtra has Scheduled Areas encompassing 46,531 sq. kms. Under Article 244(1) of the Constitution. The State Government has constituted a TAC comprising of 20 members, which includes 15 ST MLAs, 2 members nominated by the Governor. The Chief Minister is ex-officio President; the Minister of Tribal Development is ex officio vice-President while the Secretary TDD is ex officio Member Secretary of the TAC. The main purpose of the TAC, according to the State Government is to advise the Governor on tribal development and decide policy matters pertaining to development of tribals.

3.1. There were complaints from tribal representatives during the course of the tour that the TAC was not meeting frequently to discuss the implementation of various constitutional safeguards and regulations particularly relating to land alienation, money lending, working of excise policy for socio-economic and educational development of STs living in the Scheduled Areas. **The Commission recommends that all regulations/laws/government resolutions applicable to the scheduled areas should be reviewed by the TAC periodically for tackling the spread of tribal unrest. This review will also help in plugging the loopholes in the regulatory mechanism.**

### 4. Unrest in tribal areas

The remote and most backward areas of Maharashtra adjoining Andhra Pradesh and Madhya Pradesh are affected by the activities of naxalites. South Chandrapur circle spread over two districts, namely, Chandrapur and Gadchiroli is a vast tribal belt. This area has 4 territorial revenue sub-divisions out of which Allapalli, Sironcha and Bhamragarh fall in Gadchiroli while Central Chanda sub-division is a part of Chandrapur district. The entire area is covered with good forests and is inhabited by Gond STs, Madia Gond and Kolam PTGs. The area is endowed with abundant natural resources but sorrowfully the area is devoid of basic amenities. **Due to poor transportation, communications, lack of all-weather roads, almost absence of any industrial activity, education and electricity, the circle is simmering with many-fold problems. Due to flooding of the 5 rivers (Wardha, Vainganga, Godavari, Khobragari and Indravati) in the rainy season, the villages are not accessible to the health care centers and in the absence of proper health care; certain diseases like sickle cell, anaemia, malaria, diarrhoea and malnutrition, which are widespread in the district, have remained beyond the pale of health care centers.**

4.1. Agriculture is primitive and at subsistence level in the area. Tribals are able to grow only one crop a year where they could grow two very easily. Modern agricultural practices have still not reached this belt. The main activities of the tribals of the region are food-gathering, hunting and farming. Their dependence on collection of *tendu* leaves enables them to add to their meager income.

4.2. There are 1613 ex-malguzari tanks in the district of Gadchiroli. These tanks are now non-functional due to siltation. In the good old days, these tanks were an important source of water supply for irrigation and drinking-water purposes. Their disuse coupled with the alienation of tribal land, operation of non-tribal moneylenders in the tribal areas has deprived the tribals of their permanent asset – agricultural land. They do not have any recorded titles to land and restoration of alienated land despite legal provisions has not taken place.

4.2.1. The tribals are not happy about the functioning of Govt. functionaries and this resentment has been utilized by certain groups to foment strife against Patwaris, forest rangers, police constables etc. Normal law and order machinery has come to a grinding halt and the PWG rules the roost. According to the figures, supplied by the Forest Deptt., it is reported that the State suffered a loss of Rs. 114.14 lakhs due to 54 cases of burning of forest produce, 6 Govt. vehicles and 6 Govt. buildings by the PWG during 1996-2000. Additionally, the Forest Deptt. Staff received 66 threats from the PWG for venturing into the sensitive area during this period. The subordinate staff residing in the villages are reportedly always under constant pressure. Forestry operations, like plantations, coupe working, transportation of forest produce, collection of MFP, roadwork and other work are at standstill. The situation is quite grave as we have not taken into account the losses suffered by the other developmental deptts. like, education, health, irrigation, PHED, drinking water, electrification etc. This is leading to reduction in employment to the local tribals and consequently the monetary loss due to PWG threat would be monumental and run into billions of rupees. Resultantly, the district administration are unable to construct internal roads connecting the block-head headquarters to the villages. The State Govt. had to take the help of the Border Roads Organization (BRO) for connecting district headquarters and major villages.

4.3. During the Commission's meeting with Baba Amte in his village at Hemalkasa on 4.8.2003, it was suggested by him that the Tribal Development Deptt. should construct embankments to store water for irrigation purposes so that the river water is properly harnessed. This according to him could provide irrigation water in the extremist infested sub-division of Bhamragarh which borders the sensitive district of Bastar of Chhattisgarh. It was felt by Baba Amte that the naxalites would have no objection to any honest attempt made by the Govt. to empower the tribals. The Commission reiterates the suggestions made by Baba Amte. The Commission recommends that the Bhamragarh area should be saturated with irrigation facility while at the same time, 1613 ex-malguzari tanks referred to above should be desilted on a war footing with a view to ensuring supply of irrigation and drinking-water to the tribals. These programmes coupled with other agriculture related inputs will go a long way in economic development of STs. The Commission further recommends the land *Pattas* should be given to STs and alienated land should be restored to them

## Speedy development of Naxalite affected areas

4.4. The entire district of Gadchiroli, four tehsils of Chandrapur, seven tehsils of Gondiya, Sakoli tehsil of Bhandara, Pandharkawada and Wani tehsils of Yavatmal and Kinwat tehsil of Nanded are covered by the Special Action Plan. **The Government has drawn up a plan costing Rs.733 crores for development of agriculture, horticulture, animal husbandry, roads, education, technical education, forest development, drinking water and soil conservation. Development of irrigation is the major problem in these areas, which can be tackled by deepening the existing irrigation tank and construction of minor irrigation projects.** It is only after irrigation facilities are available that the development of agriculture and horticulture can take place. The Government has decided to give 90% subsidy to the ST farmers, who adopt drip and sprinkler methods for irrigation. Improved varieties of rice and oil seeds are also to be distributed encouraged. At the same time, horticulture alongwith cultivation of vegetables in the surrounding areas of farmers' houses will be encouraged. The work of road construction in Gadchiroli & Gondiya areas has been entrusted to Border Road Organization to facilitate speedy communication and connectivity to the villages will be provided under PGSY.

## Action plan for backward talukas of Nandurbar district

4.5. Nandurbar district is one of the most backward ST districts in the state. The two talukas of Dhadgaon and Akkalkuwa in the district are the most backward tribal areas. In these two talukas, 89 villages are not connected by all weather roads and 132 villages are cut off during monsoon. The health care delivery system, ICDS, supply of potable water, horticulture, animal husbandry and supply of electricity are extremely insufficient. The State Government has drawn up a time bound programme costing of Rs.219 crores for a period of 5 years. The State Government has sanctioned funds amounting to Rs.9.68 crores and the Government of India has approved an expenditure of Rs.10.12 crores as indicated below:

### State Government

(i)	Establishment of health infrastructure	:Rs. 1.00 crore
(ii)	Construction of roads in Dhadgaon and Akkalkuwa Talukas	:Rs. 7.20 crore
(iii)	Construction of mini hydro-electric projects	:Rs. 1.00 crore
(iv)	Construction of solar energy, wind power Hybrid power projects in 5 villages	:Rs. 0.48 crore Rs.9.68 crore

### Government of India

(i)	Wadi programme for integrated development of tribal families	: Rs. 2.52 crore
(ii)	Strengthening of electricity distribution system And establishment of power stations	: Rs. 2.90 crore
(iii)	Water supply schemes for 94 villages in Dhadgaon and Akkalkuwa talukas	: <u>Rs. 4.70 crore</u> <b>Rs10.12 crore</b>

4.5.1. The State Government had requested Government of India to allocate Rs.75 crores for undertaking this project, but the State Government has been informed to provide funds out of the State share of Special Central Assistance, which amounts to Rs.30 crores per annum. **The Commission recommends that the Central**



Government should take up financing of at least one backward taluka in the district of Nandurbar so that there will be a visible impact in a defined area in a short period of time. The Commission would also suggest that the Govt. of India after consulting the State Govt. should prepare a comprehensive financial package for the most backward talukas of Dhadgaon and Akkalkuwa of Nandurbar district on the lines of Kalahandi – Balangir – Koraput (KBK) or Bastar packages for removal of backwardness. Alongside, the delivery system should be improved by reaching to a large number of poor with focused measures in the shortest possible time.

#### **Western Ghats Development Programme**

4.5.2. National Development Council identified in 1965 areas under Hill Area Development Programme (HADP) while areas in Western Ghats Development Programme (WGDP) were recommended by a High Level Committee in 1972. WGDP takes care of 62 talukas of Maharashtra out of which 2 talukas of Dhadgaon and Akkalkua of Nandurbar district are the most backward talukas. Areas under HADP and WGDP receive SCA in the ratio of 90:10 and 60:40 respectively. Thus, the HADP and WGDP funds are being operated differently. The Commission recommends that the SCA in respect of WGDP should be released on the basis of the norms of HADP in the ratio of 90:10. The approach under WGDP should be on the basis of TSP strategy and all sectors of development should be funded. On the lines of HADP, there should be a provision of 15% of annual allocation for maintenance of assets under WGDP.

#### **Visit to Central Prison Gadchiroli (05.08.2003)**

4.6. Gadchiroli with 39 percent of tribal population bordering, the naxalite prone area of Bastar district of Chhattisgarh is home to the most backward Madia Gond (PTG). The Commission visited the Central Jail on 5th August, 2003 and had a rapid interface with 75 male and 7 female prisoners. The Inspector General of Prisons who accompanied the Commission to the various dormitories of the jail informed that out of 561 prisoners, 41 had been convicted, of whom, only 4 were tribals. The only tribal female prisoner was arrested under section 306 of the IPC for causing death of her spouse for demanding dowry. One other non-tribal female was jailed as she was allegedly harbouring naxalites as their clothes were found at her residence. 9 ST male tribal prisoners were interviewed out of them, 33% (3) were involved in loitering in the forest with an attempt to do *shikar* which is prohibited under the Wild Life (Protection) Act and the National Forest (Conservation) Act, 1980. Another 33% (3) were involved in murder cases while 22% in group dacoity and 11% (1) in kidnapping.

4.6.1. The tribals, particularly those living in the most backward and afforested region like Madia Gond 'PTG' and Gond ST are fond of *akhand shikar* as a ritual and go to the forest in a group for the purpose. Due to stringent provision of forest laws, they are invariably deprived of their age-old ritual and put behind the bar. It cause for a different approach and putting STs behind the bar will not help. Kidnapping by the tribals has been reported to be due to prompting by the naxalites, with a view to extorting money for them.

## **Visit to Dormitories**

4.7. The Commission visited 3 male dormitories and the only female dormitory. It found that the dormitories were over-crowded. The Chairman suggested that the prisoners should be shifted to a new and spacious jail. The aluminium utensils had been provided to the prisoners for food and drinking water. These are very old and not hygienic. There are no fans in the dormitories. The Commission, therefore, suggested to the jail authorities to provide stainless steel utensils to the prisoners and to install fans in the dormitories. The Commission found a mentally unsound male prisoner in the jail. It was suggested to the jail authorities to refer the prisoner to a psychiatrist for treatment and he should be segregated from the other prisoners as his presence was having a dampening effect on the morale of other prisoners who are mentally sound.

### **Potable water**

4.7.1 The prisoners are served rice, daal and vegetable twice a day. Drinking water stored in uncovered tank in the kitchen was found to be contaminated with mosquitoes and dust particles and, therefore, not potable. The Commission suggests that the water should be kept in big earthen pitchers for drinking purposes.

## **5. Protective measures**

### **5.1. Land alienation**

The Tribal Research and Training Institute, Pune conducted a study at the end of 1987 to determine the extent of tribal land alienation in the State. The Institute studied the impact of anti-alienation enactments by undertaking a survey of 1,339 tribal families drawn from 23 villages spread over six districts of Dhule, Yavatmal, Thane, Nashik, Bhandara and Chandrapur in the State.

5.1.1. The surveyed families belonged to ST communities of Bhil (361), Mahadeo Koli (275), Gond (193), Raj Gond (134), Andh (183), Malhar Koli (79), Ma Thakar (56), Katkari (49) and Warli (29). The annual income of majority of families ranged from Rs.1001 to Rs.6,000. Most of the expenditure was incurred on food (68.35%), and clothing (13.25%). The annual expenditure of the households indicated that the families had little capacity of saving against their meager income and had to borrow money. When the tribals found that it was difficult to get loans from banks and cooperative societies for meeting their daily needs they were forced to approach village shopkeepers and money lenders by alienating a piece of land for a specific period as stipulated.

5.1.2. The average size of land held by the tribal households was about 5 acres, mostly dry land and the percentage of wet land holdings were only 3.4%. 34.72% of total land belonging to the tribals were transferred to non-

tribals and Government for public purposes and the percentage of alienated wet lands was higher (35.92%) as compared to dry land 34.68%. The problem of alienation of land was acute in Thane, Dhule and Nashik districts. Majority of cases of land transferred was by way of sale and lease followed by mortgage which covered about 92.77%. **It was noticed that the popular mode of transfer adopted by the tribal family was *Kabuli Tabegahan* under which no proper documents are maintained by either parties. It is merely an oral agreement under which de jure possession rests with the tribal transferor while the defacto possession is enjoyed by the non-tribal transferee cultivating the land for usufructuary benefits.** 75% of the amount was realised by sale of their lands. 40.80% of the amount realised was spent to meet their consumption needs and social obligations like marriages and festivals and 25.89% realised by the tribals by transferring the lands to the non-tribals was for clearing the private as well as Government loans.

**5.1.3.** 46% households filed applications for restoration of their lands. In some cases tribals did not want the land back for various reasons like the size of the land was very small, the place of residence was far away from the land etc. **A very interesting finding of the survey was that 215 households (34.90%) were given possession only on paper and 401 (65.10%) were given physical possession. However, the procedure of handing over of physical possession of land along with the mutation entries in the record of rights was completed in respect of 32% households only.**

**5.1.4.** Another significant finding of the survey undertaken was that 1.30 lakh hectares of tribal land belonging to 1.50 lakhs tribal families was alienated by non-tribals. The position after the lapse of 16 years has worsened. Urbanization and industrialization has made the position of tribals precarious as pointed out elsewhere in the report.

**5.1.5.** General average area of land per tribal household is 0.98 hac. 41.8%<sup>\*\*</sup> of the STs in the State are landless. Another 43% tribals have land holdings ranging from 0.01 to 4.04 hacs, which are obviously uneconomic on account of factors like fragmentation, low level of technology and with no assured means of irrigation facilities. The agriculture is dependant on the vagaries of nature that being the reason, they are forced to migrate for employment.

**5.1.6** In the district of Thane the tribals do not possess land. The State Govt. has proposed to purchase land for allotment to the tribal families under the Wadi Programme, which is an integrated Horticulture, growing of millets, trees and intercropping of vegetables. Under this programme Rs. 5 crores has been allocated. NSC&ST Corporation will advance interest free loan. There would be a Zila Parishad Committee under the Collector for selection of land. Approximately Rs. 30,000 will be spent on purchase of 4 acres of dry land and Rs. 60,000 for 2 acres of irrigated land. Recovery of loan from the beneficiaries will be spread over a period of 15 years.

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<sup>\*\*</sup> Source: 44<sup>th</sup> Round of National Sample Survey Organisation

## **Bombay Land Revenue Code 1879**

**5.1.6.** The colonial rulers enforced legal protection through Bombay Land Revenue Code 1879 in order to protect the interests of certain backward communities including tribals from transfer of these lands to non-tribals. They further fine-tuned the Land Revenue Code 1879 by incorporating two new sections, viz. 73-A and 79-A. Under section 73-A, in certain tracts or villages, where the original survey and settlement had not been introduced, government could by issue of notification, declare that the occupancies shall not be transferable without the prior sanction by the Collector, after the date of such notification. Accordingly, a notification was issued in 1902 covering certain villages of the state. The restriction was made applicable only to the lands held by members of the backward communities and excluded others. Under Section 79-A provision was made for summary trial of an unauthorized occupant of such land.

## **Maharashtra Land Revenue Code, 1966**

**5.1.7.** Maharashtra Land Revenue Code, 1966, prohibits the transfer of tribal land without prior permission of the Collector. But despite this, such permissions appear to have been given as a matter of routine. The tribals were also compelled to sell their lands because of indebtedness and the Government has, therefore, taken the following measures to ensure that tribals are not deprived of land and that their land already alienated to the non-tribal is restored -

- 1) The Maharashtra Land Revenue Code, 1966 and Tenancy Laws (Amendment) Act, 1974.
- 2) The Maharashtra Restoration of Land to Scheduled Tribes Act, 1974.

**5.1.8.** The Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974 was brought into force with effect from 6<sup>th</sup> July, 1974. This Act imposes stricter restrictions on future alienation of tribal lands to non-tribals. No tribal can, with effect from 6<sup>th</sup> July, 1974, transfer his land to a non-tribal, by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise transfer without the previous sanction (1) of the Collector, in the case of mortgage or lease for a period not exceeding five years, and (2) of the Collector, with previous approval of Government, in other cases.

**5.1.9.** For timely and effective implementation of the restrictions imposed by the Act, the Revenue Officers at village level have been instructed to ensure that entries of ownership in village forms which contain the details of each land should be made to facilitate identification at the time of certifying mutation in respect of transfer of land.

**5.1.10.** The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, provides from 1<sup>st</sup> November, 1975 for restoration to a tribal his land which has gone into the hands of a non-tribal during the period from 1<sup>st</sup> April, 1957 to 6<sup>th</sup> July, 1974 as a result of validly effected transfer (including exchange). Lands purchased or deemed to have been purchased by a non-tribal, during the above period, under the provisions of the Tenancy Act (including acquisition

of land regularized on payment of penalty under Tenancy Laws) are also covered by this Act. Further, under Section 36 (3) of the Maharashtra Land Revenue Code, 1966 and Tenancy Laws (Amendment) Act, 1974 all transfers within of occupancies made in favour of non-tribals within thirty years of such transfer of possession may be regularized. Important provisions of the Acts / Enactments are given at **Appendix II**.

**5.1.11.** #53% of the cases of land alienation and its restoration were rejected by the courts in the tribal dominated distts. of Gadchiroli, Yavatmal, Wardha, Bhandara, Dhule, Pune, Raigad and Thane as on 31.03.2000. The poor economic condition of the tribals in Thane, Nashik, Dhule and Chandrapur distts. has resulted in alienation of tribal land going into the hands of money lenders. *Benami* transactions are also quite high as the tribals are not conversant with the legal provisions that protect their interests on land. Due to no proper check, by the Sub-Registrar to the effect whether the land belonged to a ST or not, the land passed off to a non-tribal. Due to poverty, some non-tribal transferors in Nashik distt. did not want land for personal cultivation and the district administration had no other alternative except dropping such cases even if found genuine. 10.23 lakh acres of Govt. waste land was distributed as on March, 2002, without any preference or quota for STs. 1.04 lakh acres of Bhoodan land was donated in the state out of which 0.27 lakh acres could be distributed and the balance 0.77 lakh acres remained to be distributed to the landless persons. No separate figures of Bhoodan land given to STs are available.

**5.1.12. The Commission recommends that**

- (i) **A statutory provision should be enacted for restoration of alienated land belonging to STs irrespective of the period of limitation and without payment of compensation.**
- (ii) **No leasing of tribal land should be allowed.**
- (iii) Voluntary surrender of land by the tribal to non-tribal after due restoration be made ineffective ( Null and void) in the eye of law. Till the law is enacted as suggested at (i) above, in genuine cases where the tribals, due to economic constraints do not want to retain the validly transferred land for personal cultivation, STs should be assisted by the Govt. to retain the land and provide financial help and services of reputed NGOs like BAIF to develop the land by taking up horticulture, inter cropping of vegetables and its marketing etc.
- (iv) **The tribal families, do not seem to have been sufficiently enlightened on the subject of land alienation laws, with the result that a large number of cases of tribal land alienation have not been reported. However, many tribals are aware of alienation of the lands effected by their ancestors. *Suo-moto* action should be initiated by the enquiry officers for effective restoration of land to tribals in such cases.**

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# Source: Governor's report on the administration of Scheduled Areas for the year 1999-2000).

- (v) **Project Officers of ITDPs should be of the rank of Additional Collectors and entrusted with the responsibility of making enquiries in all alienation cases.**
- (vi) **A large number of alienation cases are reported under "dropped" category and further proceedings were not taken up due to various reasons. These cases should be reviewed by a special cell at the Tahsil level.**
- (vii) **Many non-tribals have got executed fictitious affidavits from the tribals that they do not belong to STs and on the strength of these declarations, the non-tribals have grabbed tribal lands. Such cases should be properly investigated by the revenue authorities to protect the interests of real tribals.**
- (viii) **Civil Courts should be barred from trying the cases under land Transfer Regulations. This will ensure that the stay orders granted by Courts will not impede the legal proceedings concerning restoration of alienated land to the tribals.**
- (ix) **The defacto and de jure possession of land restored to the tribals should be reflected in the records of rights of cultivators and tenants and for this purpose each case of restoration should be updated promptly and the revenue department should call for quarterly reports from the collectors for effective monitoring.**
- (x) **To curb the tendency of suppression of the tribals by the vested interests in usurping the tribal land by the non-tribals, a special cell at Block Level may be constituted to deal with such cases on priority basis. This will help the tribals to raise their voice against exploitation by the local elements.**
- (xi) **In many cases social and community lands in the tribal areas have passed into the hands of non-tribals who are politically strong. Urgent action is necessary to get these "community lands" released from the non tribals and restored to the tribal community/landless families. Help of tribal representatives and voluntary agencies should be taken to find out such transfers to initiate action for restoration of tribal land.**
- (xii) **The orders of restoration of land to tribals and compensation to be paid to non tribals are not issued simultaneously or at one time. It has resulted in friction between land transferor and transferee. The order of restoration of land to tribal and compensation of land to be paid to non-tribal should be issued simultaneously to avoid conflict. The law should be amended suitably to ensure protection to STs.**
- (xiii) **The land records and record of rights of tenants and cultivators should be computerized and made available to gram panchayats in the Scheduled Areas urgently.**
- (xiv) **Law should be enacted to ensure that the registration authorities do not transfer land belonging to a ST unless it is certified by registration authority that no law governing transfers or alienation of such land has been violated.**
- (xv) **With a view to effective implementation of the provisions in**

land revenue code and to facilitate detection of the transfer of tribal land to non-tribals, the State Govt. in Jan. 1982 directed all the Collectors that under Section 36 and 36(b) of Maharashtra Land Revenue Code, the entry regarding the tribal land in other columns must be made in village forms VII and XII. This has not happened in all cases, which needs to be done.

- (xvi) Tribal lands are sold to non-tribals for a specific purpose after obtaining the prior permission from the authorities concerned. Test checks should be carried out by the district authorities to find out if such lands have been made use of for a different purpose. If it is found that tribal lands are misutilised, steps for annulment of such transactions should be initiated. The lands acquired for industrial purpose but not utilized should be restored to the original owners.

5.1.13. The Commission was informed that association of social workers and voluntary organizations in the problem of land alienation has yielded good results and at a few places the tribals were restored possession of land with standing crops. This spectacular result was achieved by Thane district Bhumi Sena in August 1970. It is desirable that voluntary organizations and social workers are associated wherever possible in land alienation cases and Gram Sabhas should be involved in identification of land alienation cases and its restoration as indicated in PESA Act, 1996.

5.1.14. The following loopholes are observed in the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act 1974 regarding invalid transactions.

- (i) If the tribal tenant surrenders the land with his own will and wish, the land goes back to non tribal.
- (ii) If the tribal refuses to purchase the land it is given back to the non-tribal.

**Necessary provision in the Act may be made so that land can be allotted to needy tribals of the same village, instead of giving it back to non-tribals.**

- (iii) The tribals are economically very weak. Sometimes they are not able to pay the instalment of land value fixed. Hence they are treated as defaulters on account of arrears of payment. Under such circumstances, tribals have to lose their land. There is no provision in the Act to safeguard the interest of the tribals.

5.1.15. It is therefore recommended that provision should be made in the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Mah. 14 of 1975) that under no circumstances tribal would lose his land on account of failure to pay the amount or instalments of the payment. The amount of arrears may be recovered from the tribal either by suitable instalments or it should be paid by Government in the form of loan or subsidy.

**5.1.16. The Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act 1974 (Mah. 35 of 1975) and the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Mah. 14 of 1975) do not hold good in case of leased land. The laws may be made applicable in the case of leased land of the tribals also, so that the tribals cultivating land, on lease could be benefited.**

**5.1.17. Section 4 of the Maharashtra Land Revenue (Conversion of use of land and non-agricultural assessment) Rules 1969 permits conversion of use of agricultural land for any non-agricultural purpose. Through this mechanism the vested interests are able to get the land of STs converted for commercial/residential purposes. Large scale conversion of tribal lands for commercial and residential purposes has been reported from the districts of Thane, Raigad and Dangs. Exact figures of acreage of land converted was not furnished by the State Government. The Commission feels that the aforesaid rules allowing conversion of ST agricultural land for non-agricultural purposes are violative of the special constitutional protection granted to the STs living in the Scheduled Areas.**

### **Urbanisation and industrialization in Raigad district**

**5.1.18. The subject of *dalhi* land in Raigad and Pune districts has been discussed elsewhere in this report. The present issue that is facing the owners of tribal land is the attempt by the land mafia to take over the *dalhi* land from the poor STs, mostly Katkaris – a PTG, for its commercial use. This deprives the tribals of agricultural land, the only tangible asset to live a life of dignity and honour. This problem has been highlighted by the voluntary agencies and tribal leaders and has received considerable media coverage for several years. The *modus operandi* is given as under:**

The Forest Department does not want to part with the land in favour of the tribals on the plea that in the event of transfer of the land to tribal cultivators, the State Government would have to provide alternative non-forest land to the Department which it does not have. The Forest Department is going in for bilateral or multilateral finance for its projects, specially from the World Bank for promoting JFM against the government decision in 1969 & 1970. The local vested interests are also encouraging bamboo plantation on *dalhi* and *eksali* plots in Thane district so that pulp and paper factories can be set up.

**5.1.19. Another method to take over *dalhi* land is for industrialization and urbanization due to close proximity of Raigad to Mumbai. The limits of the Mumbai mega polis have been expanded by including almost half of the Raigad district in its jurisdiction. The Mumbai Metropolitan Regional Development Authority (MMRDA), a statutory urban development authority has superseded all the local self government institutions in the area.**

**5.1.20. The implications of these two processes in the present context are that land use priorities have changed in the district. The MMRDA has charted out its own development plan with a top to bottom approach. In the new paradigm, tribal lands have lost their identity, not to mention about sanctity. They have become subservient to elite urban and industrial interests. At**



present, more than 400 has. of *dalhi* lands is reported to have been taken over in the MMRDA plans. And this is only the beginning. Similarly, a number of infrastructure development projects of irrigation, transportation and power sectors are being implemented which have acquired *dalhi* lands at a number of places. The new express highway project between Mumbai and Pune is also said to have displaced the tribal households in the vicinity.

**5.1.21.** Another neo-rich urban pressure group wants to capitalize on the present State policy on the growth of tourism and entertainment industry in Raigad district which is in the vicinity of Mumbai. Due to this, large chunks of land have been purchased in the Konkan region by the neo-rich. Many resorts, holiday homes and townships at hill stations in the Raigad district on the tribal land have been developed.

**5.1.22.** The above programmes of urbanization and industrialization have marginalized the tribals of Raigad district. Permission is being granted to the owners and developers of the above mentioned projects for purchase of tribal land as per provisions under Section 36-A of the MLR (Maharashtra Land Revenue) Code subject to the proviso that the developer shall take the responsibility of rehabilitation of the displaced tribals by way of providing employment to them in the project or allotment of shops etc. The fact whether the affected tribals have been settled or not, is not known to anyone. The Tribal Development Department has got no jurisdiction over the matter despite the fact that no such settlement of the displaced tribals should be done without the prior knowledge of this department.

**5.1.23.** The Commission recommends that the State Government should commission a study by a team of experts including social activists to ensure that the interests of the tribals are fully protected and they are partners in the process of industrialization and not compelled to become wage labourers and slum dwellers. The Commission also recommends that a comprehensive plan to develop *dalhi* land to enhance the land-retention capacity of the tribals by adopting necessary socio-economic measures should be undertaken within the framework of tribal sub-Plan through a reputed Voluntary Agency. The Commission further recommends that the land alienation laws should also apply to non-agricultural land in order to protect the interest of STs.

### **Homestead land**

**5.1.24.** Another subterfuge method of displacement of the tribals is from their hamlets on the land of the landlords on whose farms they work. The law permits the non-tribal landlord on whose farm the tribal is working to apply to the Tehsildar to apply for transfer of the land under the house/hut of the tribal occupant to him (landlord) for sale. Since the case lingers in the Court for final settlement for years, the Tahsildar expresses his inability to pass necessary orders for want of court verdict in favour of the tribal. The occupant applies to the Tehsildar for buying the land while the landlord files a revenue (Civil) suit in the Civil Court. There the case remains pending lingering over years together and under the pretext that the matter is pending in

the court of law, the Tehsildar also expresses his inability to pass necessary orders in favour of the tribal occupant.

## 5.2. Control on money lending in Scheduled areas

Bombay Money Lenders Act, 1946 provides that no money lender shall lend any money to a member of the Scheduled Tribe residing in the Scheduled Areas of the State without previous sanction of the village panchayat. In order to mitigate the poor financial condition of the tribals in the TSP areas, the State Govt. has enacted the Maharashtra Tribals Economic Condition (Improvement) Act, 1976, which bans the operation of money lenders and traders and creation of an alternative agency to advance consumption loans to STs. This Act has made the lending before the commencement of this Act invalid and void and *abinitio*, it prohibits marketing of certain agricultural items and minor forest produce in specified tribal areas by private agencies. Adivasi Cooperative Societies have been set up since 1990 to meet the cooperative loaning needs of the tribal farmers.

**5.2.1. In order to provide easy credit to the tribals - artisans, landless labourers and small farmers, who quite often suffer from the pangs of drought and are forced to borrow money from moneylenders at usurious interest rate or in its absence to migrate to bigger towns for employment are being advanced *Khavati* (Consumption) loans through the State Tribal Development Corporation (STDC). The Consumption Finance Scheme is in vogue since 1978-79. The State Govt. has created a revolving fund of Rs. 3.00 crores to be implemented in the 40 talukas of tribal areas of Nashik, Thane, Dhule, Ahmednagar-Pune, Amravati-Yavatmal, Nagpur-Bhandara and Yavatmal-Chandrapur.**

**5.2.2. The amount of *Khavati* loan @ 7.50% depends on the size of the family, as follows:**

<u>S.No.</u>	<u>Unit (family size)</u>	<u>Loan amount (in Rs.)</u>
1.	upto 4 members	400/-
2.	between 5-8 members	800/-
3.	More than 8 members	1000/-

**5.2.3. The loan is payable once a year in cash and kind in the ratio of 1:9. The latter includes foodgrains, kerosene and edible oils. The recovery of loan is made in one instalment by the agriculturist loanee by the agent appointed under the scheme from the agricultural sale proceeds and MFP procured by the agent. In respect of landless labourers, the recoveries can be made from the wages under EGS or works undertaken by them directly under Govt. or contractors. The interest @ 7.50% is recovered from the borrower. The State Govt. has now decided that even the defaulters' families having children in grades III & IV of schools, would be entitled to a fresh *khavati* loan.**

**5.2.4. The Commission found during the course of tour in Pandarkwada town in Yavatmal district on 06-08-2003 that only wheat was being given to Kolam (PTG) family by deducting the wheat in kind equivalent to the interest amount**

payable for the year, in advance. Kerosene and edible oils were not found stored in the godown.

5.2.5. Table below gives the *Khavati* loans disbursed during 2003-04.

**Table No. I**

(Rs. In lakhs)

District	No. of families		Loans distributed		
	Sanctioned loans	Beneficiaries	in kind	in cash	Total loan
1	2	3	4	5	6
Nashik	9,192	7,437	56.18	5.67	61.84
Dhule	1,370	1,330	6.18	0.64	6.82
Nandurbar	18,531	17,536	118.74	12.90	131.64
Jalgaon	498	497	3.70	0.41	4.11
Ahmednagar	4,076	2,630	20.41	2.04	22.45
Gadchiroli	296	296	-	-	-
Total	33,963	29,726	205.21	21.66	226.86

5.2.6. The Commission recommends that the scale of consumption finance should be doubled for all categories of families as the per capita consumption of cereals is more among the poor tribals. The authorized godowns of STDC should also sell kerosene and edible oils to the needy tribals.

### 5.3. PESA

The State has enacted legislation by amending the Bombay Village Panchayats Act, 1958 to extend the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA). The law has been hampered by the reluctance of the State Government to make the relevant laws and rules to strictly conform to the spirit of the Central law.

5.3.1. Some of the important mandatory provisions of the PESA Act, 1996 which have either been given a go bye or are not implemented in the true spirit of the Central act are listed below with the Commission's observation:

- (i) **Definition of village:** The State is silent on this subject.
- (ii) **Planning & management of minor water bodies:** The Central Act mandates to entrust to the Panchayats the power of planning and management of minor water bodies but the State Act woefully does not make any mention of it.
- (iii) **Grant of prospecting licence or mining lease for minor minerals and concession for exploitation of minor minerals:** The Central Act mandates that the prior recommendation of the Gram Sabha or the Panchyats at the appropriate level shall be a pre requisite for grant of prospecting licence or

mining lease for minor minerals. The Maharashtra act assigns powers to Gram Panchyat only. The Gram Sabha has no role in the matter of concession for exploitation of minor minerals by auction.

(iv) **Management of village markets:** The State act is silent on the mandatory provision regarding management of village markets by the Panchayats at the appropriate level .

**5.3.2. The Commission recommends that in order to make the PESA Act, effective , it is desirable that the State Government should make amendments in the relevant Acts in tune with the Central legislation. Another issue which vitally concerns the interests of the STs is the poor performance of DRI credit facility to STs. The Commission recommends that regional rural banks should sanction loan applications for rural credit for various approved schemes by having greater interface with and concurrence of the Gram Panchayats. This will surely strengthen the functionaries of the Gram Panchayats at various levels.**

## 6. Tribal Sub Plan (TSP)

The State Government had appointed a committee during 1992 under the chairmanship of Shri D. M. Sukathankar, retired Chief Secretary for allocation of resources for implementation of tribal sub-plan. As a follow up to the acceptance of the recommendation of the committee, the State Government laid down that 9% of the funds of the total size of the annual plan would be earmarked for the TSP. The state plan outlay provided to TSP, expenditure incurred under TSP and total expenditure under plan during the years 1993-94 to 2002-03 is given below:

**TABLE – II**

**(Outlay & Expenditure Rs. In Crores)**

Year	State Plan Outlay	Budget-able Outlay	Percentage of budget-able outlay	Outlay provided for TSP	Percentage of budgetable outlay of the TSP	Expenditure incurred under TSP	Total Expenditure under State Plan
1	2	3	4	5	6	7	8
1993-94	3804.00	3284.44	86.34	265.00	8.07	266.00	3652.94
1994-95	4400.00	4000.32	91.92	330.00	8.25	275.00	4400.00
1995-96	6062.00	5275.80	87.03	412.50	7.82	412.00	6627.24
1996-97	8284.00	7520.11	90.78	588.58	7.83	535.00	6856.76
1997-98	8325.00	6282.56	73.88	550.00	8.75	498.00	8161.88
1998-99	11600.73	6400.00	55.17	561.00	8.77	520.00	8229.58
1999-00	12161.66	6641.82	54.61	580.59	9.00	467.00	10418.59
2000-01	12330.00	5798.00	47.02	525.00	9.00	444.00	10369.00
2001-02	11720.56	6750.00	57.59	567.00	9.00	288.00	8526.08
2002-03	11562.00	5704.04	49.33	585.00	10.26	249.00	9354.89

6.1. It will be seen from the above table that except during the 4 years 1999-2003, in the earlier 6 years 9% funds were not allocated for TSP. In fact, the population of the STs in Maharashtra is (9.27%). It will further be observed that from the table that the total expenditure under the State Plan during the years 1997-98 to 2002-03 was more than the budgeted outlay. This was due to the money raised by the State Government from the financial institutions. The allocation for TSP should relate to not only the state plan outlay but also to the money raised from financial institutions.

6.2. The State Government has now decided to enact legislation to provide for the regulation of outlay in the budget allocation for TSP in consonance with a special formula, indicated in the bill as passed by the State Legislative Council (Upper House) on 17.12.2003. It is reportedly scheduled to be submitted to the State Assembly during the next session. The short title of the Act is 'Maharashtra Regulation of Outlay and Budget Allocation to the Tribal Sub Plan Act, 2003'. The formula is given under Section 35 of the Act, which states that "of the total size of the State Annual Plan, the outlay for the Tribal Sub Plan for the State for every financial year, on and after the date of the commencement of this Act, shall be determined as per the following formula" as given below:

$$\text{Total Tribal Sub-plan Outlay of the State} = \frac{X+Y}{2}$$

Explanation – (a) In the above formula, the letters 'X' and 'Y' shall be construed or calculated as follows:

- (i) Total geographical area of the State under Tribal Sub Plan X size of State's Annual Plan for that year

$$X = \frac{\text{-----}}{\text{Total geographical area of the State}}$$

- (ii) Total population under Tribal Sub Plan area X size of State's Annual Plan for that year

$$Y = \frac{\text{-----}}{\text{Total population of the State}}$$

6.3. During the year 2002-03, the budgeted outlay was Rs.5,704.04 crores, but the total expenditure under the State Plan was Rs.9,354.89 crores. Taking the figure of outlay for the year 2002-03, if we apply the formula indicated above, the outlay that should have been provided for TSP which comes to Rs.707.27crores, which is Rs.122.27crores more than the outlay of Rs. 585 crores provided for TSP during that year while the expenditure during that year was only Rs. 249 crores. **This formula, therefore, would ensure that the Finance Department must allocate outlay by applying the above-mentioned formula. This would help in removing the backlog in**

TSP areas for allotment of increased funds for irrigation, health, energy, general and technical education.

### **Human Development Report (HDR)**

**6.4.** The Government of Maharashtra has brought out Human Development Report (HDR), which has highlighted a number of points pertaining to the tribal areas. One of the most disturbing aspects of the report relates to the inter-district variations in development of tribal districts for example as compared to the HDI of Mumbai (1), Gadchiroli and Nandurbar districts had the HDI of 0.20 and 0.25, respectively at the last two steps of the ladder. This brings out vividly how skewed and imbalanced has been the development in the state. Maharashtra is one of the states, which has under the provisions of Article 371 of the Constitution set up separate development boards for Vidarbha, Marathwada and the rest of Maharashtra. The Governor has been given "special responsibility for the equitable allocation of funds for development expenditure over the said areas, subject to the requirements of the state as a whole, and an equitable arrangement providing adequate facilities for technical education and vocational training and adequate opportunities for employment in services under the control of the state government, in respect of the said areas, subject to the requirements of the state as a whole." However, these steps have not made any perceptible difference to the regional imbalance. In fact, it has increased in a few crucial sectors such as irrigation.

**6.5.** The State Government has raised large extra-budgetary resources since 1995-96 and bulk of the share has gone for development of projects in western Maharashtra. In 2001, the Governor under Article 371 of the Constitution, issued orders that extra-budgetary resources raised during a year should also be distributed among the regions according to the principles laid down by him earlier. This order would ensure that the tribal areas get a proportionate share of such extra-budgetary resources out of Rs. 100 crores given to the boards as special fund for the development of the backward area in the region, the Vidarbha Development Board gets Rs. 48 or 49 crores per year. This amount is spent as per the recommendations of the Board. However, the Vidarbha Development Board has spent only 7.66% of the amount in the tribal area. The Vidarbha region has two backward Scheduled Areas districts of Gadchiroli and Chandrapur. **The Commission has observed that while allocating funds by the Vidarbha Board, due weight age has not been given to the tribal areas with the result that these areas do not get adequate share of the funds for their development. The Commission, therefore, recommends that the development board of Vidarbha should allocate funds to the tribal areas on the basis of their geographical area and backwardness in various developmental indicators and not on population basis alone.**

## **Administrative set-up**

**6.6.** A separate Tribal Development Department (TDD) was set up in the year 1983 to look after the welfare and development of the tribals in the state. The field set up of the Department was reorganized in 1992 by creating a post of Tribal Commissioner with Nashik as head quarters and four posts of Additional Tribal Commissioner at Thane, Nashik, Amravati and Nagpur. The state has been divided into 24 Integrated Tribal Development Projects mainly concentrated in TSP, Outside Tribal Sub Plan, Additional Tribe sub Plan (ATSP), MADA and Mini MADA areas. Each ITDP Project is headed by a Project Officer.

**6.7.** In order to ensure public participation in the planning, implementation and monitoring of the schemes of tribal development at the district level, District Tribal Sub-Plan Committees have been set-up. The concerned Guardian Minister is the Chairman, the Divisional Commissioner and the Additional Tribal Commissioner are the Vice-Chairman and among others, the tribal MPs and MLCs are members of the District Tribal Sub Plan Committee. The Collector is the Member Secretary of this Committee. At the Project level, there is a Project Level Implementation Committee under the chairmanship of the local MLA. The Additional Tribal Commissioner is the Vice-Chairman and the Project Officer is the Member Secretary of this Committee, which is required to meet every month and review the progress of the tribal development schemes.

### **Cabinet Sub-Committee for the TSP**

**6.8.** There is a Cabinet Sub-Committee for the TSP headed by the Chief Minister. The Committee approves the TSP, oversees and monitors its implementation and takes all necessary steps for its effective and speedy execution.

**6.9.** The Tribal Development Department distributes the outlay for district level and state level schemes in accordance with for the following criteria:

- (i) About 75% of the outlay is earmarked for district level schemes.
- (ii) The balance 25% is kept for the State level, State pool and backlog schemes.
- (iii) 75% of the district plan outlay is meant for TSP areas and tribals living outside TSP areas.  $\frac{1}{3}^{\text{rd}}$  of the district plan outlay is distributed among the district in TSP areas on the basis of tribal population living in the TSP areas and  $\frac{1}{3}^{\text{rd}}$  geographical area of TSP. The remaining  $\frac{1}{3}^{\text{rd}}$  of the district plan outlay is allocated among the districts in proportion to the tribal population living outside TSP areas.

**6.10.** Under the State level schemes, funds are allotted mainly to the sectors like irrigation projects, energy development, state highways, general education and public health. The State pool schemes are district level

schemes for which the funds required are substantial and the concerned districts cannot provide the same within their district fund ceilings or for important schemes from the point of view of the State Government, but the districts do not provide adequate outlay. The schemes included in the State pool are Social Forestry, Hilly Area Development Programme, Minor Irrigation (costing more than Rs. 100 lakhs), roads constructed by BRO and Share Capital to Cooperative Sugar Mills and Spinning Mills. As per the recommendations of the Committee constituted for Removal of Backlog, special funds are allocated to major sectors like Road Development, Irrigation, Health, Energy Development, General Education and Technical Education to remove regional backlog. To remove backlog in TSP areas, funds upto 5% of the total TSP area are allotted. **The State Govt. should undertake an evaluation of the schemes financed from the State pool and special funds allocated for removal of regional backlog.**

### ITDPs

6.11. There are 24 ITDPs in the State, out of which 10 cater to the TSP areas exclusively whereas 7 ITDPs cover both TSP and ATSP areas. In addition 4 more ITDPs cater to ATSP areas only. The following ITDPs cover TSP as well as ATSP areas:

**Table – III (a)**

ITDP Project		Kalwan	Nandurbar	Rajur	Ghodegaon	Pandharkawada	Gadchiroli	Chandrapur
No. of villages covered under	TSP area	383	549	106	123	334	752	182
	ATSP area	3	9	12	21	194	44	5

ITDPs which cover exclusively ATSP areas

**Table – III (b)**

ITDPs	ATSP	ITDPs	ATSP
1. Nagpur	97	3. Chimur	555
2. Deori	284	4. Pen	47

6.12. The responsibility for preparation of draft Annual Plan has been given to the Project Officer of Integrated Tribal Development Project under the guidance of concerned Additional Tribal Commissioner and Collector. The draft plan is then approved by the District Tribal Sub-Plan Planning Committee. The Tribal Development Department scrutinizes the draft Annual Plan prepared by the districts. These plans are approved in a State level meeting held under the Chairmanship of Minister (TDD). **The Commission suggests that the Project officers should belong to IAS or comparable Central Services like Indian Forest Service with regulatory powers in**



**respect of control on money lending, restoration of alienated land to the tribals. It is only when they are armed with these powers that they can have a better interface with the officers of other departments to safeguard the interests of STs.**

### **Primitive Tribal Groups (PTGs)**

**6.13.** Katkari/Kathodi, Kolam and Madia Gond are the three PTGs in the State. Katkari/Kathodi numbers 2.18 lakhs and inhabit the districts of Raigad, Thane, Ratnagiri, Sindhurdurg, Pune and Nashik. The Kolam PTG numbers 1.48 lakhs and resides in the districts of Yavatmal, Nanded, Wardha, Gadchiroli and Chandrapur. Madia Gond numbering 0.83 lakh inhabit Etapalli, Bhamragarh and Dhanora Talukas of Gadchiroli district. Their combined population is 4.49 lakhs (1991) and forms 6.14 per cent of the ST population of the State. The PTGs live in remote and inaccessible areas which have mixed forest cover with wild life.

**6.13.1.** The percentage of literacy attainment among them is very low, particularly among female population is as low as 1.64%, 8.66% and 13% among Katkari, Kolam and Madia Gond respectively as against the total ST male and female literacy rates of 49.09 and 24.03 percents respectively.

**6.13.2.** Apart from the centrally sponsored programmes for PTGs, the state govt. has formulated a proposal specifying "reservation within reservation for tribals" for the PTGs on a population basis for employment and educational purposes. The State Govt. is going to have a PTG component in the district plans on a population basis.

### **Katkari**

**6.13.3.** Katakari are concentrated in the district of Raigad (0.93 lakhs) and Thane (0.73 lakh) and are spread in other 24 districts of Maharashtra. The literacy percentage among them according to the 1991 census was 36.77 but according to the benchmark survey conducted by TRI, Pune the literacy percentage was only 16.38%.

**6.13.4.** A special scheme sanctioned by the Government of India is to provide incentive of Rs.80 per month to the parents of girl students for sending them to school regularly and two educational complexes have been established in low literacy pockets for 215 Katakari girls students; one is in PEN at Gagode and the second in Shahapur tahsil at Babre. Gram Bal Shiksha Kendra Kosbad, tahsil Dahanu, distt. Raigad is running the first complex and received grants of Rs. 14.83 lakhs during the period 1994-1997. After that, grants are not being released to them by the Central Government. The other complex is managed by ABM Samaj Prabodhan Sanatha, Katemanivli, Kalyan distt. Thane and has not received grants from the Central Government for the years 2002-03 and 2003-04. The State Tribal Development Department has proposed to

start 8 Ashram schools in Thane and Raigad district during the years 2003-04 to 2007-08. Three Ashram schools at Mumurshi and Taloshi, Tahsil Mahad and at Uttekhol, tahsil Mangaon, distt. Raigad are already being run by voluntary organizations.

## **Development of dispersed tribals**

6.14. The State Government does not have any separate policy for administration of scattered (dispersed) population. The Government apart from covering tribal population living in the Scheduled and TSP areas has covered 25% of the STs living outside the TSP areas by carving out Additional TSP (ATSP) areas and MADA pockets. The TSP and MADA areas which are not included in the TSP area are being extended the benefits available to the tribals living in the ITDPs. In addition to project officers in ITDPs, sub project officers have been appointed at Hingoli, Pusad and Vardha which are headed by Assistant Project officers to attend to the needs of the dispersed tribals. As regards education, the State Government has opened 346 Ashram schools, 128 hostels in the non-TSP areas for the educational needs of dispersed tribals. Dispersed STs get protection under the regulatory measures for restoration of alienated land, grant of post-matric scholarships etc. Supply of concessional foodgrains is also extended to them.

## **Part – II Economic Sector**

### **7. Forest**

#### **7.1. Settlement of pre-1980 and post-1980 tribal forest encroachers**

The tribals have symbiotic relationship with the forests. Due to abundance of forests, there was no dearth in the form of forest resources like minor forest produce (MFP), fuelwood, timber etc. The operation of the forest laws and the National Forest policy was also benevolent. The tribal could face hardship during drought years but those were few and far between as the cycle of drought was not that frequent then. They could, with comparative liberty and ease collect roots, tubers, honey and other MFP for sustenance and survival and for exchange on barter system in the weekly market, buy essential items like salt, kerosene oil etc. There was no dearth of timber for construction of huts, fuel wood for cooking purposes and fodder for their cattle. But over the years, forest contractors in collusion with the forest rangers played havoc with the forests, denuded the precious forest wealth. The loss of forest cover was so swift that the Central Govt. intervened to enact legislation for protecting the Nation's flora and fauna through a legislation called 'National Forest (Conservation), Act 1980. Alongside, the provisions of the Wild Life (Preservation) Act, 1975 were also made more stringent. Meanwhile, all this adversely affected the interests of the tribals

living in the forests or in the vicinity of game sanctuaries and National Parks. They were living in these areas for generations without any formal title to land. They were also cultivating the land for agriculture either in a traditional manner or through 'slash and burn' cultivation (*Jhoom*). The Tribal Research Institute, Pune conducted a revealing study of encroachment of forest land by tribal cultivators who were unauthorisedly cultivating the land without any 'First Offence Report' (FOR) being registered against them by the forest officials, by payment of bribe, periodically to them. The brief note on the study report conducted by the TRI in Nov. 2002 is given at **Appendix III**.

**7.1.1.** The guidelines issued by the Union Ministry of Environment and Forests for regularization of pre-1980 forest encroachers came to be implemented with severity. So much so that it was difficult to get the genuine claims of pre-1980 forest encroachers regularized. This is revealed by a perusal of the monitoring of the status of encroachment proposals. The monitoring report received recently (2003) from the Ministry of E&F shows that the Govt. of Maharashtra submitted three proposals for regularization as detailed below:

**Table – IV**

S.No.	Distt. Involved	Area in hacs.	Status
1.	Dhule	10,185.32	Proposal incomplete. Additional information has been sought from the State Govt. by the Union Govt. on 19-8-1988.
2.	Gadchiroli and other distts.	28,886.410	Withdrawn by State Govt.
3.	4 Divisions in three distts.	952.43	Proposal returned to the State Govt. on 09-08-2001. The State Govt. has been asked to submit consolidated proposal for the whole state.

Thus all the proposals have not seen the light of the day. This was confirmed by the Commission from the State Government in January, 2004 that the status of the proposals referred to above remained the same.

**7.1.2.** The Commission toured 11 districts in Maharashtra out of which information about 9 districts on pre-1980 tribal encroachers could be available (**Appendix IV**). A perusal of the appendix shows that the information in respect of claims received, area of claims received in hacs, eligible claims etc has not been furnished uniformly for all the districts. This is despite the fact that Maharashtra is the only State which has devised a simplified procedure for verification of village and Taluka Level Committees to examine eligibility of encroachers on forest land. This pattern was formulated by the District Collector Amravati and has since been adopted by the Government of Maharashtra vide (i) Govt. Decision, Revenue & Forest LEN

1078/3483/1095/2325/96/J-1, dt. 20-12-1995. The simplified procedure of verification of claims for regularization of encroachment on forest land consists of the following steps:

#### **Local Committee**

- (i) Constitution of a local Committee headed by the Sarpanch etc., Kotwal/Police, Patil, Talathi and Forest/Beat Guard.

#### **Review Committee**

- (ii) In case the decision of the Committee is not acceptable to the encroachers, they can present their views to the Review Committee consisting of Naib Tahsildar, (ii) Circle office and (iii) Range Forest Office. In order to give an opportunity to the all the aggrieved to be heard, the Review Committee shall hold an assembly of the village in a time schedule.

**7.1.3.** The Committee shall see all documents, relevant evidence collected by the three members of the Committee. In the absence of documentary evidence, other relevant evidence shall be taken into consideration in favour of the pre-1978 encroachers.

#### **Training & Publicity Workshop at Taluka level**

**7.1.4.** The functionaries of the above Committees will be given training so that they are made aware of the procedures and processes of the village level enquiry. A separate session shall be held for the NGOs and journalists for their exposure on the above lines.

**7.1.5.** The Commission has commended the Amravati pattern referred to above to all States having STs for adoption by them as it would expedite the settlement of long drawn out claims.

**7.1.6.** However, the Commission feels that despite this simplified procedure, the pre-1980 tribal forest encroachers have not been given *pattas* (title deeds). The fate of the tribal encroachers (pre 1978 or pre 1980) still hangs in the balance as a Damocles sword. In short, the Commission feels that the interests of the tribal encroachers have not been truly reflected on the ground in various districts visited by the Commission despite the simplified procedure having been adopted. One MLA who met the Commission at Talashri on 12-01-2004 stated that the National Forest (Conservation) Act, 1980 was destroying the fate of the pre-1980 encroachers and it should be amended. In Pune distt., a Committee has been constituted and as against 83 cases involving 27.07 hacs. of land in respect of pre-1980 tribal encroachers only 7.28 hacs. of land were declared eligible for settlement but their fate is still not known. The Minister of State for Tribal Development who met the Commission at Gadchiroli stated that the tribals who had been cultivating the forest land for 30-40 years as encroachers should have been regularized by giving them *pattas* but this has not been

done as yet. The situation is so volatile in Bhamragarh Taluka (Gadchiroli) that there are 5442 pre-1980 tribal forest encroachers and none of them have got their land regularized despite the Amravati Pattern of simplified verification of forest encroachers. This had led to serious and obvious ramifications- breeding of frustration among the tribals. This Taluka has preponderantly Madia Gond- a PTG population. They have virtually fallen a prey to the PWG which has since entrenched itself in this Taluka. The normal administrative machinery has been made dysfunctional in the Taluka. However, the Naxalites do not pose any threat to the NGOs like Lok Biradari Prakalp of Baba Amte which is running a dispensary and a school at Bhamragarh. Baba Amte himself stays at Bhamragarh and he is appreciated by everyone.

**7.1.7. The Commission, therefore, recommends that the entire process of regularization of tribal forest encroachers would have to be expedited by some innovative method, that is by involving the motivated NGOs who can have a better interface with the effected tribals for early solution of this vexed issue.**

### **Dalhi and Eksali lands in the Konkan region**

**7.1.8.** In the Konkan coastal area, the districts of Thane and Raigad have substantial tribal population. The tribal farmers practiced "slash and burn cultivation" on common lands before the British administration brought this area under their control. The tribal people protested against the land settlement and operations carried out by the British administration. As a result of this protest, the tribals were given patches of forest land on annual lease basis. Where these leases were granted to individuals, they were called **eksali** leases whereas these were granted to communities they were called **dalhi** assignments. The British forest department laid down detailed instructions meticulously for the administration of eksali & dalhi lands. Dalhi lands were leased out to a community and the actual lease title was made in the name of the local headman (called as Naik) who was to collect the assessment for the whole hamlet and pay it to *talati*. The eksali lease was renewed annually and regular passbooks were issued by the forest department.

### **Dalhi Lands**

**7.1.9.** The system of administering dalhi lands continued even after the independence. A decision to release the eksali lands permanently to the cultivators was taken by Maharashtra Government in March 1969. On 14<sup>th</sup> January 1970, the Government of Maharashtra took a decision to confer individual property rights on the dalhi plot holders. The dalhi lands were to be first deforested and then handed over to respective beneficiaries. The forest department disafforested 11,389.51 ha. of land between 1970-71 and 1975-76 but transferred only 1,180.712 ha. to the revenue department before 1975,

of which only 718.26 ha. were actually granted to 422 plot holders as class II occupants. Later on, an area of 225.140 ha. was transferred to the revenue department making the total to 1,405.852 ha.

**7.1.10.**In 1976, the subject of forest was transferred from the state list to the concurrent list, to be jointly administered by the State and Central Governments. Had the process initiated in 1971 continued in right spirit no discontent would have arisen. After 1976 and passing of Forest (Conservation) Act, 1980, the process came to a standstill. A number of organizations took lead in organizing mass mobilization and protest. The State Government took shelter under the provision of Forest (Conservation) Act 1980. The Bombay High Court gave a judgment on February 13, 1987 directing the State Government to transfer the *eksali* land to the petitioner cultivator on permanent tenure. The Court further stated in their judgment "that the insertion of the subject of the forest in the concurrent list and passing of the Forest (Conservation) Act will have no bearing on this case". A circular dated September 18, 1990 issued by the Ministry of Environment and Forest clearly states that the State Government should take steps to regularize eligible category of encroachments if decision had been taken before enactment of the Forest (Conservation) Act, 1980. However, as no concrete action was visible in spite of a number of agitations launched by the tribals, the Shoshit Jan Andolan filed a writ petition in the Supreme Court of India. "The apex court gave its verdict in October 1995 and directed the Government of Maharashtra to form district committees and solve the matter immediately."

**7.1.11.**In 1996, the State Forest department initiated a survey of *dalhi* lands enumerating the names of the inheritors and actual cultivators as well as the land cultivated during that year and the area under residential purposes but did not record the *warkas* land (land not suitable for sedentary cultivation), which is cultivated by the tribals for millet cultivation. There were protests by the tribal people and a fresh survey was initiated in September 1998 but it also had a number of deficiencies. Objections were once again raised and another survey was initiated in December 1998 which was the Sixth survey since the decision taken in 1970.

**7.1.12.**A division bench of the Mumbai High Court passed another landmark judgment "on November 19, 1998 on a writ petition by Shramik Mukti Sanghatana (WP No.4431 of 1995) for the implementation of the government resolution of March 22, 1969 on the *eksali* lands. The high court found that their decision of 1987 was not complied with by the state government and directed the latter to take steps to measure the entire (*eksali*) area within one year from the judgment for distribution to the plot holders. The high court also declared that the lands given on *eksali* lease to the tribals and situated in Thane district were released from the forest land in terms of the judgment of the division bench in Writ Petition No.503 of 1984".

**7.1.13.**As mentioned earlier only 1,405.852 ha. were transferred by the Forest Department to the Revenue Department while 11,513.68 ha. area is still

cultivated by the plot holders. The Government of Maharashtra has informed that revised proposals of 2,107.35 ha. land of 1405 plot holders in Roha Division and 5,929.23 ha. land of 3,900 plot holders in Alibag Division were submitted to Government of India vide Government letter dated 13.03.2001 and 26.04.2001 respectively. Government of India raised certain queries vide its letters dated 20.06.2001 and 28.06.2001. The compliance reports to the queries have been sent by the Nodal Officer Nagpur, to Government of India vide his letters dated 26.06.2003 and 10.06.2003 respectively. **The approval of Government of India is awaited. It will be seen that this issue has been hanging fire since 1970 and correspondence is still being exchanged between Maharashtra and Central Governments and the State Government has not indicated the position regarding 3,352.92 ha. of land, which is being cultivated by the plot holders.**

### **Eksali Plots:**

**7.1.14.**According to the State Government, there are 17,000 *eksali* plot holders cultivating about 30,000 ha. of land. A proposal for diversion of 3495.25 ha. of forest land to *eksali* plot holders (11,346 plots) for cultivation in Thane district was submitted to Government of India by the State Government on 19.08.2000. The Government of India raised queries vide their letter dated 5.10.2000 and other subsequent letters. Compliance have been made by the State Government from time to time. However, Government of India vide letter dated 19.09.2002 intimated that some of the areas have not been cultivated. Therefore, the State Government was asked to re-survey the area and submit proposal in respect of subsisting agriculture being carried out by the legal *eksali* lease-holders. This exercise of re-survey is very time consuming. The plots have already been cultivated for the last several decades. A considerable delay in regularizing plots has already taken place, since the State Government took decision in 1969.

**7.1.15.**It is worth mentioning that most of the *dalhi* lands are cultivated by Katkaris, who are the most backward ST community. The Commission takes note that the tribals have all along carried out a non-violent and peaceful struggle and suffered untold hardships and ordeals and the events narrated above indicate the insensitive attitude of the Government and perseverance with which the people and the action groups have fought on this issue. The Commission recommends that the State and Central Governments should take urgent steps to give land rights to the *dalhi* land cultivators and *eksali* lease holders and the Government of Maharashtra should also examine the status of tribal cultivators who are cultivating 3,352 has. of *dalhi* lands and submit a proposal to the Government of India for regularizing their claims.

### **Wild Life Sanctuaries & tribals**

**7.1.16.**The state has 15,430 sq. kms. of protected (forest) area network comprising 36 wild life sanctuaries and 5 national parks including 3 Tiger

Reserves. Reserve forest comprises 5,959 sq. kms. while other forest areas including revenue and private lands comprise 9,741 sq. kms. These protected areas have also 219 villages. Section 19 of the Wild Life (Protection) Act, 1972 stipulates that an enquiry has to be conducted to ascertain the existence, nature and extent of rights on a wild life sanctuary. Based on these enquiries, 122 villages (8,135 families) have been identified which would require relocation outside the Project areas. So far, 29 such villages have been relocated and the work is in progress to relocate 11 more villages. The State Government does not have the break-up of tribal and non-tribal families relocated/to be relocated. **Despite Supreme Court judgment, which comes in the way of the interests of tribals living within and in the periphery of wild life sanctuaries, Parliament should change the law keeping in view the interests of the tribals. The Commission also feels that grazing by sheep belonging to tribals should be permitted, as it would help in regeneration of forests.**

**7.1.17.** The rehabilitation of families is undertaken as per the provision of the Maharashtra Rehabilitation of Project Affected Persons Act, 1999, which has laid down the amount of land admissible per family and other individual and community amenities to be provided at the site of resettlement like roads, schools, hospitals. 97 remaining villages would continue to be located inside the Project areas.

**7.1.18.** Since the tribals living within or in the periphery of the game sanctuaries keep herds of livestock, leaving the animals, particularly sheep and goats astray which damages the precarious and fragile forest ecology. Further, the access to the needs like fuel, fodder and MFP also has a telling effect on the flora & fauna of the project areas. As a special case, the grazing in the sanctuary is permitted by the Chief Wild Life Warden under section 33 of the aforesaid Act. However, the Supreme Court has ordered that no forest produce can be removed from the sanctuary or national park.

**7.1.19.** The Commission feels that as a large number of families living in sanctuaries and parks is tribal and despite the fact that this is perhaps a singular State with the relocation act in position, the rehabilitation of the affected families is going on at a snails pace. This should be speeded-up.

(ii) The Commission also feels that the Forest Department should make special provision for cattle fodder.

(iii) The tribals affected by the project areas should be given preference for employment in forest works so that they are able to eke out a living till such time they are fully rehabilitated. The Forest Department should ensure that prescribed minimum wages are paid to the tribal labourers and strict action should be taken against violation of the Rules.



## Forest Villages

**7.1.20.** There are 300 forest villages in the State out of which 225 have already been regularized as revenue villages. 73 forest villages of Nandurbar district fall in Dhadgaon Taluka. The District Collector Nandurbar informed the Commission in the meeting of District level officials and non-officials in Jan, 2004 that as per State Govt. Resolution of 1969 all these 73 villages should be converted into revenue villages. The non-officials including representatives of Narmada Bachao Andolan complained that pretty little was done to sort out things. Meanwhile, as time passed by the National Forest (Conservative), Act 1980 came in the way of the process of conversion. The State Minister of Environment and Forests approached his counterpart in the Union Govt. for the conversion of these 73 villages. But by that time, someone had approached the Supreme Court questioning the regularization of these villages into revenue village on the plea that it would impinge on the fragile forest resources. Hence the matter is still pending with the Supreme Court. The Commission was informed by the local people of Bilgaon village as well as officials of Commissionerate Tribal Development that even the school building of Bilgaon village had not been regularized. All the 73 forest villages have got no basic amenities like electricity, roads, irrigation, drinking water supply etc for the tribals of these villages.

**7.1.21.** The Commission recommends that the State Forest Department should provide all basic amenities to the forest dwellers till such time the matter is decided by the Supreme Court. As regards regularization of Bilgaon school, the State Govt. should prepare a separate proposal justifying the need for its early regularization as the school caters to the fundamental right to education of wards of tribals of a number of surrounding villages and any delay may adversely affect the interest of students.

## 7.2. Irrigation

### Watershed Development

The objective of watershed development is to conserve soil and moisture by reducing surface run-off, increasing percolation and augmenting ground water resources. The programme undertaken consists of terracing, *nala* bunding, small dams, tree planting, etc. These works have been done by voluntary agencies and the Agricultural Department of the State Government. In 2002, a study was undertaken by the TRTI, Pune in four villages in which both the voluntary agencies as well as government had executed works. The findings showed that, (i) terracing work was done by tractors instead of employing labourers, (ii) the bunds at many places were not actually constructed and (iii) less payment was made to the labourers than the amount shown in the muster rolls. **The Commission hopes that the State Government would have taken steps against the defaulting NGOs and**

**Government officers so that the execution of such schemes in the tribal areas are free from misappropriation of funds and full benefits of such schemes are derived by the tribals. The Commission recommends a detailed work plan for water harvesting should be prepared in consultation with the tribals.**

## **Broken Dams**

**7.2.1.**The Rural Development and Water Conservation Department implements minor irrigation work and during the year 2001-02, Rs.2,386 lakhs were spent on construction of small dams, percolation tanks, lift irrigation schemes. TRTI, Pune undertook a survey of 22 constructed dams out of which 6 dams were constructed prior to 1999. The total expenditure incurred on these dams was Rs.43 lakhs of which one was non-existent. 21 dams either did not have shutters or the shutters were broken and therefore, there was no water storage and consequently no irrigation benefit. The entire expenditure of Rs.43 lakhs in 19 villages was wasteful. It is hoped that the suggestions made by the TRTI, Pune would have received the attention of the State Government to ensure that the money is properly utilized for the construction of small irrigation projects to benefit the tribals. **The Commission recommends that the construction of small dams should be done in consultation with the villagers and water user groups should be formed and trained in water management.**

## **Resettlement of Tribal Families Displaced by Irrigation Projects**

**7.2.2.**The Dimbhe and Pimpalgaon Joge projects in Pune district displaced 2,574 families who were to be resettled at other places. The TRTI, Pune undertook a survey in nine villages in Dimbhe project and five villages in Pimpalgaon Joge project. The main findings of the survey are as follows:

- In the Dimbhe project, the submergence of villages took place in 1992-93 and there was delay of 10 years or more in land distribution provision of irrigation etc.
- In the Pimpalgaon Joge project displaced persons opted for compensation instead of allotment of alternative lands due to delay in the resettlement programmes – compensation not paid.
- There is a lack of transparency in key operational areas in spite of the elaborate procedures prescribed in the Land Acquisition Act and the Resettlement Act. There has been deterioration in the economic profile of the displaced families after their resettlement.
- 57% of the households had not received irrigation after resettlement in spite of receiving alternative land within the command area of the project and in spite of the area calculation for alternative land being based upon the provision of irrigated land.

- The reasons for not receiving irrigation after land allotment were that water channels had not been completed, water supply was inadequate, the lands were not leveled and the lands were at a higher level than the canal.
- 57% of the families did not receive alternative land before submergence of their holdings.
- Of those who had received alternative land, 46% did not receive alternative land prior to the submergence of their holdings.
- Before displacement, agriculture was the main occupation of 83% of the households. After displacement this fell to 56%. Agricultural labour as the main occupation rose from 10% to 33%. This shift in occupational pattern indicates a lowering of living standards and harsher living conditions.
- The difference in the land area owned by the project affected families before and after resettlement shows a decrease of 55%. The size of holdings decreased after the project. Households holding more than 5 acres decreased from 69% to 26%. Landless families and those with less than 2.5 acres increased from 19% to 41%. (This was expected to be compensated by the provision of irrigation in the alternative lands granted).
- Livestock ownership in terms of the number of households owning cows, buffaloes and bullocks declined by 56%, 75% and 51% respectively.
- In terms of the total number of animals the trend was even more disturbing. The number of cows, buffaloes and bullocks decreased after resettlement by as much as 85%, 88% and 65%. Even goats which are usually owned by the poorer families decreased by 83%. The total number of large livestock and goats fell from 652 animals to 122.
- Before displacement, 12% of the households had employment beyond 5 kms. After displacement this proportion rose to 19%.
- In terms of food availability at the household level, the situation had worsened considerably. Prior to the project, 69% of the families were obtaining food grains from their own farms to last them for a period of 10 to 12 months. After the project this figure fell to 5%. Prior to displacement there was only one family (1.4%) which was producing grain sufficient for a period of two months or less but after the project the families in this category rose to 36 (51%).
- Though all the surveyed land holding families received compensation for land lost there was a lack of transparency in calculating/awarding compensation. 92% of the families who claimed to have owned trees stated they did not receive compensation for trees. Similarly, 95% of the families who claimed to have owned bunds and grassland claimed not to have been compensated.

- 6% of the households received agricultural land beyond 8 kms. from their new house sites.
- Conversations with displaced persons of the Pimpalgaon Joge project revealed that they did not opt for alternative land because they feared that the original holders would cause obstructions to peaceful cultivation.

7.2.3. The Institute has pointed out a few beneficiary programmes taken up by the State Government for the displaced persons in their new settlement colonies.

- 72% of the families were receiving tap water after the project for the first time.
- Social infrastructure covering schools, roads and electricity were provided in the 9 villages surveyed but cattle sheds, threshing floors, market areas and cremation/burial grounds had not been provided in villages.
- 63 certificates were issued to project affected persons of which 7 were able to get employment.

7.2.4. The Commission hopes that the State Government must have considered the recommendations made by the TRTI and taken appropriate action. **The Commission recommends that the submergence or water storage should not commence unless the distribution of alternative land has been completed.**

### **Workdone by Shashwat Trust**

7.2.5. 56 villages in Ambegaon tehsil and 65 villages in Junnar tehsil of Pune district are declared as Scheduled Areas. The Dimbhe Dam with its 190 km. long canal network for irrigation of 35,000 ha. of agricultural land and 5 MW power house constructed at a cost of Rs.250 crores has an assumed life of 100 years. The economical life of the dam is likely to be reduced by about 50 years if the siltage rate is not brought under control.

7.2.6. Shashwat, a voluntary organization is working in the tribal villages in the catchment area of Dimbhe dam for regeneration of the natural resources of the area namely land, water and forests. In 1989-1993, the voluntary agency had taken a pilot project for 203 farmers of 4 villages in this area, which led to increase in food grain. Same programme was taken up for 2 years under the nucleus budget of Tribal Development Dept. in one village, availability for an average family from 6-7 months to 10-11 months in a year.

7.2.7. The voluntary organization has taken up a Land Development Programme in June, 2002 on experimental basis with the support of the State Government for creation of paddy fields with stone bunds on steep hill slopes under the Employment Guarantee Scheme (EGS) sanctioned for 250 tribal farmers in 4 scheduled villages for making 13 ha. paddy fields. Under the traditional co-operative system of *Padkai*, every tribal family would make one

paddy field of area about 0.05 ha. on their own land with an average investment per family for Rs.6,110 for which government contribution will be 1/3<sup>rd</sup> of the cost and 2/3<sup>rd</sup> would be contributed by the tribal families by doing **sharamdhan**. Shashwat has also contributed Rs.1,250/- per family.

**7.2.8.** The EGS programme was started in January, 2003 for 250 farmers and 98% of paddy fields have been completed. One of the difficulties is that land ownership documents are not up-to-date. The land is still in the name of great grandfather. But the voluntary agency is confident that with the co-operation of Revenue department officials and tribal farmers it will be able to prepare and submit papers of 82 tribal owners for upgradation of land title.

**7.2.9.** For covering 42 tribal villages, 995 ha. for creation of paddy fields can be taken up at a cost of Rs.12.20 crores. This will increase food grains production by 6000 quintals. Steps are also being taken for re-greening of the fringes of the Dimbhe dam lake, which will provide sustenance of fodder and fruits for tribals living on the edge of the lake. It has helped tribals to build 16 temporary bunds to tackle water scarcity in their villages. Planning is also being made to provide help to tribal farmers to use low drawdown land – available when water level of the dam lake goes down, to take irrigated winter crop by providing diesel engine pump sets with sprinklers to groups of farmers. 3 lightweight manual fishing boats made of GI sheets fixed on a wooden frame were provided in 2003 to tribal fishermen in the Dimbhe dam. The Shashwat Trust has also started 9 pre-primary schools, one primary school and hostel, health programmes for tribal women and children.

**7.2.10. The Commission recommends that the Shashwat Trust should be given necessary funds by the Government of Maharashtra so that displaced Mahadeo Kolis can be suitably rehabilitated under land development programme, forestry, water resources development and fisheries. The Government of India should also sanction funds under Article 275(1) so that the tribal oustees could be fully rehabilitated.**

### **Irrigation projects in Vidarbha**

**7.2.11.** Of the total forest area in the State more than 58% forest area is in Vidarbha. Total forest coverage in Vidarbha as against its geographical area is about 38.44%. Gadchiroli district of Vidarbha which is one of the most backward scheduled districts of the state has more than 90% forest coverage as against its geographical area. All the agricultural land in Gadchiroli can come under irrigation but due to Forest (Conservation) Act, 1980 not a single irrigation project has been cleared by the Forest Department. Only 0.3% of the Gadchiroli forest area is required for all irrigation projects of the district.

**7.2.12.** Vidarbha region was part of old Madhya Pradesh till 1957. So far as Vidarbha's forest area in old Madhya Pradesh was concerned, it was recorded as (1) "Big Tree Forest" (2) "Small Tree Forest" (3) "Zudpi (shrub)

Forest". The forest recorded as "Zudpi Forest" was in possession of revenue

department. About 18 lakh hacs. was declared as Zudpi forest land and outside the purview of Forest (Conservation) Act, 1980 by Madhya Pradesh Government. In 1992, a decision was taken by the Maharashtra Government that "Zudpi Forest" land would be included in 'Land Bank' and double the land would be accepted for compensatory afforestation. This decision which was taken by the State Government was not implemented by the Forest Department which refused to accept Zudpi forest land for alternate afforestation. The decision of the Apex Court to charge afforestation cost of about Rs. 7.25 lakhs per hac. is a hurdle in providing irrigation facilities in Gadchiroli district. **The Commission, therefore, recommends that Zudpi forest land should be accepted as alternate land for afforestation and the heavy price for afforestation should be treated as requirement of state as a whole under Article 371(2) and Rule 7 of 1994 Order issued by the Governor. The Commission further recommends that Zudpi forest land should be treated as revenue land and not forest land as this alone will safeguard the interests of the tribals.**

7.2.13. During the course of meeting with Baba Amte at Bhamragarh it was revealed that there were a large number of irrigation tanks in Gadchiroli district which require to be desilted and could provide irrigation facilities to the tribals. **This matter was brought to the notice of the Tribal Development Commissioner for appropriate action for being financed under TSP. The Commission hopes that the Tribal Development Department will draw a master plan for deepening the existing irrigation tanks and construction of new irrigation tanks for providing irrigation facilities to the tribal cultivators.**

## **8. Electrification**

### **Electrification of Tribal Villages/Padas/Wadis**

A village which has any electric connection for agriculture, residential or street light is supposed to have been electrified. This appears to be a defective criteria as the tribal villages are made up of several *Padas* (hamlets), which are usually spread over a vast expanse.

8.1. The Commission toured 11 districts of the State and the information about the electrification in 9 districts could be available (**Appendix V**). The information reveals that all the tribal villages of Gadchiroli, Dhule and Raigad districts were reported to have been electrified till the date of visit by the Commission. As regards Nandurbar, Nagpur, Wardha, Chandrapur, Nashik and Thane districts, 138,55,5,4,1 & 1 tribal villages respectively remained to be electrified. The position of electrification of *Padas* and *Wadis* is the worst in respect of the most backward district of Nandurbar where 589 out of 1100 or 53.45% *Padas* were yet to be electrified. 460,69 and 9 *Padas* of Thane, Nashedik & Dhule districts for which the information is available still remained to be electrified. The information about the list of *Padas/Wadis* of Gadchiroli,

Raigad, Chandrapur, Nagpur & Wardha could not be furnished by the district authorities/TDD or MSEB.

**8.2.** The tribal representatives and the office bearers of the voluntary agencies of Talasri (Nashik) complained on 12-01-2004 that many tribal villages/*Padas/Wadis* had not received the benefit of electrification as the electric lines did not pass through these villages/*Padas/Wadis*. One ST was sanctioned motor pump but the electrification was not done by the MSEB. There was lack of coordination between the deptt. that sanctioned motor pumps and the one providing electricity. Mr. Dongre SE MSEB promised to hold an enquiry but he informed the Commission candidly that 400 STs of Talasri needed the benefit of electrification. Rs.6.00 crores was reported to have been sanctioned out of TSP funds but due to a technical hitch the money could not be put in the Central Pool.

**8.3.** The Commission also came across complaints of non-electrification of 68 forest villages in Nandurbar distt. due to non-receipt of clearance by the MSEB from the Forest Deptt. as the lines would have to pass through the protected forests. The matter was hanging fire for a long time. The tribal representatives complained at Talasri (Nashik) that they had been sent domestic electricity bills for three months at a time without taking any metre reading by the MSEB. Due to non-payment of hefty bills, their domestic connections were disconnected.

**8.3.1. The Commission recommends as under**

**1.** The formula for electrification of a tribal village should be more flexible and unlike the non-tribal population where the availability of electric connection is both affordable and a necessity unlike the tribals who have no wherewithals to get connection without subsidization.

**2.** Nandurbar has been declared the most backward district and brought under special development under R.S.V.Y. The Govt. should therefore take steps to electrify all uncovered *Padas* on a war footing.

**3.** 68 forest villages in Nandurbar district could not be electrified due to want of clearance from the Forest Deptt. as required under the Forest (Conservation) Act, 1980. **The Commission recommends that the Forest Department should itself undertake the electrification of these villages for which the State SEB should reimburse the electrification charges.**

**4.** The district units of SEB should send monthly electricity bills towards domestic points after regular reading to enable the tribals to make payment of the bills at the nearest post office/bank. The practice of sending quarterly bills which are beyond the paying capacity of the tribals should be discontinued.

5. The deptt. sanctioning motor pumps and the State EB should function in a coordinated manner so that the electric lines are laid in a village/Pada/Wadi before the motor pump is sanctioned by the TDD as this would save the tribals from avoidable harassment.

## 9. Mining

The STs live close to mines. Unplanned exploitation of mines by the contractors adversely affects their interests. It has also been observed that the contractors are generally outsiders and they bring their own non-tribal labour for prospecting mines and for extracting minerals without engaging local tribals as workers. This has been a cause of resentment among STs. This is against the relevant provision of the PESA Act, 1996 and Samatha judgement of the Supreme Court.

## 10. Road connectivity

### Pradhan Mantri Gram Sadak Yojana (PMGSY)

The objective of the PMGSY is to provide road connectivity by way of roads with necessary culverts and cross drainage structures so that the rural habitations with a population of 1000 and above are covered by 2002-03 and saturation of those with a population of 500-999 by the end of the 10<sup>th</sup> Plan period. The tribal habitations comprise of villages and hamlets having population of 250-499 which are to be covered thereafter. 15 and 14 such tribal habitations were covered during 2000-01 and 2001-02 and there are no eligible tribal habitations to be covered now as per the official report of the Union Govt. However, the position of such tribal habitations still remaining to be connected were reported to this Commission during the tours of Maharashtra in August, 2003 and Jan., 2004 by the district level PW departments at Yavatmal, Thane and Nandurbar as per details given below:

District	No. of unconnected ST hamlets
1. Yavatmal	17
2. Thane	237
3. Nandurbar	<u>84</u>
	<u>338</u>

10.1. The Commission feels that the Govt. of India, Department of Rural Development should ascertain the reasons for the discrepancy between the data reported by them and that made available to the Commission by the district administrations of Yavatmal, Thane and Nandurbar and steps taken to provide connectivity to the tribal villages. Absence of roads deprives the STs access to health care, marketing of MFP, accessibility to educational institutions and Taluka and district headquarter for grievance redressal.

10.2. The Commission was aghast to find in Akkalkuwa and Akrani Talukas of Nandurbar district on 8 Jan., 2004 that the roads built by the contractors through the State PW department only 20 days prior to its visit had caved in due to use of poor material. This matter was



discussed in the meeting with the Chief Secretary and officers at Mantralaya on 14-01-2004. The Commission suggests that the norm of the PMGSY which makes the contractor responsible for maintenance of the roads for five years after its construction should also be applied to rural roads being built by the PWD/Zila Parishad.

## **11. Agriculture and allied schemes**

### **Income generation scheme & distribution of Agricultural Inputs**

Under the income generation schemes 50% subsidy is given to the poor farmers and the subsidy is 100% for tribal families who are below poverty line for agricultural implements, bullocks, bullock carts, repairing wells. For land development works, pump sets, drilling open and new wells, the subsidy limit is Rs.11,000, Rs.10,000, Rs.8,000 and Rs.50,000 respectively. During 2002, the TRTI, Pune, made a study of 40 beneficiaries out of 175 from 16 villages under both the income generation and distribution of agricultural input schemes in Ambagaon and Junnar talukas of Pune district, the main findings were as follows:

- i) None of the surveyed beneficiaries were below the poverty line.
- ii) 45% of the surveyed beneficiaries did not use the money for the purpose for which it was granted and did not create any assets from the assistance.
- iii) 15% of the beneficiaries belonged to families where more than one member had been assisted. 70% of the beneficiaries already had shops or family members were in employment and should not have been given assistance.
- iv) 13 farmers received assistance for new wells. However, this brought no irrigation because 11 farmers stated that they had no pumps. Two wells were dry for which no survey had been done by the Ground Water Survey and Development Agency prior to well construction.
- v) Eligibility criteria should be explained to villagers and should clearly state that preference would be given to poorer households.
- vi) The subsidy for a bullock pair is Rs.4,500. This should be increased to Rs.10,000 as the price of a pair of animals is between Rs.15,000 to Rs.20,000.

**11.1. The Commission hopes that the State Government will take adequate steps to improve the working of income generation and distribution of agricultural input schemes and recommends that non-eligible ST farmers should not be extended help and that farmers who**

go for digging new wells should be informed that they will have to use animal power for irrigation. It is also necessary that Commissioner, Tribal Development should monitor and evaluate the schemes.

## Agriculture

11.2. 41.8% of the tribals of Maharashtra are landless. Another 43 percent of STs own 01 – 4.04 has. of land, which is not viable for cultivation. To sum up, 84.8 percent of the STs are either landless or own uneconomic pieces of land. Due to loss of their access to minor forest produce as a means of sustenance and timber for construction of huts and firewood, they have to fall back upon agriculture. It is estimated that 80% of tribal population is engaged in the agriculture and allied occupations as their main source of livelihood. But their cultivable land is characterized by low productivity per hectare. Another inhibiting factor is extremely limited availability of irrigation facility. They have hardly any means to make investment to increase agricultural productivity as the agricultural land is located in hilly areas.

## State Intervention

11.3. Thus the State intervention to help them in making their agriculture sustainable is *sin-qua non*. The State Government gives subsidy<sup>\*\*\*</sup> for various agricultural schemes to the tribals but the rates were last revised in 1992. These are as under:

Table No. -V

Sr.No.	Item	Maximum Limit of Subsidy (Rs.)	Subsidy (% age)
(1)	(2)	(3)	(4)
1.	Land Development Work	20,000	100
2.	Input Supply	1,500	100
3.	Plant Projection Appliances/Improved Agricultural Implements.	6,000	100
4.	Repairs to old wells and pipe-lines	4,000	50
5.	Bullock-pairs	4,500	50
6.	Bullock-carts	3,000	50
7.	Inwell bore	8,000	100
8.	New Wells	(As per Ganga Kalyan Yojana)	100
9.	Pump set	10,000	100
10.	Pipe line	Upto 300 metres	

11.4. The Commission feels that these schemes should be revamped again due to escalation in costs of all commodities. The Commission also recommends that as a technical and specialist department, the agricultural department should prepare a comprehensive package for

<sup>\*\*\*</sup> These figures do not tally with the figures given in the TRI Report.

**overall agricultural development of small and marginal tribal farmers to increase productivity. The Commission further suggests that the 'Wadi' programme should be expanded.**

## **Horticulture**

**11.5.** The Commission appreciates efforts made by the Tribal Development Department in promoting horticultural and intercropping of vegetables, millets and cereals among marginal farmers of degraded land.

**11.6. Wadi:** Wadi means an orchard along with forest trees established on wasteland owned by tribal family. Individual families work on their own plot. Thus the programme is focused on development of family. A health component is an integral part of the programme. Special emphasis is given on involvement of women in all activities along with introduction of need based supplementary programmes like Soil Conservation, Water Resource Development, Timber cultivation, Vegetable cultivation etc. The State Govt. has made a plan of bringing 52,000 tribal families under the Wadi Programme. They have involved BAIF as well as intervention of various departments under the Zila Parishad. The scheme would cost Rs. 144 crores during the period of five years. Last year an amount of Rs. 8.5 crores was allotted which could not be spent. This year they have made an allocation of Rs. 6 crores for this programme. Extension assistants would also be posted under the programme.

**11.7.** The places which can be said to be success stories visited by the Commission are Kharonda, a remote village in Jawhar Taluka (Thane district), Ojarkhed (Nashik) and Thakurwadi (Pune). Kharonda village consists of 286 families belonging to Kokana, Varli and Dhor Koli STs. The number of Wadi participants benefited STs where the kharif crop of paddy, Nagli, niger, tur, Urad, Khurasni etc are being grown now. The rabi crop consists of wheat, tur, clusterbean, water melon, pumpkin, bottle gourd etc. The members have been constituted into 4 SHGs, who have been able to earn Rs. 74,722 giving a total saving of Rs.32,000. The SHGs have distributed Rs. 1, 63, 913 as loan to members (out of which the recovery is 1,27,763) for vegetable cultivation, mango graft nursery, etc. For supply of irrigation and drinking water, one temporary check dam has been built, which is a boon to the tribals.

**11.8.** Ojarkhed Wadi Project (Nashik) commenced about 20 years back, is also a success story. The tribals were trained to grow mango-Kesar and Rajapur varieties, the former is famous for pulp while the latter is good for making pickles. These varieties of mangoes have good market in Maharashtra. Apart from this, the other marginal farmers have also successfully grown millets like nagli, niger, urad, rice etc on degraded land. BAIF has trained the local tribals in preparing vermicompost by engaging them on wage labour. BAIF is also planning to set up a food processing center at Kharonda employing the local tribals. This value addition through packaging of jam, pickles, etc would generate additional income to the tribals.

BAIF has purchased a truck for export of vegetables, amla, mangos to Mumbai where it has a tie-up with Apna Bazaar. This has been fetching them good return. The tribals are also growing bamboo and Amla, due to demand.

**11.9.** The third Wadi programme seen by the Commission was at Thakur Wadi, Pune Block (Pune) in January, 2004. This project is benefiting 23 tribals (Thakur) and 32 non-tribals, who used to migrate for employment to Mumbai during lean period. Now, due to assured irrigation facilities, they are growing onion, vegetables, pulses, millets and cereals. The migration has become a thing of the past.

**11.10.** The Commission observed that access to Kharonda is very difficult because the road is almost non-existent and recommends that the govt. should provide funds for improving communication that would hasten development and ensure mushrooming of the area with Wadi projects at other places where water harvesting is possible. The Govt. should also encourage the formation of Women's Self Help Groups to look after the 'Wadi' and inculcate saving habit among the tribals.

## **12. Animal husbandry**

Due to poor agricultural income, the tribals who keep large herds of cattle like cows, sheep etc. should be encouraged to improve the cattle breed so as to increase the milk yield for improving their economic conditions.

## **13. Fisheries**

Nearly 37,600 hac. Of water sheets in the form of tanks and reservoirs are available in the tribal areas for the development of fisheries. Fishing is a part-time vocation of tribals, it supplements their meager income. The tribals do fishing by traditional methods in the small streams, rivulets and seasonal rivers. Since the catch is not enough, due to traditional technology, a major portion of it goes towards domestic consumption and a small portion is sold in the market.

**13.1.** Efforts are being made through the strategy of TSP to introduce the benefits of modern technology to the tribal fishermen for which allocation of Rs. 92.42 lakhs was made under the TSP 2002-03 by way of fish farming in impounded water, fish seed production, fish farmers development agency and development of fisheries cooperatives, assistance for purchase of fishery requisites, development of fisheries in brackish water.

**13.2.** The Commission could not see much evidence of state support to fisheries sector to the tribals during the course of its tour. However, some work is being done in Thane and Nagpur districts. In Thane, fish seed is being supplied at subsidized rates to the tribal fisheries cooperatives and local bodies for stocking. The ultimate aim is to increase fish production and provide employment opportunities to the rural STs. Similarly in the fish farms

in tribal areas of Arongaon of Dahanu Taluka of Thane districts, the farm has an area of 50 hac. of which 35 hac. is water spread area and covered by 32 ponds. The proposed fish farmer's development agency in Thane district will act as a catalyst agency for the entire district. Excepting for fish seed (rearing) farm at Khindri (Nagpur) no other work seems to have taken roots in the district.

**13.3. The Commission recommends that the outlay provided for the annual TSP 2002-03 is hardly sufficient and should be doubled in the subsequent annual Plans of the 10<sup>th</sup> Five Year Plan period. The Commission further recommends that the tribals living close to ponds, rivulets, rivers, canal and lakes should be given incentives to catch fish for domestic requirements and for supplementing their meager income.**

## **14. Public distribution system**

### **Navsanjivani Yojana:**

43.56% (rural) and 42.98% (urban) STs of Maharashtra live below the poverty line (BPL)<sup>##</sup>. The Commission was informed during the tour that rationed foodgrains are supplied to the tribals through Fair Price Shops under Revamped Public Distribution System (RPDS) and door step delivery system under the Navsanjivani Yojana which caters to a package of schemes relating to; employment guarantee programme, health schemes, nutrition programme, supply of food grains, consumption loans and grain banks.

**14.1.** Under the foodgrains scheme, wheat and rice is supplied through ration cards in the 11 districts visited by the Commission. However, the information about seven districts only could be available, which is given below:

**Table-VI**

<b>District</b>	<b>Yavatmal</b>	<b>Chandarpur</b>	<b>Gadchiroli</b>	<b>Nashik</b>	<b>Nandurbar</b>	<b>Nagpur</b>	<b>Raigad</b>
<b>No.of FP shops</b>	412	516	1040	932	1000	1503	Scheme in force but data are not available
<b>No.of ST villages</b>	1049	1049	1661	920	927	297	-do-

**14.2.** Under the Door Step Delivery System, the Tribal Development Corporation has been assigned the job of making supplies of rationed items under the RPDS at the door steps of the villagers. The Nashik region with 6 districts has been given 20 vehicles for the supply of rationed items, while

<sup>##</sup> Source: worked out from NSSO- distribution of persons (implicit) All India Poverty Line for 1999-2000.

Yavatmal district has got 8 vehicles out of which 2 are not in working condition.

**14.3. The Commission recommends that the number of vehicles for Door Step Delivery System in Nashik zone being only 20 is quite inadequate considering that the area serviced by the 20 vehicles in the 6 districts of Nagpur, Wardha, Gadchiroli, Bhandara, Gondiya and Chandrapur is vast with 15.88 lakhs tribal population. The number of vehicles should be doubled for better coverage. The need for more vehicles should also take into account the fact that the Gadchiroli (fully), Chandrapur (partly) fall in the naxalite affected belt and require special attention. Many tribal representatives and NGOs complained that the supply of rationed food grains was erratic and should be streamlined. The Commission recommends that the TDCC should also act as a vigilante for taking timely corrective action.**

**14.4. One tribal lady activist complained at the Nashik meeting of the Commission with district level officers and NGOs that all the fair price shops in the tribal areas of the district remained open for only one day of the month causing lot of inconvenience to them. The Commission feels that this irregularity is very serious and the District Administration should ensure that the shops remain open on all working days of the month.**

**14.5. Katkari, Kolam and Madia Gond PTG of the State were not being given free rations as per Supreme Court direction. The Commission recommends that the State Govt. should ensure compliance of the Supreme Court directions.**

## **Part-III Social Sector**

### **15. Education**

44 literacy rate among STs is 36.56 as against the general literacy rate of 64 percent (1991 census). Separately, the male and female literacy rates among STs are 49.09 and 24.03 percents respectively.

**15.1. In order to overcome the backlog in ST enrolment, the State Govt. has ensured that there is a primary school within 1.5 kms. of the village. Apart from 8445 Primary, 864 Secondary and 151 Senior Secondary Schools functioning in the State (the Primary schools are under the control of the Zila Parishads). There is enrolment of 8.43 lakh, 3.68 lakh and 1.46 lakh respectively at these stages of education respectively. The TD Department has opened 507 Aided Ashram Schools which includes 162 Ashram schools upgraded to classes 8 to 10, all benefiting 1.60 lakh tribal students (2002-03). The TDD also runs 153 and 93 Govt. hostels having strength of 12,120 and 7210 for boys and girls respectively. GOI post matric scholarship benefited**

55,403 ST students at a total cost of Rs. 1399.00 lakhs.

**15.2.** The State Govt. pays an incentive of Re. 1/- per day for 10 months to the parents of ST girls enrolled in classes I – IV provided there is monthly enrolment of 75%. Further, an incentive @ Rs. 50 P.M. in classes V-VII and Rs. 100/- P.M. in classes VIII – X is paid to the parents of tribal girls as an opportunity cost in the form of foodgrains. More than 3.20 lakh ST girls are to benefit for which the State Govt. has made a provision of Rs. 21 lakhs.

### **Drop outs**

**15.3.** The Commission noticed that though the enrolment of ST students has gone up rapidly due to opening of primary schools, it is a matter of concern that the drop out of ST students was very high which adversely affected the retention of girl students. The TD Department has informed that the drop out rate for tribal girls is as high as 77% as against 71% for boys at secondary stage of education. The Commission, however, found that the drop out rate of girls in Govt. Ashram Schools at secondary stage was 78% while in the Govt. and Aided Ashram Schools it is as high as 78% and 79% for boys and girls respectively in Nandurbar district. The National Commission for SC/ST in its Third Report (1994-95 & 1995-96) of Maharashtra brought out in 1998 has observed that only 6%, 3%, 3% of the teachers for Primary, Secondary and Higher Secondary Schools were tribals, which is far from satisfactory.

### **Aided Ashram Schools**

**15.4.** The NGOs running Ashram Schools receive a maintenance grant of Rs.335/- per month per child which has recently been increased to Rs.500/-. In addition, expenditure on salaries of teachers and staff is borne by the government. Assistance from government is also given for books, stationery, medical expenses, clothing and rent for the building. On an average, a primary ashram school of 200 students receives an annual grant of more than Rs.20 lakhs. The assistance for larger schools and the rates of subsidy for high schools is higher. About 1.60 lakh ST students were enrolled in these (aided) schools during 2002-03.

**15.5.** The State Govt. last year started a scheme of educational awards to the Ashram schools run by the State Govt. and Non-Official Agencies. The recipient of the first award of Rs. 5 lakhs was a Govt. Ashram School and the second award (Rs. 3 lakhs) and third award (Rs.1 lakh) went to Aided Ashram schools. There were some reports of harassment of girl students in the girls Ashram schools. The state govt. has asked the Tata Institute of Social Sciences to make discreet enquiries as well as study how to ensure adequate arrangements for the custodial care of children.

**15.6.** The Tribal Research & Training Institute (TRTI) conducted a study of 484 Ashram schools out of which 270 schools were run by voluntary agencies. The TRTI found during its study that there were a number of bogus

names entered in the schools run by voluntary agencies and suggested a plan of action for proper check to overcome this malady. The Commission hopes that the State Government would have initiated steps to ensure that money earmarked for the tribals is purposefully utilized. The TRTI, Pune should undertake a comparative study of the quality of education imparted in the Ashram Schools run by the State Government and the voluntary agencies.

**15.7. The observations and recommendations of the Commission are as follows:**

**(i) Education of the tribal students at primary stage particularly in class I and II should be imparted in tribal dialects.**

**(ii) There should be proper linkages between primary schools and Angawadis from where the class I students should be drawn.**

**(iii) Stipends/post-matric scholarship are usually sanctioned and reimbursed very late. For instance, the post matric scholarship for the educational session 2003-04 had been sanctioned by the Addl. Tribal Development Commissioner, Nashik for Nandurbar distt. in Jan., 2004 and had not been disbursed till 08-01-2004 as sanctions issued are sent to the colleges for making disbursement who take their own time to disburse the money. This came to light when several students of Dhadgaon and Nandurbar complained of inordinate delay in payment of scholarship money to them. The T.D. Department officers should ensure that stipends/PMS are disbursed to ST students within one month of the receipt of the sanction orders.**

**(iv) There have been cases of food poisoning in an Ashram Hostel as one reported in Yawatmal district as a result of which one tribal student died & 42 were admitted in the rural hospital at Pandhar Kawada.**

**(v) The Commission came across several complaints of the teachers not attending the classes regularly as they are drawn from outside districts. The Commission was informed that in Nandurbar district the teachers were in the habit of remaining present in the school for 2-3 days in a month and then playing truant after receiving their monthly salary. The Commission recommends that in order to arrest the burgeoning truancy among the teachers posted in the tribal areas, the State Govt. should engage teachers on contract basis by Gram Sabha Committee with at least signatures of two persons; village head and a member of Parent Teacher Association (Palak Sangh)**

**(vi) Residential accommodation for all teachers should be provided by giving preference to lady teachers till such time residential quarters are not built for all teachers. Special educational grant may be given to the teachers for education of their children.**



(vii) The percentage of reservation for the posting of ST teachers may be raised from 7% to the percentage of STs in the district so that more local tribal teachers are recruited, who can ultimately replace the non-tribal outside teachers.

(viii) Education at the secondary stage should be vocationalised so that after passing out from the school the ST boys and girls are placed with the concerned industries. Such of them who are able to undertake self employment ventures may be given financial assistance.

(ix) A sub-cadre of teachers in the tribal areas should be created so that they are required to serve in the tribal areas for the full tenure.

(x) The Primary schools should be made girl friendly by among other things ensuring girls' safety, construction of separate toilets for girls in each school and hiring more female teachers.

(xi) The State Govt. should take urgent steps to recruit adequate no. of tribal teachers in primary schools. ST teachers who are matric pass may be recruited and sent for training to upgrade their skills. This will arrest drop-outs at primary level and upwards and ensure higher percentage of retention of girls' students in schools.

### **Opening of Anganwadi centres in tribal districts**

**15.8.** The rate of IMR among ST areas is higher as compared to non-tribal areas of the State. Only 78 percent children of 12-23 months received all vaccinations (1998-99), malnutrition among children is highly prevalent in Maharashtra. More than 50% of such children were malnourished (underweight) (1998-99). A major cause for such high rates of child malnutrition is the low birth weight babies, which is directly related to the poor nutritional status of women. Due to abject poverty, the pregnant tribal mothers rarely get adequate nutrition.

**15.9.** I.C.D.S. seeks to address to the problems of nutrition, health care early childhood and preschool education. This programme aims to cover disadvantaged areas including backward local areas, tribal areas and urban slums to provide nutritional care to children of 0 – 6 years of age and meet essential needs of pregnant and nursing mothers. At present 5,262 (2002) ICDS projects function through Anganwadi Centres, which is the focal point for delivery of services to children of 0 – 6 years of age and pregnant and nursing mothers and adolescent girls.

**15.10.** The Maharashtra Government has proposed that each hamlet of tribals having population of 500 should have an Anganwadi Centre. It has even advocated for setting up of Mini Anganwadi Centre in the PTG areas, depending on the PTG population in each hamlet. The State Tribal Development Department has pleaded for opening of more than 600

Anganwadis in 5 sensitive tribal districts of Nandurbar, Thane, Nashik, Gadchiroli and Amravati districts having to cover at least one lakh children. The State Government has informed that the Government of India, MTA has stopped sanction of grants for Anganwadis.

**15.11. The Commission feels that on account of malnutrition, death of children in Thane distt., Akkalkuwa and Dhadgaon Talukas of Nandurbar district and Amravati district, the Government of India, Ministry of Human Resources development should open Anganwadis even by relaxing the eligibility norm to even 300 children per Pada (hamlet) in these sensitive districts so that the malnutrition among underaged children and proper feeding to pregnant and nursing mothers would build a healthy tribal society. Anganwadi Centres, manned by trained tribal workers can function as engine of growth of tribal awareness and education. This focused programme would go a long way in taking care of social unrest movements in these sensitive tribal districts. The Commission recommends that to begin with 89 Anganwadis Centres and 215 Mini Anganwadi Centres identified in the (i) Akkalkuwa and Dhadgaon Talukas may be considered for approval by the Government of India, Ministry of Human Resource Department.**

## **16. Health**

### **Health Care Services**

The entire health care programme in the state is being implemented by the primary health care system, which is based on a 3 tier system with the population norms, which are relaxed in favour of STs, for overcoming the special health problems of the tribals in a time-bound manner. The State Government has made departures from the norms by substituting the CHCs with Rural Hospital (RH) and introduced the new concept of opening of Public Health Units (PHUs). Thus at present there are 183 RHs, 958 PHCs, 129 PHUs and 5404 Sub-Centres functioning in the tribal areas.

**16.1.** It was observed during the tour that CHCs, PHCs & SCs have not been opened in many districts, particularly the most backward tribal districts of Gadchiroli and Nandurbar as per the relaxed norms laid down by the Government of India. Some of the glaring deficiencies in the programme found during tour by the Commission are as under:

**16.2.** In one of the PHCs at Nandurbar, only one MBBS tribal doctor was in position for the last 26 years without adequate number of para-medical staff. Since no residential accommodation was provided to him, he was staying in the godown of the veterinary dispensary located nearby. At many other places like in Harshul, in Nashik district, the state government has opened one PHU in place of PHC and only one MBBS doctor, one sister and one nurse were holding the fort in an area where there should have been more medical and para-medical staff keeping in view the fact that the only MO

performed more than 50 tubectomy and vasectomy operations on January 9, 2004 (date of visit of the Commission) and these patients should have been made to rest a while in the ward after the operation, as per medical ethics, but they were immediately asked to leave the PHU after the operation for want of resting space. The PHU had only one fan in working condition. The deep freezer required in the hospital for storing anti-rabies and snake-bite serum was not provided by the government and were being kept in the deep freezer of a neighbour. **The Commission recommends that the working conditions in the PHU should be improved and a deep freezer provided for keeping vital medicines.**

### **Malnutrition related deaths**

**16.3.** Malnutrition related deaths of tribal children have been reported in the media from the district of Nandurbar for the last few years. The State Government has contested these reports. The fact, however, remains that in spite of efforts made by the State Government in strengthening the health care system by appointing special staff, the situation has not improved. **Side by side with the steps taken by the State Government, it is necessary that employment guarantee programmes should be drawn up well in advance of lean agricultural season, to provide employment to the tribal families so that they are in a position to purchase food-grains from the public distribution shops. The State Government has also been providing financial assistance to pregnant tribal women and TRTI, Pune made a survey of this scheme and suggested that payment should be made to the beneficiaries in the presence of all the beneficiaries, the village teacher and other villagers on the dates announced by beat of drums to obviate reported corruption in the payments to pregnant tribal women. It is hoped that the State Government will act on the suggestion made by the Director of TRI.**

**16.4.** The Commission found that 13 out of 47 MOs grade-B (15%) and 4 out of 58 MOs grade-A (7%) posts were lying vacant. Similarly, posts of 38.20 percent (34 out of 89) posts of Health Assistants (M), 13.33 per cent posts (18 out of 135), Health Assistant (F) were lying vacant for a very long period, 48 ANMs (48 out of 475), 14 Pharmacists (16.10%), 5% Health Supervisors and 1216, (18% car drivers) were lying vacant in the health centres under Gadchiroli Zila Parishad. In Chandarpur district, there is no MO, grade A or B, but only 34 AMOs to man the PHCs. 3 out of 17 posts of MO (Class III), 8 out of 39 (18%) posts of MPW, 5 out of 17 (29.50%) posts of Compounder & 6 out of 37 (35.50%) posts of Lab.Technicians were lying vacant in the health centres under the control of the Zilla Parishad. Similarly, four posts of MOs in Amravati district and 3 & 4 posts of Lab.Technicians in Amravati and Nagpur districts respectively were lying vacant.

**16.5.** Dr. Arole of Ahmednagar has been asked to take up training of women health workers in 8 districts covering about 30-40 villages. This will enhance medical care facilities available to STs.

**16.6. The Commission has found that the vacancies of MOs and Lab. Technicians, Multipurpose workers (Male & Female), Auxiliary Nurses and Midwives (ANMs) and Pharmacists were having a telling effect on the health of the tribals. The position in respect of Nandurbar, Nashik, Thane & Raigad districts is more or less the same and is not being repeated for the sake of brevity.**

### **Status of buildings of Health Centres / residential buildings**

**16.7. In Gadchiroli district, 10 out of 45 PHC buildings (22.25%) were in need of repairs, construction of 13 out of 45 staff quarters attached thereto were under construction and no arrangement had been made for the staff till the construction of buildings was completed. Similarly, 14 buildings for staff of PHUs, mobile health teams, etc. were under construction and 29 staff quarters needed repairs. In Amravati district, construction of 3 PHCs, 1 PHU, 5 Ayurvedic dispensaries and 2 SCs had not yet started, while 28 residential quarters of 8 PHCs & 20 SC buildings needed repairs.**

### **Special diseases in the Scheduled & TSP areas**

**16.8. The Commission was informed by the tribal representatives and NGOs like SEARCH, etc. at Gadchiroli and Nandurbar districts that Sickle-cell anemia was still haunting the tribals. Due to presence of fluoride in 54 villages, 24,629 Kolam PTG were affected in the Yavatmal district. The Zila Pramukh Yavatmal informed the Commission that the estimated cost of supply of potable water and filtration of affected villages was 382.16 lakhs. The Commission recommends that funds should be made available under Article 275(1) of the Constitution for setting up of cost-effective miniature filtration plants for supply of safe drinking water to the tribals of Yavatmal, Gadchiroli and Chandrapur districts.**

**16.9. Steps being taken to eradicate TB, Malaria, Scabies, Pneumonia, dysentery, Diarrhoea, malnutrition and other water-borne diseases in almost all the districts visited by the Commission need to be fine-tuned and geared up as a healthy generation of tribals alone can take advantage of emerging educational and developmental programmes.**

#### **(i) Supply of medicines / vaccines**

**The availability of medicines at these centres is a problem due to delay in replenishment of stocks of medicines. It is understood that due to non-availability of vaccine boosters for four months till October 2003, throughout India, the tribal areas were worst affected and could ill-afford to buy one MMR booster costing Rs. 100/-. The Commission recommends that the antiquated tender system should be reviewed so that the difficult tribal areas get life saving medicines and immunisation boosters on time. This is very important as the tribal areas are regions of intense poverty and the tribals, who are at the bottom of the heap, cannot afford the**

luxury of private hospitals / clinics, where the cost of treatment is quite high.

**(ii) Grant of incentives / staff quarters**

The unwillingness of doctors / paramedical staff to work in tribal areas can be overcome by payment of incentives and residential accommodation and educational allowance to their wards to pursue studies in urban areas on a liberal scale and without hassle.

**(iii) Creation of Sub-Cadre of health staff.**

The chronic shortage of medical staff can be overcome by way of creation of sub-cadre of health staff under a separate Directorate of Tribal Health Services in the Tribal Development Deptt. This may not involve any additional financial liability as the health staff working in the tribal areas under the control of the Director General, State Health services would have to be brought under the direct administrative control and supervision of the T.D. Department. **The Commission recommends that the separate sub-cadre of Health Staff under the Directorate of Tribal Health Services should be created urgently and a permanent consultative mechanism may be arrived at with the State Department of Health Services, as the latter is the nodal health agency of the State Government.**

**16.10. Lastly the Commission would like to suggest that some NGOs like SEARCH under Dr. Abhay Bang and Dr. (Mrs.) Rani Bang and Comprehensive Rural Health Project, Jamkhed implemented by Padmabhushan Dr. Arole in the districts of Thane, Nandurbar, Amravati, Ahmednagar, Gadchiroli Yavatmal and Raigarh should be liberally aided and consulted for integrated health care of the tribals in the State.**

**16.11. In the tribal areas of the state, the tribal physicians who are known as 'Bhagats' possess a wealth of knowledge about herbal medicines and render traditional health care by treating specific diseases. The State Government is considering a proposal to give monthly honorarium to the 'Bhagats' so that they will be able to focus better in the area of basic tribal health care. The Commission suggests that as Gujarat has done good work on indigenous medicines, there is strong need for sharing of ideas between States.**

## **17. Drinking Water**

The Tenth Five Year Plan document has stated that highest priority is to be given to 'not covered habitations', SC/ST etc are to be covered fully on a priority basis. "A systematic survey of all such identified habitations will be undertaken" and Panchayats to be endowed by law with the power and authority to enable them to have full autonomy to prepare plans including drinking water and maintenance of community assets.

**17.1.** The Commission observed during the tour of Vidharbha region that Gadchiroli district is endowed with good potential of water resources. The district has 1613 ex Malguzari tanks, which are 250-300 years old and are capable of irrigating 27698 hacs. of land as well as meet the drinking water needs of the tribals but these require desiltation, deepening and strengthening of their bonds to restore their original water holding capacity so that these meet the dual purpose of irrigation and drinking water supply to locals. Yavatmal distt. has got water supply schemes such as hand pumps, electric pumps, dug wells in 639 villages which cater to both SCs/STs. Similarly in Nagpur distt., work on 14 water supply schemes in Ramtek Taluka costing of Rs. 87.62 lakhs has been completed but one more scheme at Kuirapur village in that Taluka at a cost of Rs. 7.69 lakhs is in progress since 02-01-1998. Amravati distt. had provided 20024 electric and oil pump sets till 2003 in the 891 tribal villages. The water is used both for irrigation and drinking purposes.

**17.2.** As per a white paper on provision of safe drinking water to problematic villages in Maharashtra, prepared in 1995 there were 361 such villages in Chandrapur distt. Work on 116 villages, 12 *Wadis* only could be completed while work on 245 sources in 245 villages and 13 *Wadis* and 43 piped water supply schemes is under progress.

**17.3.** 75 drinking water sources in **Chandrapur** district as given in **Appendix VI** and parts of **Yavatmal** district are having fluoride content in drinking water. According to 1 PPM tests undertaken by the PHED. 1802 tribals suffered from dental problems while 20 STs of Chandrapur had dental and bone deformities. Similar reports are not available in respect of Yavatmal distt.

**17.4.** The authorities have completed water supply schemes in respect of 116 villages and 12 *Wadis* work on 245 villages and 13 *Wadis* and the 43 piped water supply schemes was under progress at the time of the Commission's visit. In **Thane** district, 4546 drinking water wells and 5276 bore wells were provided to the tribals. 326 water sources were under the control of Zila Parishad and 16 under Gram Panchayats. The information regarding failed and/or dry wells has not been supplied.

**17.5.** The Commission was informed by the tribal representatives in Nandurbar, Nashik & Thane districts that many schools did not have drinking water sources.

**17.6.** Under recently introduced *Swajal Dhara* Scheme 10% contribution has to be made by the beneficiaries and the rest is Govt. of India subsidy. Hardly, any tribal was motivated to take benefit of this scheme.

### **The Commission recommends that**

- (i) **The problematic villages in the tribal areas from the point of view of drinking water supply should be tackled on priority basis.**
- (ii) **The suggestions made in the 10<sup>th</sup> Five Year Plan document to cover all uncovered ST habitations by water supply on a priority basis, should be implemented in a time bound manner.**
- (iii) **The Gram Panchayats in the Scheduled Areas should be empowered by budgetary support by the State Govt. to implement rural water supply scheme.**
- (iv) **Delay in desilting and deepening of the 1613 Ex Malguzari tanks of Gadchiroli district should be taken up on priority basis to meet the drinking water and irrigation needs of the tribals.**
- (v) **Adequate measures should be taken to provide potable water in villages in Chandarpur and Yavatmal districts having high fluoride content.**
- (vi) **Every school should have at least one safe drinking water source and arrangements made for periodical maintenance of water sources by the PHE department. The schools should overcome the drinking water shortage by rain water harvesting for which the State Govt. should provide necessary funds.**
- (vii) **Dried wells/hand pumps should be deep bored so that drinking water is available to the needy STs.**
- (viii) **Tanks should be provided to ensure easy supply of drinking water to the tribals, wherever necessary.**
- (ix) **In order to ease the financial burden on the STs, the Gram Panchayat should share 5% of the contribution to the GOI Swajal Dhara scheme and the balance 5% may be borne by the STs in groups of 3-4 so that the drinking water scarcity can be overcome, wherever needed.**

## **18. Housing**

Housing is the basic necessity for all. In compliance with the Govt. of India National Housing and Habitat Policy, 1998 which aims at providing 'Housing for all' a comprehensive action plan has been launched by the Govt. of India. Various schemes for housing shelterless STs have been started through the Union Ministry of Rural Development under Indira Awas Yozana. (IAY). The ceiling for assistance of a house unit is Rs. 20,000 for urban areas and Rs. 22,000 for hilly/difficult areas. Sanitary latrines and smokeless *chullah* is an integral part of the IAY housing unit.

**18.1. Although the district administration could not supply information about the working of IAY, the Commission had an occasion to see houses built under the scheme in Chikaldhara( Amravati district). The tribals have built good houses with some additional accommodation at their own cost.**

18.2. As regards PTGs, State Govt. is implementing the scheme of construction of houses under Article 275(i) of the Constitution. 1588 houses have been constructed for the PTGs - Katkari, Kolam and Madiya Gond at a total cost of Rs. 455.48 lakhs during the period 1993-94 to 1997-2000 as per table given below:

TABLE NO.-VII

Statement showing construction of pucca houses for PTGs  
from 1993-2000

(Rs. in lakhs)

Sr. No.	Year	PTG Group	District	Amount sanctioned	Expenditure incurred	Target	
						Fixed	Achiev.
1.	1993-94	Katkari	Raigad	28.04	28.04	180	180
2.	1994-95	Kolam	Yavatmal	12.00	12.00	100	100
3.	1998-99	Kolam	Nanded	60.00	73.74	200	200
		Kolam	Yavatmal	40.60	40.60	142	142
		Kolam	Chandrapur	107.06	107.06	376	376
		Madiya Gond	Gadchiroli (Aheri)	27.30	27.30	69	69
		Madiya Gond	Gadchiroli (Bhamragad)	31.80	31.80	106	106
		Madiya Gond	Gadchiroli	30.00	30.00	100	100
4.	1999-2000	Madiya Gond	Gadchiroli (Bhamragad)	15.00	15.00	15	15
		Kolam	Yavatmal	90.00	90.00	300	300
			<b>Total</b>	<b>441.80</b>	<b>455.54</b>	<b>1588</b>	<b>1588</b>

Report presented by the TDD during the tour of Maharashtra in Jan., 2004.

18.3. The Commission recommends that the State Govt. in the Tribal Development Department should also associate itself with the monitoring of IAY at the State level in terms of number of tribals benefited, quality of housing units built and expenditure incurred on the scheme so as to ensure that decent houses are available to all STs by the end of the 10<sup>th</sup> Five Year Plan (2002-07).

18.4. As regards PTG housing, the Commission recommends that the housing unit should be provided with improved *chullah* and a toilet. The tribals are not used to having a separate community toilet block and therefore it should be provided as a part of the housing unit. Extra funds may be made available to the State Govts. to provide road connectivity and street lights and a playground for children in each PTG housing complex. The PTGs should be involved in the construction of housing units so that the houses are built according to their felt needs and according to their own design.



## **19. Research, Monitoring & Evaluation**

The Tribal Research and Training Institute established in 1962 at Pune is headed by the Commissioner of IAS rank. He is supported by Joint Director-1, Dy. Director- 2, Law Officer-1, SRO-1, R.O.-4, Lecturer -2, S.O.-1 and Administrative Officer-1 plus supporting ministerial staff.

**19.1.** Its functions are to: (i) conduct research into the general and specific areas of economic activities affecting tribal life. It has conducted 212 studies regarding impact of different schemes, (ii) undertake pilot studies with a view to devise suitable schemes for the socio economic development and amelioration of living conditions of tribals, keeping in view the customs and other specific features of particular tribal areas and groups, (iii) maintain effective "Data Bank" on the socio economic aspects of tribal life, its collection and content should sub-serve the objective of the TSP/ITDP as well as their periodical evaluations, (iv) undertake case studies and sample surveys during the course of actual implementation of the schemes under the Tribal Sub Plan, with a view to arrive at an objective understanding of impact of schemes in operation on the tribals and (v) undertake studies in ethnographic and anthropological problems bearing upon the formulation of developmental schemes and their implementation.

**19.2.** The activities of the TRI are broadly divided into (i) Research; (2) Integrated Area Development Project; (3) Training; (4) Publications; (5) Library; (6) Museum and Cultural Unit; and (7) Scrutiny and Verification of Tribal Claims.

**19.3.** The Institute holds tribal handicrafts, exhibitions so as to expose the tribal artists to the urban market. The institute has succeeded in upgrading the economic status of tribal artists by giving them an opportunity to become self-employed.. TRI preserves the tribal dance and tradition. The dance groups are given prizes. To promote and preserve the art of *Warli* painting, the institute has been holding *Warli* painting competitions in tribal areas for adults as well as for school children. The winners are given cash prizes. Documentary films on various aspects of tribal life and development are produced by the Institute. Films have been prepared on 45 topics since 1981-82. A museum was set up by the Insitute which displays nearly 1770 exhibits of all the tribes in Maharashtra. The museum serves as a medium to spread awareness about the tribals and their activities.

**19.4.** TR&TI has conducted benchmark survey of tribal families covered under TSP in the state in 1979-80 and 1996-97. Information about economic and social status of tribals is stored in the data bank of the Institute for planning new schemes for their development.

**19.5.** Summary of recommendations of some of the studies undertaken by the Institute in the recent past are given at appropriate places in the Report.

## 20. Voluntary agencies

Voluntary agencies play an important role in the development of disadvantaged sections of society. In the state of Maharashtra the voluntary agencies are required to be registered under the Bombay Public Trust Act, 1950 and Societies Registration Act, 1860. These agencies are mainly engaged in educational development in the state up to the secondary level. The available information shows that they are running 507 Ashram Schools benefiting 1.60 lakh ST students for which the State Govt. pays cent percent grant for teaching and non-teaching staff and a maintenance grant of Rs. 335 per month per student. In addition to this, a contingency corpus on account of furniture, repair of buildings, purchase of books, writing material etc. is also given. These agencies are encouraged to construct their own buildings for which 75% of the actual certified expenditure subject to a ceiling of Rs. 3 lakhs for primary schools and Rs. 5 lakhs for post basic Ashram schools respectively is given by the Govt. The voluntary agencies in the State are also engaged in the field of medical care. Prominent among them are:

- (i) Society for Education, Action and Research in Community Health (SEARCH), Gadchiroli
- (ii) Lok Biradari Prakalp, Bhamragadh
- (iii) Comprehensive Rural Health Project, Jamkhed
- (iv) Bharat Agro Industries Foundation (BAIF)

**20.1.** The Govt. of India, Ministry of Tribal Affairs gave grant to 5 voluntary agencies for hospital, mobile medical unit (2), Balwadi/Cretche (1), residential school (1) and computer center (1) at a total cost of Rs. 11.74 lakhs during 2001-02.

**20.2.** The Commission recommends that the amount of grant in aid for construction of buildings for primary school and post basic Ashram schools is not adequate and it should be revised upwards considering the escalating cost of building material, labour charges etc.

**20.3.** The State Govt. pays only 75% of the actual expenditure as certified by the PWD. The Commission feels that for the reasons given above the ceiling of certified expenditure should be raised to 90% as voluntary agencies are unable to collect adequate donations to meet the constructions of buildings from their own funds.

**20.4.** A number of tribal representatives complained to the Commission that the grant in aid by the Central Ministry of Tribal Affairs is sanctioned late and there is inordinate delay in the release of second instalment. The Govt. of India should simplify the procedure of release of grant in aid and lump sum money may be placed at the disposal of the voluntary agencies so that they are in a position to execute their job without any financial problem.

20.5. Bharat Agro Industries Foundation (BAIF) has been doing useful work for the economic development of STs by way of horticulture, through *Wadi* programme.

## Part – IV Others

### 21. Excise Policy in the Scheduled Areas

The Government of Maharashtra has permitted the STs to brew liquor out of *mhowa* flowers, toddy, *sindhi* and *gorga* trees for domestic consumption and social functions. The orders stipulate that brewing is not allowed for commercial purposes and an ST who possesses *mhowa* flowers more than 25 KGs at a time shall have to make a declaration of the same to the Gram Panchayat of his village.

21.1. The State Excise Department issued licences for opening of 10 country liquor and 17 IMFL shops in Chandrapur district and 28 country liquor and 2 IMFL shops in Yavatmal district respectively till August, 2003.

21.2. The tribal leaders were not happy with the opening of country liquor and IMFL shops, more so when there is need to have different yardsticks for tribal areas and non tribal areas in the matter of opening of such shops. The tribals have started moving towards temperance and opening of liquor shops is not in the interests of STs. Addiction to country liquor and IMFL has had a telling effect on their health. This has in fact ruined some of them. **The Commission, therefore, recommends that the CL & IMFL shops in Scheduled areas should be closed down by the State Govt. in the Scheduled Areas. The Gram Sabhas may be involved in the matter.**

### 22. Reservation in services

The State Govt. provides 7% reservation to STs in services and posts under the control of the State. It may be recalled that the STs constitute 9.27% as per 1991 census.

22.1. A number of districts in the Scheduled Areas have ST population which far exceeds the existing reservation percentage of 7%. The State Govt. has since revised the reservation percentage from 7% to 9% and it varies from 9% to 22% in Raigad, Yavatmal, Chandrapur, Gadchiroli, Thane, Nashik, Dhule & Nandurbar districts in various grades. The State Govt. has been conducting special recruitment drives to clear the backlog of posts in groups A, B, C & D posts.

22.2. In order to increase the intake of STs in the Police force & Army, the state gov't. has set up training centers in predominantly tribal districts to train tribal youth. Each center has an intake capacity of 100 trainees for each session which has a duration of 4 months. So far, 12,268 ST youths (including 337 girls) have been trained out of whom 3,818 persons including

43 ST girls have been absorbed in the Police force.

**22.3.** The Commission was informed by the Principal Secretary Higher Education Mantralaya that there was a backlog of 1 lakh teachers. 95% of the backlog of govt. teachers had been filled up while the backlog of teachers in aided Ashram schools and in cooperative institutions was quite high and efforts were being made to fill up the backlog. The Commission also tried to enquire about the position of backlog in various Departments/offices at the district level. The Commission could not get information for all the districts visited. However, in Yavatmal district as against 7% reservation for STs in services and posts, an enhanced reservation of 14% has been provided in Group C & D posts for teachers in schools, compounders, nurses, technicians, *dais* (TBAs) in health centers and dispensaries in distt.

**The Commission makes the following recommendations:**

- (i) **The percentage of intake of STs in services and posts in group C and D posts should be in accordance with the percentage of ST population in each district as such a policy would reduce higher percentage of unemployment among STs and lead to overall development of STs and their contentment.**
- (ii) **Steps should be taken to liquidate the huge backlog of teachers in the privately managed schools.**
- (iii) **The Commission recommends that the enrolment of girl trainees should be increased so as to allow their participation in the State Police Force, Central Reserve Police Force and Army.**
- (iv) **The Commission recommends that the backlog of tribal teachers in the Aided Ashram Schools should be filled up on contract basis by recruiting local teachers.**

### **23. Issue of ST certificates**

Maharashtra is an amalgam of the erstwhile states of western India which belonged to 4 different administrative hegemonies-the original British Bombay Province, five districts of the Nizam's domain of Hyderabad, 8 districts in the south of the Central Provinces (Madhya Pradesh) and a number of native ruled States, which all were merged on the linguistic basis and formed part of the present Maharashtra State w.e.f. May 1, 1960. This would mean that for old British Bombay Province the corresponding Order is the Constitution (Scheduled Tribes) Order, 1950 which includes only 24 STs, while the amendment to the Constitution (Scheduled Tribes) Order 1950 issued on April 1956, the list consists of 28 STs by addition of Part IV – Madhya Pradesh – the areas of Malghat of Amravati district and certain other tribes in the districts of Gadchiroli, Yavatmal. With the removal of area restrictions, by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, the number of tribes has increased to 47. However, due to the SC & ST Orders (Amendment) Act, 2002 (No. 10 of 2003) Chodhara and Thoti tribes have been omitted from the list. ST population increased from 29.54 lakhs in 1971 to 38.41 lakhs, due to removal of area

restrictions in 1976.

**23.1.** Taking advantage of the removal of area restrictions and certain other factors like similarity in nomenclature, occupation, etc these communities were attracted by the educational benefits like admission to educational institutions, grant of pre/post matric stipends/scholarships, admission to hostels, etc, economic benefits and special dispensation of reservation in services, there has been proliferation of claims by non STs for inclusion in the list of STs.

**23.2.** This has had a telling effect on the genuine claims of the communities who are declared as Scheduled Tribes under the Presidential Orders. A special mention may be made of the Madhuri Patil, a Hindu Koli who obtained ST certificate as 'Mahadev Koli' in the state. In the civil appeal No. 5854 of 1994 (arising out of SLP (civil) No. 14767 of 1993 – Kumari Madhuri Patil and another appellant Vs. Additional Commissioner, Tribal Development and others, the Hon'ble Supreme Court in the judgement suggested to Govt. of India a procedure for issuance of social certificates by the Revenue Sub-Divisional Officers, Dy. Collector or Dy. Convenor, their scrutiny and approval to be followed so that only genuine persons got ST certificates to be issued by the aforesaid officers only and benefits intended for STs in the Constitution reached only the right persons.

**23.3.** In compliance of the above directions of the Supreme Court, the Government of Maharashtra has reconstituted the Scheduled Tribe/Caste Scrutiny Committees at Pune, Nashik, Nagpur, Thane, Aurangabad and Amaravati in July, 1997. The Committee is headed by the Director, Tribal Research and Training Institute, Pune and consists of four other official members – Additional Commissioner, Tribal Development (Vice Chairman), Deputy Director (Research) – Member Secretary, Senior Research Officer – Member, Research Officer – Member. These committees are constituted division-wise and, therefore, the area of each scrutiny committee is co-terminus with the jurisdiction of each division.

**23.4.** Each Committee is assisted by a Vigilance Cell, consisting of a Deputy Superintendent of Police and six Police Inspectors. The cell makes necessary enquiries after collecting copies of relevant documents and submits a report to the Committee in respect of doubtful claims. A copy of the report is also made available to the applicant so as to enable him to adduce any evidence of the personal hearing. The decision given by the Committee in

the matter is final and can only be challenged through a Writ Petition in the High Court.

**23.5** A number of delegations of tribal leaders and their registered associations met the Commission during the tour of the State. Some of the prominent ST organizations who petitioned the Commission during the course of the tour were Adivasi Vikas Sangh, Pune and Akhil Bharatiya Adivasi Vikas Parishad, Nagpur as well as a number of ST MLAs.

**23.6.** The Scrutiny Committee has the power to verify caste certificates issued to ST candidates of the following types:

1. Certificates issued to students seeking admission in Engineering and Medical colleges.
2. Certificates issued to candidates recommended by the Maharashtra Public Service Commission (MPSC) and different Selection Boards appointed by the State Government for seats reserved for scheduled tribes.
3. Certificates issued to Government servants according to the request or complaints made by the concerned departments / officers.
4. Certificates issued to the employees / officers appointed or selected in the Central Government or Undertakings of the Central Government on the posts reserved for scheduled tribes.
5. Certificates issued to the employees of Zilla Parishads, Municipal bodies and semi-government bodies.
6. Certificates issued to candidates contesting elections to the local self-government bodies and those who are declared elected.

**23.7.** In order to give a legal framework and facilitate foolproof method of issue of Caste Certificates as well as to provide adequate opportunity to the scheduled tribe persons in respect of doubtful cases, the State Government has enacted "Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulations of Issuance and Verification) of Caste Certificates Act 2002".

**23.8.** During the visit to Amravati distt., the Commission found that the district Collector has laid down a well-defined procedure for verification and issue of ST certificates. Important features drives are as under:

- Well defined and planned village level summary enquiry
- On the spot distribution of caste certificates
- Saving in time, money and energy of the tribals in getting caste certificates
- Lamination of certificates through Govt. funds for safety and durability.
- Trying to tie up with district administration of Khargone, Madhya Pradesh to have certified copies of birth record to resolve long standing demand of caste certificate by tribal migrants from MP tribals received important document of caste certificate at their doorstep.

These drives are launched at the sub-divisional level.

**23.9.** The Commission during its tour was informed that the drives launched in the three sub-divisions of the Amaravati district led to issue of caste certificates to 10,344 Korku which is the most backward ST and on the spot distribution of 90 certificates to Pardhi tribals.

**23.10.** For the State as a whole, the Commission was informed that the three scrutiny committees at Pune, Nagpur and Thane, the divisional Head Quarters scrutinized 5624 and 4214 cases during 1999-2000 and 2000-01 respectively. It was found that 55% of the certificates scrutinized by the committees were found to be invalid and around 2550 Writ Petitions filed against the decisions of the Committees are still pending in the courts for a decision.

**23.11.** During Commission's meeting with the Chief Minister, large number of pending cases (17,000 caste validity certificates pending ) were brought to his notice and he directed the Director, TRI who was also present then that the huge arrears of cases should be liquidated. He also informed that he was considering to appoint retired session judges to head such committees for quick disposal of the cases. This Commission hopes that the State Government will ensure that the genuine STs are given ST certificates in time for their recruitment in govt. services and admission to educational and technical institutions.

#### **24. Employment openings for STs through new communication technology**

The Commission during extensive tour of the Scheduled and Tribal Sub Plan areas of Maharashtra in August, 2003 and Jan, 2004 found that education has made considerable strides in the tribal areas of Maharashtra but there was hardly any awareness among them about the absorbing capacity of the Business Process Outsourcing (BPO) industry in generation of additional income among the educated unemployed tribal youths for which eligibility criteria is 10+2 and onwards. The carrier prospects in BPO are immense and there is enough scope to rise in a short period of time. It goes without saying that a stint in BPO improves the career prospects because one learns how to communicate directly and assertively.

**24.1.** The excellent job opportunities available under BPO industry are at present being cornered by non-STs. The sooner the benefits of this industry are opened to the eligible tribal youth, it will surely, besides improving the purchasing power of the hitherto financially hard pressed tribals, also motivate many more tribal youths to go in for BPO industry. **The Commission**

**strongly recommends that the State Tribal Development Department and the Union Department of Information Technology should take positive steps so that ST educated youths make a dent into this lucrative area which has so far been outside their domain. Suitable steps will have to be taken towards skill development in software development of spoken English among the prospective St candidates.**

## Part-V

### 25. Categorization of STs

The Commission during its tour in the state had wide ranging discussions with the Ministers, MLAs, representatives of Voluntary Organizations and tribals and propose that the categorization of the tribals in the state should be on 'rotation basis' in respect of entry of STs in government services and admission to educational institutions to ensure that the STs who have not received proportionate benefits during the last 57 years of independence get their due share. **The Commission recommends that the State Government should investigate the issue and the Commission suggests a tentative categorization of STs are as follows:**

- |             |  |
|-------------|--|
| Category I  | Kathodi, Katkari, Kolam and Madia Gond (PTGs)    |
| Category II | STs excluding STs mentioned in Category I above. |



## Tribe-wise population of Maharashtra as per 1991 census

S.No.	Name of the ST	Population
1.	@ Gond Rajgond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Koilabhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola.	1442986
2.	Bhil, Bhil Garasia, Dholi Bhil Dungri Bhil, Dungri-Garasia, Mewari Bhil, Rawal Bhil, Tadvi-Bhil, Bhagalia, Bhilala, Pawra, Vasava, Vasave	1344554
3.	Koli Mahadev, Dongar Koli	999321
4.	Kokna, Kokni, Kukna	463585
5.	Varli	461916
6.	Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar	400583
7.	Andh	295380
8.	Halba, Halbi	278378
9.	Koli Malhar	206741
10.	Kathodi, Katkari, Dhor Kathodi, Dhor Kathkari, Son Kathodi, Son Katkari	202203
11.	Kolam, Mannervarlu	147843
12.	Korku, Bopchi, Mouasi, Nihal, Nahul, Bondhi, Bondeya	141202
13.	Pardhi, Advichincher, Phans Pardhi, Phanse Pardhi, Langoli Pardhi, Bahelia, Bahellia, Chita Pardhi, Shikari, Takankar, Takia	123813
14.	Gamit, Gamta, Gomit, Mavchi, Padvi	122407
15.	Pardhan, Pathari, Saroti	120836
16.	Koli Dhor, Tokre Koli, Kolcha, Kolgha	117091
17.	Oraon, Dhangad	96524
18.	Dhanwar	79030
19.	Naikda, Nayaka, Cholivala Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka	72029
20.	Dhanka, Tadvi, Tetaria, Valvi	62110
21.	Kawar, Kanwar, Kaur, Cherwa, Rathia, Tanwar, Chattri	25508
22.	Dubla, Talavia, Halpati	21168

23.	Dhodia	14866
24.	Kharia	12921
25.	Barda	9100
26.	Kamar	7489
27.	Binjhar	7479
28.	Kol	5225
29.	Bhunja	2807
30.	Khairwar	2680
31.	Patelia	2547
32.	Bharia Bhumia, Bhuinhar Bhumia, Pando	2240
33.	Parja	1780
34.	Bhaina	1696
35.	Rathawa	1258
36.	Vitolia, Katwalia, Barodia	1203
37.	Kondh, Khond, Kandh	1122
38.	Bhattra	1102
39.	Birhul, Birhor	1003
40.	Baiga	886
41.	@Thoti (in Aurangabad, Bhir, Nanded, Osmanabad and Parbhani districts and Rajura tahsil of Chandrapur district)	568
42.	Koya, Bhine, Koya, Rajkoya	564
43.	@Chodhara (excluding Akola, Amravati, Bhandara, Buldana, Chandrapur, Nagpur, Wardha, Yavatmal, Aurangabad, Bhir, Nanded, Osmanabad and Parbhani districts)	549
44.	Pomla	539
45.	Bavacha, Bamcha	436
46.	Nagesia, Nagasia	436
47.	Sawar, Sawara	357
48.	Unclassified	12220

@ Chodhara and Thoti ST communities omitted and "Gond Raj Gond" substituted by "Gond, Raj Gond" vide 'The SCs & STs Order (Amendment) Act, 2002' (No. 10 of 2003)

## Appendix II

### Important provisions in the Maharashtra Land Revenue Code Act

S.NO.	Act	Jurisdiction	Salient features	Remarks
1	2	3	4	5
1.	Bombay Land Revenue Code, 1879 as amended in 1901	Certain unsurveyed tracts or villages notified in 1902. The notification covered tribal communities in certain specified areas of the districts of Thane, Kulaba, Ratnagiri, Nasik, Dhule, Jalgaon, Aurangabad, Nanded, Bhir, Pune, Amravati, Chandrapur etc.	<p><b>Section 73-A</b> Occupancies in these areas shall not be transferable without the previous sanction of the Collector.</p> <p>2. The State Government may, by notification from time to time exempt any part of such tract or village or any person or class of persons from the operation of this Section.</p> <p><b>Section 79-A</b> Persons occupying land in contravention of the provision of this Act may be summarily evicted by the Collector.</p>	The restriction was made applicable for the first time in the British administered areas of the State, though, in a limited way.
2.	Maharashtra Land Revenue Code, 1966 (Maharashtra Act No.XLI of 1966)	Certain notified areas.	<p><b>Sub-section(2) of Section 36</b> The occupancies of persons belonging to such Scheduled Tribes, which the State Government by notification in the Official Gazette may specify, shall not be transferred except with the previous sanction of the District Collector.</p> <p><b>Section 36(3)</b> If any transfer takes place without such sanction, the tribal or his successor</p>	<p>The Act came into force from 15-8-67. The voidable transfers cannot be restored by Collector if the application is not made within two years of such transfer.</p> <p>In case of restoration the applicant has to bear the arrear</p>

			<p>can make an application to the Collector for restoration of the land.</p> <p><b>Sub-Section(3) of Section 36</b>  1. Where a Tribal in contravention of sub-section(2) or any other law for the time being in force, has at any time before 6-7-74 transferred possession of his land to a non-Tribal and such land is in possession of such non-Tribal or his successor in interest, and has not been put to any non-Agricultural use before that date, then the Collector can either <i>suo-motu</i> at any time or on an application from the tribal transferor or his successor in interest made within three years from 6-7-74, make inquiry as he thinks fit declared the transferor land to be invalid and restore the land to the tribal transferor or his successor in interest.</p>	<p>liabilities on the holding.</p> <p>The tribal is not required to pay any amount for restoration under this provision.</p>
3.	<p>Maharashtra Land Revenue and Tenancy laws (Amendment) Act, 1974 (Maharashtra Act No.XXXV of 1974).</p>	<p>All Scheduled Tribes in the State irrespective of the fact whether they hold land in the Scheduled Areas or outside.</p>	<p><b>Sub-section (1) of Section 36-A</b>  2. No occupancy of a tribal shall be transferred in favour of a non-tribal by way of sale (including sale in execution of a decree of a Civil Court or an award or order of any tribunal or authority), gift, mortgage lease or otherwise, except the application of the non-tribal transferee and except with the previous sanction of the Collector in case of a lease or a mortgage for a period not exceeding 5 years and in other cases of the Collector with previous approval of State Govt.</p>	<p>The Act was brought into force w.e.f. 6-7-74. The Act amended Maharashtra Land Revenue Code 1966, the Bombay Tenancy and Agricultural Lands Act, 1948, the Hyderabad Tenancy and Agricultural Lands Act, 1950, and the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958.</p>

			<p>3. No such permission will be accorded by the Collector unless he is satisfied that no tribal within 5 kilometers is prepared to take the occupancy on lease, mortgage or by sale or otherwise.</p> <p><b>Sub-section (3) of Section 36-A</b> On expiry of the period of the lease or of the mortgage notwithstanding any decree or order of any Court, Tribunal or authority, the Collector will <i>suo-motu</i> or on application by the tribal restore the possession to the tribal owner.</p> <p><b>Sub-section (4) of Section 36-A</b> Where on or after the commencement of the Act (6-7-74) occupancy transferred in contravention of sub-section (1) of section 36-A, the Collector on <i>suo-motu</i> or on application of any interested persons made within three years from the date of transfer decide the matter after holding an inquiry in the prescribed manner.</p> <p><b>Sub-section (5) and (6) of Section 36-A</b></p> <p>1. Where the Collector declares the transfer as invalid, the occupancy together with the standing crops shall vest in the State Government free of all encumbrances and shall be disposed of as the State Government directs. Where the occupancy vested</p>	<p>Restoration of Land to tribals is free of cost in case of transfers on lease or mortgage.</p> <p>Restoration of occupancy in case of illegal transfer will be in form of a purchase from the State Government. For the purpose of the section, the expression "economic holding" means 6.48 hectares (16 acres) of jirayat land, or 3.24 hectares (8 acres) of seasonally irrigated land, or paddy or rice</p>
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			<p>in the State is to be disposed of, the Collector shall give notice to the tribal transferor to state within 90 days whether or not he is willing to purchase the land. If he agrees to purchase the occupancy, he must pay the prescribed purchase price and undertake to cultivate the land personally provided that the total land held by him as far as possible does not exceed an economic holding.</p> <p><b>Section 36(b)</b></p> <p>A non-tribal who after the occupancy is ordered to be restored or after the occupancy is vested in the State continues to be in possession, then he is to pay to the tribal/State for the period from the year following such order till he holds the occupation as the Collector may fix in the prescribed manner.</p> <p><b>Section 36 (c)</b></p> <p>No Civil Court shall have jurisdiction to settle, decide and deal with any question which is by or under 36, 36A or 36B required to be settled or dealt with by the Collector. No Civil Court or authority shall entertain an appeal or application against an order of the Collector under the above sections unless the appellant deposits such security as in the opinion of the Court or authority is adequate.</p>	<p>land, or 1.62 hectare (4 acres) of perennially irrigated land and where the land held by any person consists of two or more kinds of land, the economic holding shall be determined on the basis of one hectare of perennially irrigated land being equal to 2 hectares of seasonally irrigated land or paddy or rice land or 4 hectares of jirayat land.</p> <p>Penalty measures for further illegal occupation.</p> <p>Bar on the Jurisdiction of Courts.</p>
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4.	The Maharashtra Restoration of Lands to Scheduled Tribes Act, (Maharashtra Act No.XIV of 1975).	Whole State of Maharashtra	<p><b>Section 9</b></p> <p>The section amended the Bombay Tenancy and Agricultural Lands Act, 1948. The Hyderabad Tenancy and Agricultural Lands Act, 1950 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 by inserting the sections 88CC, 102CC and 130 A respectively.</p> <p>The new sections invalidated the right of a non-tribal after the commencement of the Act, to purchase under this Act the land duly leased to him with the previous sanction of the Collector.</p> <p><b>Sub-section (1) of Section 3</b></p> <p>1. Where the land is held by a non-tribal from a tribal transferor or the land acquired by a tribal transferor is less in value than the value of land given in exchange and land held by the non-tribal transferee has not been put to any non-agricultural use on or before 6-7-74, the Collector either <i>suo motu</i> at any time or on application of a tribal transferor made within three years from the commencement of the Act make an enquiry and restore the land to the tribal transferor free from all encumbrances.</p>	<p>This Act only deals with valid transfers effected during the period from 1-4-57 to 6-7-74 and provides for the restoration of land involved in such transfers to the original tribal transferor.</p> <p><i>Suo motu</i> action by the Collector to restore the transfer of occupancy to the tribal.</p> <p>In case of exchange, the tribal transferor shall pay the difference in value of improvements as determined by the Collector in the prescribed manner. Where land was</p>
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			<p>Where any land of a tribal is at any time during the period 1-4-57 to 6-7-74 purchased or acquired under or in accordance with the provision of the relevant tenancy law by a non-tribal transferee or where any acquisition has been regularized on payments of penalty and such land is in possession of a non-tribal transferee which has not been put into any non-agricultural use before 6-7-74, then the Collector shall either <i>suo motu</i> or on application by the tribal made within 30 years from the commencement of this Act restore to the tribal from all encumbrances after making enquiry. The amount of purchase price, if any, paid by such non-tribal transferee shall be refunded in instalment not exceeding 12 with a simple interest at 4½ per cent.</p>	<p>transferred in favour of a non-tribal on or before 6-2-74 after such transferee was rendered landless by reason of acquisition of land for public purpose, then only half the land so transferred shall be restored to the tribal transferor.</p> <p>The improvement, if any, determined by the Collector, the amount may be paid in annual instalments not exceeding 12 with 4½ percent of interest per annum.</p> <p>Where the land is purchased or acquired by a non-tribal before 6-7-74 after such transferee was rendered landless by reason of acquisition of his land for public purpose, than only half the land shall be restored to tribal transferor.</p>
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			<p><b>Section 5</b></p> <p>If the non-tribal transferee after the land is ordered to be restored continues to be in possession of the land, then he has to pay to the tribal for the period following from the year in which the land is ordered to be restored till possession of the land is given to the tribal, such amount as the Collector may fix. If the non-tribal transferee fails to pay the amount it shall be recoverable by the Collector as an arrear of land revenue.</p> <p><b>Section 6</b></p> <p>Appeal against the decision of the Collector be made to the Maharashtra Revenue Tribunal within a period of 60 days from the date of receipt of the decision or order of the Collector.</p> <p><b>Section 9</b></p> <p>Order passed by the Collector under this Act, subject to an appeal to the Maharashtra Revenue Tribunal and the decision of the Tribunal be final and shall not be questioned in any suit or in any Court.</p>	<p>Damages of occupation of land after restoration is order.</p> <p>Appeal.</p> <p>Finality of decision lies with Collector/Tribunal.</p>
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**A rapid study by TRI Pune on regularization of forest land**

The Ministry of Environment & Forests has given guidelines for regularization of forest lands on which forest dwellers have been doing cultivation prior to 1980. One of the conditions is to find out if there is First Offence Report (FOR) against the tribals. The actual position is that it is very difficult to produce this evidence because in the past it was in the interest of the tribals and the forest officials not to create the evidence. The tribal did not want offence registered against him because the forest officials under the Forest Act can imprison him and destroy his crop. The poor tribals willingly paid a bribe to the forest officers for not bringing the land occupied by him on record. The forest officials ignored the cultivation by the tribals and did not register FOR. It is really a paradox that the forest department, which did not create any evidence is now asking for the same. The forest officials even if they reveal the truth recording the period of encroachment cannot do so because they would be questioned why the encroachment was not brought on records.

A study made by TRTI, Pune in November 2002 revealed that 29 tribal farmers of 9 villages of Nawapur and Nandurbar tehsils of Nandurbar district of Maharashtra had encroached 121.5 acres of forest land prior to 1978 and the names of 9 encroachers' appeared in the house tax register of the villages. There was no FOR registered against any of these persons by the forest department and they had been paying annually money (bribe) ranging from Rs.50/- to Rs.5,000/- per annum along with food grains from 7 kg. to 40 kg to the forest officials. Most of them borrowed money from moneylenders for paying bribes to the forest officials. Some of them had received electric pumps/hand pumps, cattle, bullock carts from the Government.

The State Government had issued a policy letter popularly known as Amravati Plan for regularizing the area cultivated by the tribals prior to 1980. In Dhule district 10,946 persons in 7 tehsils had encroached 17,262.88 acres land out of which only 1,247 persons occupying 2,110.42 acres land have been considered eligible and the remaining 9,699 persons occupying 15,103.7 acres have been considered ineligible. **The Commission observed that the district authorities are not following the policy laid down by the State Government and as reliance on the documentary evidence is unrealistic, it recommends that the investigating team should take into account the circumstantial evidence from villagers, Sarpanch and other elders so that this problem can be solved.**

**Appendix IV**

**Settlement of pre-1980 tribal forest encroachers**

S.No.	Name of the district	Claims received		Eligible encroachers		Ineligible	Encroachers land area	Remarks
		No.	Area(In hac.)	No.	Area (in hac.)			
1	2	3	4	5	6	7	8	9
1.	Amravati	1564	NA	528 (53%)	1172	736 (47%)	510.14	-
2	Wardha	63	80.59	30	30.09	33	50.50	Encroachmnt below 1972- 78
3.	Gadchiroli	2502	2569.68	00	00	-	-	1980
4.	Yavatmal	306	367.4496	97	123.13	173	00	1972-78
				.2	.0372	34	-	After 1978
5.	Nagpur	-	16	26.34	NA	NA		
6.	Chandarpur	348		92	101.87	256	3148.98	1972-78
7.	Thane	NA	-	3225	NA	1967	-	Thane(report) Page – 74
8.	Raigad	3270	-	34	-	132	-	Raigad report Page - 165
9.	Nandurbar	26356	-	19847	-	6509	-	Nashik report Page – 82

# Appendix V

## Electrification of tribal villages/Padas/Wadis

S.No.	Districts	Total ST villages		Total	
		No.	Electrified	Padas	Padas electrified
1.	Gadchiroli	1503	1503	-	-
2.	Chandrapur	764	764	-	-
3.	Nashik	907	906	1341	1272
4.	Dhule	669	669	318	309
5.	Nandurbar	932	794	1100	571
6.	Nagpur	1686	1631	-	-
7.	Wardha	967	962	-	-
8.	Thane	1374	1373	4634	4174
9.	Raigad	135	135	-	-

**Appendix VI**

**List of villages containing high Fluoride in Drinking water in  
Chandrapur District**

<b>Taluka</b>	<b>S.No.</b>	<b>Name of village</b>	<b>Taluka</b>	<b>S.No.</b>	<b>Name of village</b>
Rajura	1.	Goyegaon		40.	Lokdkot
	2.	Hardona		41.	Khiradee
	3.	Khamona		42.	Dhootara
	4.	Sonurli		43.	Mangi (Khu)
	5.	Warurroad	Korpnar	44.	Thutara
	6.	Bhedoda		45.	Wadgaon
	7.	Dewada		46.	Dhootara
	8.	Chanakha		47.	Matha
	9.	Virur Station		48.	Talodhi
	10.	Aheri		49.	Antargao
	11.	Bhurkunda		50.	Kothoda
	12.	Sumthana		51.	Gadegaon
	13.	Sonurli		52.	Chichonli
	14.	Kawadgondi		53.	Palgaon
	15.	Kinbodi		54.	Khirdi
	16.	Marda		55.	Dhanoli
	17.	Khidki Hirapur		56.	Kusla
	18.	Dongargaon (Nag)		57.	Kanhalgaon
	19.	Hardona (Bu)		58.	Pinpaigaon
	20.	Patan		59.	Lakhamapur
	21.	Jankapur		60.	Mukadamguda (Paramdoli)
	22.	Sondo		61.	Tanda (Dhanoli)
	23.	Umarzari		62.	Pardi
	24.	Kakaighat		63.	Dampur Mohada
	25.	Sakharwahi		64.	Paramdoli
	26.	Ranweli	Gondpipari	65.	Vittalwada
	27.	Mangi (Bu)		66.	Gondpipari
	28.	Bhedoda		67.	Chakghadoli
	29.	Kohpra		68.	Karangi
	30.	Chunala		69.	Tarasa (Bu)
	31.	Pachgaon		70.	Tarasa (Khu)
	32.	Dhanora		71.	Vainkatapur
	33.	Mathara		72.	Bhangaram (Talodhi)
	34.	Arvi		73.	Bhangarpeth
	35.	Rampur		74.	Salezari
	36.	Maanoli (Bu)		75.	Panora
	37.	Bhokasapur			
	38.	Koparna			
	39.	Chincholi			

# Manipur

The State of Manipur is divided into 9 Revenue Districts of which 5 Districts are in the Hill Areas and the remaining 4 are in the Valley Areas. There are 38 Revenue Sub-Divisions; 34 Development Blocks.

The Vidhan Sabha of the State has 60 seats out of which 19 seats are reserved/represented by the Scheduled Tribes. There is only 1 seat reserved for Scheduled Castes. There are 2 Lok Sabha seats out of which one is reserved for the Scheduled Tribes. The State has 1 Rajya Sabha seat.

Vital statistics in respect of the State are as under:-

Geographical Area	22,327 Sq. Km.	Out of this, 20,039 Sq. Km. are covered by the hill areas of five districts having preponderance of the Scheduled Tribes.	
Population 2001 Census	23,88,634		
Sex ratio	901		
Density of population (Per Sq. Km.)	107		
Population of Scheduled Tribes (1991 Census)	632173		
(2001 Census) (provisional)	930582		
Percentage of the Scheduled Tribes of the total population (1991 Census)	34.4%		
Provisional figure 2001 Census	38.96%		
Literacy percentage (2001 Census)	68.87%		
Literacy percentage in respect of Scheduled Tribes (1991 Census)	53.63%	Male 62.39%	Female 44.47%

## **Scheduled Tribes**

Under the Constitution (Scheduled Tribes) Order, 1950, the following tribal communities had been notified as Scheduled Tribes:-

- |               |                              |
|---------------|------------------------------|
| 1. Aimol      | 16. Maring                   |
| 2. Anal       | 17. Any Mizo (Lushai) tribes |
| 3. Angami     | 18. Monsang                  |
| 4. Chiru      | 19. Moyon                    |
| 5. Chothe     | 20. Paite                    |
| 6. Gangte     | 21. Purum                    |
| 7. Hmar       | 22. Ralte                    |
| 8. Kabui      | 23. Sema                     |
| 9. Kacha Naga | 24. Simte                    |
| 10. Koirao    | 25. Suhte                    |
| 11. Koireng   | 26. Tangkhul                 |
| 12. Kom       | 27. Thadou                   |
| 13. Lamgang   | 28. Vaiphui                  |
| 14. Mao       | 29. Zou                      |
| 15. Maram     |                              |

Under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002, the tribe – 'Vaiphui' at S.No. 28 has been substituted by word 'Vaiphei'. After entry 29 under the original order, the following communities have been added to the Schedule under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002:-

30. Poumai Naga
31. Tarao
32. Kharam
33. Any Kuki tribe

The Commission makes the following observations on the Scheduled Tribes list of Manipur:-

**(a) Kabui & Kacha-Naga**

Kabui (at Serial no.8) and Kacha Naga (at Serial no.9) are the tribes of Manipur under the Constitution (Scheduled Tribes) Order, 1950. These two communities claim that they are traditionally and originally one and the same tribe called 'Haomei'/Hamei' tribe. They organized themselves into a common tribal union since 1925; and in 1947 they coined a new collective name for themselves as "Zeliangrong" tribe comprising both the Kabui and Kacha-Naga groups. They have been demanding for recognition of 'Zeliangrong' as name of their tribe collectively in lieu of the existing 'Kabui' and 'Kacha-Naga' in the Constitution (Scheduled Tribes) Order 1950. The Government so far did not concede to their demand.

This Commission received several memoranda from some sections of the Zeme, Liangmei, Rongmei and Puimei groups. They state that Zeme and Liangmei groups have been clubbed together as the 'Kacha-Naga' in the scheduled list, and similarly Rongmei and Puimei groups have been clubbed together as 'Kabui'. They demand that Zeme and Liangmei be recognized as two separate tribes in lieu of 'Kacha-Naga' (serial no.9) which, they claim, was wrongly recorded by the erstwhile British administration. Similarly the Rongmei group has demanded for recognition of 'Rongmei and 'Puimei' as separate two tribes in lieu of the existing name of 'Kabui' (serial no.8). However, the Puimei group objects to this proposition. The Puimei claim that they are the real Kabui tribe and therefore they demand that 'Kabui' should be retained in the list as it is.

The Commission observed that an ethnographic study of 'Haomei/Hamei' or 'Zeliangrong' tribes need be undertaken to ascertain whether they should be recognized collectively as a single tribe or should they be scheduled as four different tribes in lieu of the



**existing two names of 'Kabui' and 'Kacha-Naga' based on that a solution acceptable to all concerned can be found.**

**(b) Koirao**

Koirao is listed at serial no.10 of Manipur tribes under the Constitution (ST) Order 1950. In their memorandum, the Thangal community claims that they are the 'Koirao'. Therefore, they want that their name 'Thangal' should be listed replacing the existing 'Koirao'.

**(c) Chongthu**

The Commission received representation from the Chongthu group reiterating their long-standing demand for recognition of their tribe as 'Chongthu' as a Scheduled Tribe separately under the Constitution. They claimed that 'Chongthu' was the name of their progenitor or the first founding ancestor of their community including Thadou, Kuki etc. They contended that the 'Thadou' tribe (listed at serial no.27) was one of the many descendents and lineages of Chongthu; as such, the Thadou tribe cannot and do not cover many other descendents and lineages of Chongthu. The Chongthu group does not accept 'Kuki' for their name, because they think 'Kuki' is a term alien to them. Hence, their demand for recognition of Chongthu as a Scheduled tribe of Manipur.

**(d) Mate**

The Mate community, in their memorandum, reiterated their long-standing demand for inclusion of 'Mate' as a recognized tribe under the Constitution (ST) Order 1950. They had submitted a plethora of memoranda, petitions and demands to various authorities, State as well as Union Governments, from time to time. They claim that their tribe is a distinct cultural group different from the Thadou, or Chongthu, or Kuki untouched by anthropological studies done. They have a folk history traditionally handed down from generation to generation to support their ancient claims. It is pertinent to note here that the Kalekar Commission while discussing the hill tribes of Assam and Manipur recommended that "in these circumstances, we are of the opinion that it would be more

convenient to list all the tribes by their particular names in the hill areas of Assam and Manipur”.

**The Commission recommends that the demand for inclusion of 'Mate' as a recognized tribe under the Constitution (ST) Order, and also demand for recognition of 'Chongthu' as a scheduled tribe separately may be examined.**

Of the tribes notified under the Act of 2002 i.e. Kharam and Tarao are comparatively smaller tribes as far as population is concerned. Poumei and Any Kuki tribe also are the new tribes notified under the Act of 2002. 'Any Kuki tribe' added to the Schedule under the Act, 2002 has raised some confusion as to its identity. Who would be identified as 'Any Kuki tribe' is being debated. Kalekar Commission had recommended that it would be more convenient to list all the tribes by their particular name in the hill areas of Assam and Manipur.

**The Commission recommends that the Administration should clear such confusions and stem the debate right at the beginning to pre-empt inter-tribe clashes/differences in order to maintain peace and harmony among the hill tribes of Manipur.**

### **Tribal Sub-Plan (TSP)**

The Tribal population in the State 632173 (1991 census), 930582 (provisional 2001 census) are distributed over 5 hill districts and out of which 46319 tribals as per the 1991 census are in the valley areas. The Tribal Sub-Plan covers around 90% of the total geographical area. The basic objectives of the Tribal Sub-Plan during the Tenth Plan period are – acceleration of socio-economic development of the tribal people taking into account the existing environment and living conditions of the people; creation of infrastructural facilities required in the hill areas to bridge the gaps in economic development.

The Inter-Sectoral flow of funds to the Tribal Sub-Plan during the 9<sup>th</sup> Five Year Plan under various sectors at the stage of allocation were at 40.38%, but the actual devolution i.e. actual expenditure/flow to the Tribal Sub-Plan was at 22.61% i.e. out of 1589.11 crores in the State Plan the actual flow to the Tribal Sub-Plan was

360.53 crores. There were short-falls in the expenditure under various development sectors as a result of which the actual expenditure for the Tribal Sub-Plan was as low as 22.61%. The factors responsible for this are reported to be the shortfalls in the development achievement in the TSP areas of which the major factor is said to be the absence of an authority for controlling the affairs of the Tribal Sub-Plan areas both in regard to the allocation and expenditure. The sectoral Departments have been earmarking funds for TSP areas and that implementation of the projects and programmes were carried out by the concerned sectoral Departments through their administrative infrastructure at the district level etc. Apart from the Ministry of Tribal Affairs, Government of India, many other Central Ministries have also been releasing the funds under Centrally Sponsored Schemes and Special Central Assistance Programmes etc.

The Department of Tribal Development in the State has not been declared the Nodal Department for control and overseeing the allocation of funds and expenditure under Tribal Sub-Plan. The situation continues during the 10<sup>th</sup> Plan period also.

The Department for Development of Tribals and Scheduled Castes implements the TSP schemes, projects and services under tribal welfare sector only. The Department has no control over allocation of funds under Tribal Sub-Plan by the Departments under various Sectoral programmes and they have also no control over the expenditure incurred by these Departments. The Department has one District Planning Officer posted in each of the 5 Hill Districts with nucleus staff. Some exercise is undertaken at the grass root level for planning schemes and programmes under Tribal Sub-Plan. The Deputy Commissioner of the District concerned is responsible for the administration of the Tribal Sub-Plan with the support of District level officers of the various Sectoral Departments and also the Block Development Officers. During the 10<sup>th</sup> Five year Plan periods out of projected 3838.36 crores under the State Plan, flow of funds to the Tribal Sub-Plan is estimated at Rs. 1798.68 crores i.e. 48.86% which is higher than the percentage of the tribal population. The Special Central Assistance to the Tribal Sub-Plan for the 10<sup>th</sup> Plan period has been estimated at Rs. 40 crores. The total State Plan for the 2002-03 was fixed at Rs. 683.27 crores and that flow to TSP was to the tune of

Rs. 298.67 crores i.e. 43.62% of the State Plan, but the actual flow from State Plan to the TSP during the financial year 2002-03 has not yet been firmed up.

The 5 year plans and the annual plans are also required to be placed before the **Hill Areas Committee** of the MLAs representing the hill areas constituted under the Manipur Legislative Assembly (Hill Areas Committee) Order 1972, for their views on the schemes under the plan proposed for hill areas particularly. Scheduled matters mentioned above include development and economic planning within the plan allocations of the hill areas, management of any forests not being reserved forests; use of water for the purpose of agriculture; regulation of the practice of jhum cultivation; the appointment or succession of chiefs or headmen among other matters pertaining to property, social customs etc. The Minister in-charge, Tribal Development and the Hills and Chairman, Hill Areas Committee of Manipur Legislative Assembly in their memorandum submitted to the Commission during the tour of Manipur stated that inspite of the best efforts of the Government, hill areas of the State are marked by lack of communication network and other amenities essential for generating stable economy of the tribal people. The memorandum also states that the short-fall in the expenditure under various development sectors for the Tribal Sub-Plan areas during the 9<sup>th</sup> Five Year Plan period was as low as 22.69%. The major factor responsible for this low achievement is said to be the absence of an authority for controlling the affairs of the Tribal Sub-Plan both in respect of allocation and expenditure under TSP. It is mentioned in the memorandum that the concerned development departments implementing the programmes in the TSP areas at the district levels make less allocation of funds for the TSP areas which could not be checked in the absence of any authority. The memorandum demanded that a fair percentage of funds should flow to the Tribal Sub-Plan under various Centrally Sponsored Schemes and Special Plan Assistance for the hill areas. There is no clear picture/assessment of the development activities taken up with such funds in the absence of centralized authority for the Tribal Sub-Plan areas. The memorandum further demands that the Tribal Development Department in the State should be declared as the Nodal Department to control and oversee Tribal Sub-Plan right from the stage of allocation of funds and the actual expenditure incurred under the Tribal Sub-Plan.

**The Commission recommends that as demanded by the public representatives, a cross-section of the tribal population, the State Government may consider setting up a separate Department of Tribal Development with a separate budgetary head and assigning it the functions of a Nodal Department right from the stage of allocation of TSP funds to the monitoring and evaluation of the sectoral Departments performance in respect of TSP funds/programmes etc.**

### **Agriculture/Horticulture**

Rice is the staple food crop in the State. Other crops are Maize, Pulses and Oilseeds etc. The thrust is on increasing the area under high yielding variety of paddy during the 10<sup>th</sup> Plan period. But the productivity in the hill areas inhabited by the tribals is quite low. As per the estimates during the year 2002-03 flow to the TSP under agriculture was Rs. 2.10 crores.

For Rural Development, one impediment seems to be lack of banking facilities in the Hill Areas. Not much financing for the schemes for Rural Development, Agriculture and Horticulture etc. are available mainly because of the absence of necessary guarantees/security for the repayment of loans financed for these sectors. As per the land system in the Hill Areas, land belongs either to the Chief of the Community or the Community itself. As such, pledging the land for security of individual bank loan is not feasible.

**The Commission observed that the individual cultivator should get easily the soft loan assistance from the financial institutions/banks and a legal instrument be devised for helping them to pledge the land under their cultivation even when the land under cultivation is in the ownership of the tribal chief or the Community.**

Horticulture has tremendous scope particularly in the hill areas of Manipur but nothing substantial has been done or proposed for the horticultural development in the hill areas.

## Forest

Out of the total geographical area of 22,327 Sq. Km. the area covered by the forest is 17418 Sq. Km. Out of this, reserved forest covered 1467 Sq. Km. and protected forests covered 4171 Sq. Km. and the rest are unclassified forests. 99% of the forest area of all types falls in the Tribal Sub-Plan area. The details of the categories of forest areas which fall under the Tribal Sub-Plan area are as under:-

Reserved Forest : 1229.75 Sq. Kms.

Protected Forest : 4081.25 Sq. Kms.

Unclassified Forest : 11760 Sq. Kms.

Out of the total allocation of 21.82 crores during the 10<sup>th</sup> Plan period, the flow to TSP areas under forest is earmarked at Rs. 7.97 crores and for the Annual Plan 2002-03 funds earmarked to TSP under forest was Rs. 1.48 crores which is meagre and not proportionate to the forest areas under the TSP area considering the fact that out of the total forest area – 17418 Sq. Km. of the State 17071 Sq. Km. of it is under TSP area. The major feature under this sector of development is to increase the tree coverage to a minimum of 66.6% of the geographical area as envisaged under National Forest Policy in order to meet the multiple requirement of people, mainly the hill tribes. Special emphasis is being given for curtailing shifting cultivation by working out alternative ways for jhum cultivation without hurting the sentiments of the tribal people and for the development and augmentation of annual forest produce to benefit the hill tribes.

As per the report of the Department of Land Resource, Ministry of Rural Development, Government of India, shifting cultivation has caused deforestation that has reached an alarming proportion. Under the shifting cultivation or jhum, there is an indiscriminate cutting and burning of forest, improper land use which lead to resource degradation, ecological imbalance and that the system accelerates degradation due to erosion, loss of bio-diversity and deterioration of water-shed hydrology. The shifting cultivation practice has caused loss of valuable wild-life, flora of diverse gene pool, grasses and edible vegetation useful for animal nutrition. The studies done by the Indian Council of Agricultural Research on shifting cultivation have indicated a soil loss to the tune of 40.9 Tonnes per

hectare. The report further revealed that the size of the area covered under shifting cultivation in the North-Eastern States is estimated to be 19.91 lakhs hectares which is 83.7% of the total land covered under shifting cultivation in the country.

**The State of Manipur has no specific policy declared on the practice of shifting cultivation in the hill areas. Every year over 900 Sq. Kms. is cut down for jhum cultivation and that the jhum cycle has been reduced to 3-4 years from earlier 6-7 years due to the population pressure on land and forest. A number of measures have been taken for shifting jhumia families from shifting cultivation to settled cultivation but the outcome has been totally unsatisfactory despite Central Assistance taken under time bound programmes in an integrated manner to tackle this problem, the Commission observed.**

It is said that in the North-East States where jhum cultivation is still in practice the tribals are not keen on continuing with the practice and would prefer to opt for the settled cultivation. The poor and small farmers have been depending on shifting cultivation because they do not individually own agricultural land. They take the area on lease for shifting cultivation from the tribal chiefs who are the owners of most of the lands and also from the community land pools where village community has their own common land. There are, however, some farmers with the ownership of cultivated land in the valley areas.

The main reason for continuing this devastating practice of shifting cultivation is the absence of land tenure system as the Commission has observed in Mizoram also. The settled cultivation is possible only with investment on land development, terracing of the land, harvesting water for occasional irrigation, in fact, most places in the North-East do not require any irrigation particularly for the horticultural crops and for the social forestry. The investment on land development and cultivation/farming with modern technology require financial resources. Since the farmers do not own the land it is not feasible for them to make any kind of investment on an area taken on lease from tribal chiefs as they can terminate the lease any time.

**The Commission observed that the fragile eco-system of Hills Areas of Manipur can be protected and that the soil erosion and depletion of**

the forest resources can be checked only when the State finds a viable alternative to Jhum cultivation. The Commission further recommends that a programme should be launched by the State for the development of Horticulture and of Bamboo plantation with the active participation of the farmers and with the help of modern technology/processing etc. as an alternative to the present practice of Jhum cultivation.

### **Irrigation**

Two major projects have been taken up namely Khoupum Dam Project and Khuga Multi-purpose Project. The first one has been completed and it has the irrigation potentiality of 100 hectares. On completion of these projects over 15000 hectares of land would be irrigated annually. There are other small projects also covering the hill areas.

### **Roads and Transportation**

The Road Network System in the hill areas is inadequate as compared with the valley areas. During the Annual Plan 2002-03, a sum of Rs. 11.96 crores was earmarked for the Tribal Sub-Plan areas.

### **Employment Opportunities**

It was reported that Agriculture is the main occupation of the tribal people and they partly depended on the minor forest produce also. In the absence of jhuming practice on scientific lines, and in all these years of planned development the green revolution in the country had no impact on the Hill Area's economy and in the absence of improved farming technology productivity in the agriculture and allied sector has been too low. The availability of land is limited and there is tremendous pressure on the land resources. There is a need to create employment opportunities in secondary and tertiary sectors of economy. As per the estimates provided by the State Government the incidence of poverty among the ST people was at 56.88%. There are hardly any major and medium industries in Manipur. People particularly STs, have to therefore, to depend on small industry for secondary



occupation. But, this sector needs a boost particularly in the Handloom and Handicraft Sector which could provide self-employment opportunities.

### **Basic Services**

During the course of the Commission's visit to the Hill Districts of Manipur, all petitions and demands highlighted the main problems in the field of basic economic and social services as follows:-

- (i) **Education** – Teaching staff is inadequate in all the Districts in the hill areas. In some schools, the Science and Mathematics Teachers and in some Hindi Teachers are not available. Many posts have not been filled causing the faculties to suffer. The Primary Schools in the Hill Districts are being run by the District Councils with the funds released by the State Government from the Tribal Development Department. The District Councils are at present not functioning and the Deputy Commissioners are the Administrators of these District Councils. The Junior High Schools, High Schools and Higher Secondary Schools are being run by the State Education Department and the Higher Education is also looked after by the Department of Education. The State Government in its replies to the Questionnaire on the subject has admitted that there is a need to improve the quality of education and measures need be taken to strengthen the infrastructural facilities for the educational institutions.

**The Commission observed that the Educational Institutions at all levels should be run by the Department of Education in the Hill Areas. The allocation of funds to the Educational Institutions at all levels should be made by the Tribal Development Department in the TSP area. It should be the responsibility of the Education Department to run these institutions having State cadres for the different categories of teaching staff except that for the Primary Schools there should be no District cadres of Teachers. The functioning of the Tribal Development Department should normally be the allocation of funds and monitoring and evaluation of functioning of these institutions. It cannot perhaps have its own infrastructural facilities and professionally equipped teaching faculties, the Commission observed.**

- (ii) **Health** – The PHCs and Dispensaries in these hill districts at most places do not have specialists and in some places general Doctors/Lady Doctors have not been deployed. Para-medical staff is inadequate as most of the posts are lying vacant.
- (iii) **Public Distribution System** – In all these hill districts visited, the problem of lifting of food stocks from the Headquarters was highlighted on account of lack of infrastructure and transport facilities.

### **Rural Electrification**

It was stated that 1,545 villages out of the total of 1,727 in the Hill Areas have been electrified constituting 89.46%. This appeared encouraging. But, during our visit to the Hill Areas we often heard complaints of long black-outs. It means that from the point of view of the rural electrification, progress has been made, on the ground things may be different with regard to the power supply. The State Government's attention is required in the matter.

### **Reservation in Services**

Certain memorandums/petitions were submitted to the Commission during the visit to the State of Manipur about the alleged discrimination against the Scheduled Tribes in the matter of employment in the Government/Public Sector. It was reported that the strength of the ST employees in the State Government is only 17.5% against the requirement of 31% reservations in the State.

### **Land Tenure**

The Manipur Land Revenue and Land Reforms Act, 1960 is extended to the whole of the State of Manipur except the hilly areas of the State which are predominantly the tribal areas. The various land reform measures under the Act have been undertaken by the Government of Manipur but the hilly areas i.e. the tribal areas have been deprived of the land reform measures. The ownership of land in these 5 tribal hill districts vests in most cases with the village chiefs; and in some cases with the community where the individual farmers are given land for cultivation for a term specified which can be terminated at the end of the specified period. Similarly, the village chiefs also grant land for cultivation for a term specified. There are very few individual land owners with pattas. In the absence of land reforms,

land development i.e. terracing, fencing, farming etc. requiring heavy investments cannot be undertaken by the farmers who had taken land on lease. It was reported by some farmers that there has never been an appreciable increase in the productivity of the land taken on lease, primarily because of lack of investment on soil conservation, and land development on scientific lines. Even the modern agriculture inputs are not being used for want of investment. Agricultural credit would be available where the land is available for mortgaging it against the loan/credit, for which the farmer must have the ownership of the land, the Commission observed. There exists an opinion among the farmers that there should be settled cultivation in place of jhuming and patta system of land tenure should be introduced by resuming the land of tribal chiefs and the farmers who are the lease holders should be made owners by allotting lands to them on purchase basis permanently.

The Secretary, Land Revenue mentioned that the State Government had in the past undertaken land survey work in these 5 hill districts inhabited mostly by the tribals where Manipur Land Revenue and Land Reforms Act, 1960 is not made applicable. However, in respect of Chandel and Churachandpur Districts the provisions of the Act have been extended in some parts of these districts where land surveys had already been completed. But most parts of these two districts have not been fully surveyed and it is not certain whether the provisions of the said Act can be extended to the surveyed areas. In the 3 other hill districts land survey work is on, however in some cases, village communities and the chiefs have objected to such surveys.

To sum up, no substantial progress has been made to undertake land reforms in these 5 districts. The permanent land settlement in the Manipur Hill Districts appears, therefore, not feasible in the near future. The Manipur Legislative Assembly (Hill Areas Committee) has not so far made any significant recommendations with regard to the land tenure system in these 5 hill districts.

**The Commission observed that a land settlement and necessary land reforms keeping in line with the local tradition need to be undertaken in these 5 hill districts inhabited by the tribals in order to optimize the productivity and maximize the returns from farming.**

### **Hill Areas Committee**

There is a **Hill Areas Committee** of the Manipur Legislative Assembly, consisting of all the members of the Assembly who represent the constituencies of the hill areas of the State. In the 60-member Assembly, 20 members are from the hill constituencies and they are members of this Committee; provided however that the Chief Minister and the Speaker should not be member of this Committee. The Hill Areas Committee (HAC) has been constituted under the **Manipur Legislative Assembly (Hill Areas Committee) Order, 1972**, which was promulgated by the President of India under Article 371-C of the Constitution. This Article 371-C was inserted by the Constitution (Twenty-seventh Amendment) Act, 1971 with the object of safeguarding tribal interests and to promote economic growth of the hill areas through the legislative process in the State Assembly.

The Hill Areas Committee functions as a Committee of the Legislative Assembly, on matters relating to the hill areas, which are specified as 'scheduled matters'. Every bill, other than a money bill, affecting the Hill Areas is referred to this Committee for consideration and report to the Assembly. The Committee is given the right to consider and pass resolution recommending to the State Government any legislation or executive action affecting the Hill Areas with respect to the scheduled matters. The Committee has also the right to discuss the Annual Financial Statement in so far as it relates to the Hill Areas. Before the Five Year Plans and Annual Plans of the State are finalized, they are placed before the HAC and the views of the Committee are taken into account. In short, this Committee functions through the legislative process with a view to "safeguard the interest of the people of the Hill Areas" particularly in relation to the 'scheduled matters' which include development and economic planning within the plan allocation of the Hill Areas, District Councils in the hill areas, land, forests, water source for agriculture, regulation of the practice of jhum, village councils, public health & sanitation, succession of Chief or Headman of the village, inheritance of property, marriage & divorce, social customs etc.

According to an observation made by the Chairman of the Hill Areas Committee (Mr. N. Songchinkhup), this Committee is very much handicapped in its functioning because of the status of the Committee as merely one of the various house

committees of the Assembly. The Committee has no separate office staff of its own and no financial power at all. In practice, the power and functions of the HAC are more ornamental; on many issues the members use to take the line of their party affiliation. Of course, in some rare cases the HAC demonstrated unity and seriousness to protect the tribal interest, as in the case of blocking the Bill introduced in the Assembly for operation of the Manipur Land Revenue and Land Reforms Act, in the hill areas of Manipur.

### **Village Authority**

In Manipur, since time immemorial the tribal villages have their traditional system of village councils, which look after the affairs of the village in every aspect of their social life – religious, agricultural, social, inter-village affairs etc. In the Naga villages, the village councils are constituted with the elder men representing the various clans living in that village. The village council is headed or presided by the eldest man of the founding clan of that village. The presiding Headman of the founding clan usually adopts the title of Khulakpa, or the alternative title of Khunbu (which means 'head' or 'owner' of the village). Irrespective of the title he may have preferred to adopt, the presiding Headman must belong to the founding clan. Seniority of age and proper representation of the constituent clans being main characteristics of a Naga village council, it may be described as a good example of democratic gerontocracy. In the Kuki villages, the person who founded the village and his direct descendent is invariably the Chief of the village, and constitution of the village council depends on the choice of the Chief. Other tribes which are not covered by Naga or Kuki in strict sense, have their respective traditional village councils with certain degrees of variations ranging between the above-cited two types.

With the objective of bringing a uniformity among the tribal village councils of different tribes in the State for administrative convenience, the **Manipur (Village Authorities in Hill Areas) Act 1956** was passed by the Parliament when Manipur was a Union Territory. The Act provides that every tribal village in the hill areas having 20 or more Tax-paying houses shall have a Village Authority and it shall be known by the traditional local names like Housa in Kuki village and Peikai in Kabui village, Khulakpa etc. in other Naga villages. The Village Authority is elected on the

basis of adult suffrage, for a term of five years. The strength of the Village Authority shall be five members for a village of 20 or more houses, seven members for 60 or more houses, 10 members for 100 or more houses, 12 members for 150 or more houses. The Act also provides that where there is the traditional Chief or Khulakpa in the village, he shall be the *ex-officio* chairman of the Village Authority of that village; and where there is no such Chief or Khulakpa in the village, the chairman of the Village Authority of that village shall be elected by the members of the Village Authority from among themselves. The Act was silent as to who should be the *ex-officio* chairman in a village where there is no Khulakpa, because the chief has adopted the title of Khunbu. To plug this loophole, the Government of Manipur issued an official clarification dated 31-8-1992 explaining the "the intention of the law is that the Chief of the Village by whatever name he is called should be the Chairman of the Authority. Therefore in the Tamenglong area wherever the Khunbu is the Chief, he shall be the Chairman". Notwithstanding the clarification, the Act is still silent as to who should be the Chairman in a village where both the titles of Khulakpa and Khunbu are adopted and both co-exist in the same village. There have been disputes on such matters. In such case the tribal customs come into use that the person (either Khulakpa or Khunbu) who belongs to the founding clan is undisputedly the proper Headman. If both of them happen to belong to the same founding clan, then the elder one of the two is the chief who shall be the Chairman of the Authority.

The powers and functions of the Village Authority, under the Act, are mainly related to maintenance of law and order within its local jurisdiction. They can exercise and perform the powers and duties generally conferred and imposed on the police by or under the Police Act, 1961. The Act empowers the Village Authority to function as court for small and petty criminal cases within its village jurisdiction, with the power to impose fine not exceeding Rs.200/- and imprisonment for a term not exceeding one month. In practice, however, the Village Authority exercises their traditional powers in settling disputes involving a fine of buffalo, or mithun (bison), or pig, or large sum of money, or plot of land, as compensation given to the aggrieved party in cases relating to kidnapping, marriage, divorce, inheritance or succession, grievous hurt, even murder. But no instance has been found in which a culprit was imprisoned through the verdict of the Village Authority.

It came to the notice of the Commission that in some villages, the traditional village council and the elected Village Authority still co-exist side by side in the same village. In the plain districts where the Act does not operate, the traditional village councils are functioning in the tribal villages. Among the Kukis, the Chiefs have absolute ownership over the village land and forest; he also receives a kind of traditional tax from the villagers. The villagers prefer abolition of the Chiefship of the Kuki village; on the other hand the Kuki Chiefs have organized themselves to defend their position and privileges on the land and forests of the village. The Commission received representation from the Kuki chiefs.

**A point deserving serious consideration is that under the Manipur (Village Authorities in Hill Areas) Act 1956, no developmental works are assigned to the Village Authority. They are utilized only for policing in their respective local jurisdiction. In the hill areas of Manipur (which constitutes 90% of the total territory of the State) there is no Panchayati Raj system nor are there any Municipality town committees – as the agency of development at the gram or village level. There is a vacuum in developmental mechanism. The Village Authority is not a part of the District Councils which have become defunct for more than a decade now. The Commission recommends that the tribal Village Authorities be empowered and utilized for developmental purposes also, like the gram panchayats under the panchayat raj system.**

#### **Autonomous District Councils**

In all these hill districts there has been a persistent demand for application of the provisions of the Sixth Schedule of the Constitution. The tribal people are not satisfied with the existing 'The Manipur Hill Areas Autonomous District Council Act, 2000'. This Act replaced The Manipur (Hill Areas) District Council Act, 1971 which was enacted by Parliament when Manipur was a Union Territory. The 1971 Act provided for constitution of District Council in the hill districts. All the hill areas were to be divided into not less than six Autonomous Districts. There are 5 hill districts having preponderance of the tribal population. Districts of Ukhrul, Chandel, Churachandpur, Tamenlong and Senapati were declared Autonomous Districts

and that the first 4 districts had District Council each and whereas in the Senapati district 2 District Councils were constituted i.e. Senapati and Sadar Hill District Councils. The Act provided for delimitation of Constituencies, election of Members to the Council, procedure for the conduct of election. The District Councils would have Chairman and Vice-Chairman. The term of the Members of the Council would be for 5 years.

District Councils were assigned functions and procedures were also laid down for staffing of the Councils. The Councils had the powers for the levy of fees. Each Council would have a Council fund instituted. The Chairmen of the Councils were required to have a copy of the proceedings sent to the Deputy Commissioner and they were required to furnish any information asked for by the Deputy Commissioners. Under the Act, rules and bye-laws were also framed.

The election to the Councils were held in regular intervals. Councils were given certain functions and controls under education, health, agriculture and allied sectors; and PWD etc. the staff at the Headquarters of the Council was headed by the Chief Executive Officer. The Councils were running primary schools, veterinary dispensaries, health dispensaries and small rural roads works and some agricultural extension work etc.

These Councils always faced problem of finances owing to non-provision of budgetary head of its own in the State Budget. No funds for the development plans and schemes were provided to the Councils and whatever funds were provided those were restricted to the works assigned to the Councils. It was mentioned in all these District Headquarters by the people that the State Government might have been receiving funds under various Centrally Sponsored Schemes from Government of India but, those were not entrusted to the Councils.

These Councils were superseded from time to time and that the Deputy Commissioners were made Administrators of these Councils. The Manipur Hill Areas Autonomous Councils Act, 2000 has replaced the Act of 1971 and that the District Councils constituted under 1971 Act stand abolished. Interestingly, 'The Manipur Hill Areas Autonomous District Councils Act, 2000' has not been implemented. The people of these Hill Districts boycotted this Act and have demanded for application of provisions of Sixth Schedule of the Constitution. The



Deputy Commissioners have been receiving funds under the TSP for the schemes/programmes which are executed through the sectoral Departments at the District level. The Deputy Commissioners as Administrators are implementing the schemes previously allocated to these District Councils.

In the meantime, the State Government had recommended at least three times for extension of the Sixth Schedule to the hill districts of Manipur -- in 1991, 1992 and 2001. The cabinet decision of 13-5-1991 says that "Cabinet decided to recommend the extension of the Schedule in the Hill Areas of the State with certain local adjustments and amendments." Secondly, on 17-8-1992 the cabinet "decided that a recommendation be made to the Government of India for extension of the 6<sup>th</sup> Schedule to the Hill Areas of Manipur." Thirdly, in the cabinet decision of 18-3-2001, "The Cabinet decided that the State Government has no objection to the extension of the Vith Schedule of the Indian Constitution to the Tribal areas in the Hill Districts of Manipur with certain local adjustment and amendments." In the first and third recommendations there is a qualifying clause that the Sixth Schedule might be extended "*with certain local adjustment and amendments*". On receipt of the recommendations from the Manipur Government, the Government of India, Ministry of Home Affairs has sought details from the State Government regarding *local adjustments and amendments* to be made.

During the Commission's visit to Manipur in April 2003, it was reported that on account of the query made by the MHA about the qualifying clause, the State Government had constituted a Committee headed by a Minister (Shri E. Birmani Singh) to go into the meaning of the said qualifying clause of the recommendation and to give reply to the MHA. In a conversation, the Chairman of the Committee (E. Birmani Singh) told the visiting members of the Commission that his Committee had not yet given reply to MHA about the meaning of the clause: "certain local adjustments and amendments". The hill people viewed that this qualifying clause was a purposefully planted rider to delay the extension of the Sixth Schedule to the hill areas. The Hill Areas Committee, in its memorandum dated 14.9.2003, to the Prime Minister, stated that such qualifying clause did not arise at the time of extension of the Sixth Schedule to other neighbouring North-Eastern States (Assam, Meghalaya, Tripura and Mizoram); and that the rider clause has unnecessarily hampered and delayed its extension to Manipur. The HAC also

mentioned that the State Government have been advised by the Committee to withdraw the rider clause.

The Commission had interaction with 5 Ministers, all the Ministers holding different portfolios and with an MLA and also with the Chairman, Hill Areas Committee of the State Assembly. These Ministers represent the Tribal Constituencies in the hill areas. They had expressed that funds flows to the TSP are not in accordance with the needs of the hill districts. MLA Shri B.D. Behriag mentioned that the Manipur (Village Authorities in Hill Areas) Act, 1956 enacted by the Parliament is not being implemented. It appears that the provisions of the Act have become redundant now that even in the hill areas Judicial Magistrates have the jurisdiction and that law and order is maintained by the District Magistrates. The MLA also mentioned that funds for the Tribal Sub-Plan are being diverted to the salaries and to the programmes outside the tribal areas. He also demanded that the provisions of the Sixth Schedule of the Constitution should be made applicable to the hill districts. Ministers mentioned that the basic problem faced by the tribal people is political and that political aspiration is the factor in all the problems associated with tribal development. They also mentioned that the districts in the many North-East States have the Autonomous Councils set up under the Sixth Schedule of the Constitution except in Manipur. They all say that as per the wishes of the people of the tribal Hill Districts the provisions of the Sixth Schedule should be made applicable as that would enable the tribals of these hill districts to benefit from the Special Central Assistance and grants-in-aid etc. coming from the Government of India. With the constitution of Autonomous Councils under the Sixth Schedule, there will be a systematic development undertaken by the people with their participation which at the moment is not happening. The overall economic development of the hill tribes scenario projected was the one lacking impetus. There is no proper coordination of economic development activities in the hill areas inhabited by the tribes. The Panchayati Raj Act has not been made applicable to the Hill Districts, as they are expected to have the Autonomous District Councils which in fact have not been constituted as the people have boycotted the Act of 2000.

**The Commission was told, during the interaction with the tribals of the Hill Districts visited that the State Government had not paid adequate attention to the human resource development, health care,**

**development of infrastructural facilities – like roads, tele-communication and that the tribal economy suffered for want of development activities. They demanded that the Autonomous District Councils under the Sixth Schedule of the Constitution should be set-up in the hill areas of the State.**

**The Commission observed that the tribals of the hill districts of Manipur have not accepted the provisions of the Manipur Hill Areas Autonomous District Councils Act, 2000 which in fact is the reason why the Act has not been enforced. The object of the Act was to provide certain autonomous powers, functions and also to enlist participation of the people in all socio-economic development activities right from planning and programming of the development plans to the execution of the programmes with their participation. The perception of the people is that the Act being a State Act cannot be as effective as the provisions of the Sixth Schedule of the Constitution particularly in the absence of the special funds-flow from the Government of India. The Commission recommends that the Central Government may consider the feasibility of extending the provisions of the Sixth Schedule of the Constitution to these 5 hill districts inhabited by the tribals in the State.**

### **Tribal Unrest**

The Commission was told that there are about 18 insurgency/militant groups in the State of Manipur and as many as 8 of them are operating in the Hill Districts. The situation created by the activities of the insurgency/militant groups has hampered the economic growth and development in the Hill Areas. Lest it be thought that we have been oblivious of the fact that the State has been afflicted with insurgency for a long number of years, while making and recording it, we wish to express our appreciation of the odds under which the State apparatus has been functioning. We do not wish to believe, as one opinion has it, that the administration has come to a virtual stand-still. But we do believe that adequate development measures, apart from dealing with insurgency as a law and order problem, would be an effective step for the speedy growth of the tribal economy. The State Government

should bend its energies towards that goal. It will largely cut the ground from under the feet of insurgency, propelling the people to normal life and its activities.

## MEGHALAYA

The State of Meghalaya lies between  $25^{\circ}$  and  $26.15^{\circ}$  north latitude and  $89.45^{\circ}$  and  $92.47^{\circ}$  east longitude, bounded on the north and east by the State of Assam and on the south-west by Bangladesh. It came into being in 1972 when it was converted from a Union Territory. In fact it has a long border with Bangladesh which renders it somewhat vulnerable to smuggling, illegal entry of foreigners and such other activities. It is inhabited by three main ST groups i.e. the Khasi, the Jaintia and the Garo. The Khasi reside midland, while the Jaintia live in the east and the Garo in the west. The Khasi, Jaintia, Bhoi, War, collectively known as the Hynniewtrep people, are said to be related to the Austro-Monkmer race and the Garo, who prefer to call themselves as the Achik, are reported to be of Tibeto-Burman race. All the three tribes follow matrilineal system of society where the lineage and ancestral property pass on from mother to daughter. English is the official language of the State. However, the three main languages spoken are Khasi in the Khasi Hills, Pnar or Jaintia in the Jaintia Hills and Garo in Garo Hills.

2. The area of the State is 22,429 sq.kms. and, according to the 2001 census, its population was 23.06 lakh. The sex ratio was 975 females to 1000 males. The decadal growth-rate during 1991-2001 was 29.94%. According to the 1991 census, the ST population was 15.18 lakhs constituting 86%. The figure of ST population as per the 2001 census has not been made available presently by the RGI. The State is endowed with a rich variety of flora and fauna. It is reported that, of about 17,000 species of orchids in the world, around 300 varieties are found in Meghalaya. Shillong is the capital, situated at an altitude of 1496 meters above the mean sea level.

3. The State is divided into 7 districts, 8 sub-divisions and 39 community development blocks. The 1998 figure for villages was 5,780 and in 2001 sixteen towns have been recorded. The seven districts are covered by three Autonomous District Councils. The Khasi Hills Autonomous District Council covers the three administrative districts -- East Khasi Hills, the West Khasi Hills and Ri-Bhoi; the Garo Hills Autonomous District Council covers the West Garo Hills, East Garo Hills and the South Garo Hills; the Jaintia Hills Autonomous District Council covers the Jaintia Hills Districts. The main occupation

is agriculture, absorbing about 5 lakh of the total of about 7 lakh main workers. According to the 2001 census, the literacy percentage in the State was 63.31, males 66.14 percent and female 60.41 percent. The number of primary and junior basic schools in 2000-2001 was 4,685; hopefully, the number would have gone up to exceed the number of villages 5780 by now. The State has to make strenuous efforts to spread literacy at a faster pace. In 1998 – 1999, there were 12 community health centres, 38 dispensaries, 88 primary health centres and 413 sub-centres. The number of doctors was 389 and nurses 384. This also shows the lag in demand and supply.

4. It is interesting to note that, as per figures of 1998-99 the total area in forest was 950,000 hectares, out of which about 71,000 hectares was reserve forest, about one thousand hectares under protected forest and about 27,000 hectares had been used up for national parks, while the bulk of the forest area i.e. 8.5 lakh hectares were “unclassified” forest. [Source: The State’s Director of Economics and Statistics Publication “Meghalaya in Figures” 2002]. We were told that unclassified forest were with the three Autonomous District Councils. It is necessary that measures be taken to preserve and protect the unclassified forests.

5. The Commission toured the State of Meghalaya from 22-24 May 2003. During the visit, we were able to hold meetings with all the three Autonomous District Councils of the State i.e. the Khasi Hills Autonomous District Council, the Jaintia Hills Autonomous District Council and the Garo Hills Autonomous District Council, structured as per the Sixth Schedule of the Constitution. Further, we had the benefit of discussions with the Chief Minister and the Governor of Meghalaya. We record briefly our impressions hereunder.

6. Our first engagement was a meeting with the Khasi Hill Autonomous District Council (KHADC) at Shillong on 22 May 2003. The broad thrust of the arguments of the Council members was that the ADCs in the State of Meghalaya having been in existence for the past half- century, needed to be taken seriously as they had become neither irrelevant nor a parallel government. In a communication addressed to the Ministry of Home Affairs relating to proposals for amendment of the Sixth Schedule of the Constitution, the Council had explained the position by saying that the ADCs administered demarcated areas in accordance with the powers mentioned in the Sixth Schedule. They compared the powers and functions of the ADCs vis-à-vis the State Government with the division of powers

between the State Government and the Central Government. They were not happy at being treated, in practice, as a government department by the State Government (evident from their actions and attitude), although they were a constitutional entity as per the Sixth Schedule of the Constitution. They cited the case of primary education, a subject which had been taken over from them by the Government through an Act of the State legislature on the basis of reports of three separate Commissions appointed under Para 14 of the Sixth Schedule to inquire and review management of primary education in the District Councils.

7. The other issues raised are as follows:

- (1) The North-East Reorganisation Act 1971 had eroded the powers of ADCs.
- (2) Para 12A of the Sixth Schedule had marginalized the functions and autonomy of the ADCs. For instance, in 1980 the KHADC passed a Khasi Hills Autonomous District Council Inheritance of Self-Acquired Property bill. But this was not assented to by the Governor. On the other hand, the State Government legislated the Meghalaya Succession to Self-acquired Property (Khasi and Jaintia Special Provision) Act 1986. KHADC had been demanding scrapping of the Act.
- (3) In Meghalaya, there was a traditional four-tier political system with the Dorbar Dong at the bottom for a small zone in a village, the Dorbar Shnong at the second tier for a village, the Dorbar Raid at the third tier for a group of at least two adjacent villages and a Dorbar Hima or the Khasi State at the top. To the question as to whether the three lower bodies were elected or traditional, it was mentioned that, generally, the Chief or the Syiem Hima is appointed for life by the KHADC from amongst the members of certain clans, while the lower tiers subsume more democratic attributes in as much as the heads might be elected. Hence, the socio-political system in Meghalaya was somewhat complex, combining degrees of traditionality with elective system in the lower tiers that elect ADCs. The ADCs averred that although these bodies had their own funds generated through rent, toll etc. from shops and markets, the funds were used more for administrative purposes, leaving little for their development work. But the ADCs did not interfere in their administration.

- (4) The ADCs were facing acute financial crunch having no funds to undertake development projects and meet their administrative requirements. However, on going through the paper entitled “ A Brief on District Councils in Meghalaya” handed over to us, it seems that the funds received by the three ADCs were as follows:

<b>Plan</b>				
Rs. in Lakhs				
	KHADC	GHADC	JHADC	Total
1999-2000	202.50	180.00	67.50	450.00
2000-2001	432.90 includes 11th Fin. Commn. award	384.80 includes 11th Fin. Commn. award	144.30 includes 11th Fin. Commn. award	962.00
2001-2002	253.00 includes 11 <sup>th</sup> Fin. Commn. award	222.40 includes 11 <sup>th</sup> Fin. Commn. award	84.60 includes 11th Fin. Commn. award	560.00
2002-2003	225.00	200.00	75.00	500.00
2003-2004 (proposed)	247.50	220.00	82.50	550.00
<b>Non-Plan</b>				
1999-2000	27.70	25.12	10.40	63.22
2000-2001	29.69	27.64	11.16	68.49
2001-2002	31.79	26.87	12.01	70.67
2002-2003	39.56	36.72	15.52	91.80
2003-2004 (proposed)	44.25	41.50	20.00	105.75

It would appear that the amounts received were not insubstantial. The manner in which they were utilized was not indicated. In another paper of KHADC signed “for Secretary Executive Committee KHADC” dated 23.5.2003, para 3 mentions that “Autonomous District Councils have their limited sources of revenues from royalty on minerals, forests, taxes on professions, trade etc. annually. The income is around Rs. two crores”. However, their shares had not been forthcoming from the State Government for several years and proper accounts were not made available to the ADCs. This is a matter which we feel



should be looked into by the State Government and the respective shares should be transferred to the ADCs every year. The complaint of the ADCs was that they were not in a position to undertake programmes in the different development sectors like education, health, water supply, sanitation and agriculture etc. without availability of such funds.

#### **Gist of discussions with the CM**

8. On 23 May 2003, the Commission met the Chief Minister, Meghalaya.

9. The Committee brought to the notice of the Chief Minister a petition which had been submitted to the Committee by Hynniewtrap Land Conservation Forum (HLCF) Shillong airing their grievances that land in Lawsohtun locality under Raid Labon Dorbar and Lapalang locality of Shillong had been taken over by the military authorities and they had unilaterally conducted survey and demarcation of land. The HLCF had petitioned the Central Government with copies to the KHADC and the State Government in the matter, but had received no response. The dispute had arisen in the year 2000. Despite their representations and in the ensuing silence, the authorities were carrying on earth-work and civil construction in the disputed area. They were even trying to expand into further land. The Forum explained that, traditionally and legally, the land belonged to the people. Even forests under the control of the State Government were limited to 4.4 per cent of the State's geographical area, the balance being under the control of the three Autonomous District Councils. According to the Forum, an ADC has the power to make laws with respect to the allotment, occupation or use, or the setting apart of land other than that which is a reserve forest, for the purpose of agriculture or grazing or residential or other non-agricultural purposes or for any other purpose likely to promote the interests of inhabitants of any village or town, vide clause (a) of Para 3 of the Sixth Schedule. However, this power is restricted by the proviso following which enables the State Government to acquire land. The Forum took the view that the proviso was ultra vires of the Constitution. It traced the historical background of traditional land practice in Meghalaya stressing that even the chief of Khasi states who acceded to India in 1947 did not have any right over land since land belongs to the people. As such, the successor authorities i.e. the State Government or the Central Government (the Defence Department), could not claim any title over land. It felt that the action of the Defence personnel had been high-handed and

arbitrary. The Chief Minister stated that a high-powered committee under Shri J. Tariang, former Rajya Sabha Member, had been set up to look into the matter and its report was awaited. He explained he was aware of the resentment of the people; it was partially on account of the fact that part of the land acquired earlier had not been utilized and had been lying surplus. The local MLA's consent had been obtained in some cases. In any event, the State Government was looking carefully into the matter.

10. At first sight, it would occur to anyone that considering Meghalaya has 86 per cent ST population (1991 census), the need for the three autonomous district councils i.e. Khasi Hill Autonomous District Council, Jaintia Hills Autonomous District Council and the Garo Hills Autonomous District Council under the Sixth Schedule should not be felt. It is often premised that, ab initio, the autonomous district councils were established to protect the rights and customs of the tribal people; subsequently, their functions were expanded to include development. As of now, it may be argued that the Government of Meghalaya can be entrusted to safeguard the culture, traditions, customs and practices as well as the development of the Khasi, Jaintia and the Garo people, who are the principal STs in the state and, as such, the argument in favour of ADCs has little merit. But it needs to be remembered that in the vast non-tribal areas of the country, institutional mechanisms aiming at democratic decentralisation have been set up at the district level in the form of Zila Panchayats under-pinned by intermediate Panchayats and Gram Panchayats with the Gram Sabha as the grass-root tier. In Meghalaya also, representative political structure at the district level is a requisite. The Sixth Schedule ADCs were in position before Meghalaya became a State in 1972, with all the powers and functions assigned by that Schedule.

11. The representation of the Khasi Hill Autonomous District Council (KHADC) with whom the Commission had a meeting the previous day, were brought to the notice of the Chief Minister who felt that the KHADC was not generating its own resources and its record of development work was not up to the mark. As to the demand for direct funding, he thought that it was not a healthy practice. On the whole, he felt that the ADCs had become a parallel government.

12. In regard to Jhum, the Chief Minister informed that people were undertaking terracing which, to a certain extent, met the concerns of ecological hazards. It was difficult to totally wean the people away from Jhum as it was a traditional practice and a tribal way of life. However, the people were themselves getting converted to settled cultivation wherever possible.

13. There were few big industries in the State. There were three cement plants, some coal mines and some other units. When it was pointed out that land was not available for location of industries because of restrictions under the Meghalaya Land Transfer Act, Shri Lapang stated that with the declaration by the State Government of a certain area as industrial estate, the land applied for could be given for industries. The State Government was attempting to attract capital for iron ore, cement, food processing, fruit processing, manufacturing of biscuits and other industries. The state's full power potential had not been tapped, although there was one power plant at Barapani. As for import of expertise and skills from outside the State, he explained that despite some public resentment still over the proposed railway line from Guwahati to Shillong, influx of people into Meghalaya went on. To train skill, they had a polytechnic institute, but did not have an engineering college.

14. The big problem in Meghalaya was that of marketing of agricultural, horticultural and forest produce. They had no market out-lets. For instance, they had good ginger crop this year, but the price was falling in the absence of proper market facilities. He explained at length that trade with Bangladesh should be opened up as that would boost economy and curb smuggling. It would also help cutting at the roots of insurgency as the activities of the potential extremists would be routed into constructive channels. Processing and value-addition needed to be undertaken as that would be price-beneficial.

15. In the context of Supreme Court ban on timber extraction from forest, Shri Lapang expressed the view that the decision did not take in to account the fact that the forest industry offered employment to thousands of people in the State. In his view, such a ban was not appropriate in Meghalaya, since traditionally tribals planted a tree for every tree which was cut.

### **Gist of discussions with Governor**

16. The same morning i.e. on 23 May 2003, the Commission had a meeting with the Governor of Meghalaya.

17. The first concern of the Governor was that the rural people and the rural areas were neglected. Many villages lacked road and electric connectivity. He opined that the focus should shift from urban and semi-urban habitations to rural areas. Mechanisms were needed to direct development efforts towards the weak.

18. In Meghalaya, reliance was mainly on traditional institutions. A good number of village councils needed to be constituted as per the traditional practices. The autonomous district councils should have adequate linkages with the traditional bodies, like the village councils.

19. The local community should be financially empowered. A regular functionary should be attached to the village council and other local tiers. The Government could exercise supervisory control.

### **Meeting with GHADC**

20. On 23 May 2003, proceeding to Tura, the Committee met the Garo Hills Autonomous District Council, representatives of various organizations and the Deputy Commissioner, Shri S. Jagannathan. The Chief Executive Member referred to two main issues. Firstly, there were inadequate financial flows from the State Government to the GHADC. Secondly, Para 12-A of the Sixth Schedule needed to be amended. The other points raised were as follow:

- (i) The literacy percentage in the district was low and in rural areas it was even lower. The female literacy would be about 7 to 8 per cent. It needed to be improved. There was hardly any impact of the Government's schemes of education like Sarv Shiksha Abhiyan, adult literacy etc.
- (ii) Women were engaged in rural areas in producing ginger, turmeric abundantly, but marketing was a big problem. Ginger was being sold at a throw-away price of Rs. 5/- per Kg.

- (iii) Social welfare schemes for women were urgently needed.
- (iv) Sanctions and allotments from the State Government were being received very late.
- (v) The Tura Mothers Union represented that in rural areas, there were no doctors, medicines, mobile dispensaries etc. Even at Tura, the district headquarters hospital, the patients had to buy medicines from outside. Blood tests were not being done.
- (vi) The drinking water supply position was very bad. The people were being neglected badly.
- (vii) Power failures were frequent. Many villages had not been electrified.
- (viii) Roads were in a bad condition.
- (ix) For construction of working women's hostel, an NGO had received Rs. 20 lakhs, but Rs. 3 lakhs were still to be received from the State Government.

#### **Meeting with JHADC**

21. Later, the same day, we paid a visit to Jowai, the headquarters town of Jaintia hills Autonomous District Council. We held a meeting with the Members of the Jaintia Hills Autonomous District Council, the Deputy Commissioner Mrs. L.Kharkungor and a host of officials and non-officials.

22. In 1952, a number of Autonomous District Councils were created in the erstwhile State of Assam, one among them being the United Khasi-Jaintia Hills Autonomous District Council. The Jaintia Hills Autonomous District Council (JHADC) came into being in December 1964 on the demand of the people of the Jaintia Hills. The JHADC has all the trappings provided in the Sixth Schedule.

23. In a memorandum submitted to the Commission, it is mentioned that the Jaintia Hills district comprises 19 Elakas headed by 18 Dollois and one Sirdar and that the Dollois and the Sirdars are appointed by the District Council through adult franchise and according to "customary practices". Each village has its own village Durbar headed by a village headman duly elected by the residents of the village and confirmed by the Dolloi/Sirdar. It is the duty of Elaka Durbar to look after the interest and welfare of the Elaka, to provide

roads, drinking water supply, community halls, settlement of disputes, election of members to the village courts etc.

24. The following issues were raised in the memorandum submitted to the Committee and during discussions at its open meeting with the JHADC:

- (i) The resources of the ADCs were limited and inelastic. The ADC had been unable to exercise the power to collect taxes on lands and tolls on persons in the district on account of prevalent traditions and customs.
- (ii) Royalties were payable by the State Government to the JHADC in shares agreed upon with the State Government, as per para 9 of the Sixth Schedule. The matter is to be referred to the Governor in case of dispute. Earlier, the royalty on coal was being shared on 60:40 basis, but subsequently on the decision of the Governor, it was reduced to 25:75. This put the Council in tight financial position, since this had been their main income.
- (iii) The JHADC did not receive its share of royalty on major and minor minerals, taxes on vehicles etc. in full and in time. No account pertaining to the actual collection and share due to the Council had been made available to it. Sometimes deductions had been made without the Council's consent.
- (iv) The legislative bills passed by the Council had not received the consent of the Governor for years, defeating their purpose.
- (v) Para 12-A of the Sixth Schedule curtailed the power of the Autonomous District Council.
- (vi) The resources of the Council were inadequate for development activities. Devolutions made by the State Government were meagre.
- (vii) It was obligatory on the part of the ADC to organize and strengthen the traditional institutions, but it could not undertake any significant improvement on account of lack of funds.
- (viii) There were no specialists even in the district hospital. Doctors did not stay in the place of the posting in the rural areas.

- (ix) The underground water in 60-70 per cent of villages was being polluted on account of random extraction of coal. The Jowai water supply scheme started in 1990-91 at an expenditure of Rs. 92 lakhs was still incomplete.
- (x) During discussions, the rural electrification programme came under dispute between officials and non-officials, the latter alleging that even villages on the national highways were not electrified. Only 230 villages out of 459 were claimed to have been covered.
- (xi) The road coverage was said to be to the extent of 60-65 per cent.
- (xii) One voluntary organization emphasized job-oriented education and self-employment schemes. Banks were being involved.

In conclusion, the JHADC requested direct funding to the Council by the Central Government.

25. The overall impression we gathered was that the state has a big lee-way to make in the matter of development. While signs of better quality of life were evident in Shillong and some urban pockets, the rural areas are still in the grip of low level of literacy, health, hygiene, income etc. The State Government has to grapple with these issues squarely.

26. Fortunately, the State is, by and large, free from the scourge of insurgency, though some faint rumblings can be heard. It is necessary that all reasonable grounds of genuine grievances and complaints should be dealt with appropriately and, to the extent possible, eliminated. Redressal should be made fair and prompt. One such grievance relates to transfer and utilization of tribal land by military and para-military organizations. It is undeniable that land is the most precious resource of a tribal family, considering the scarce tribal presence in secondary and tertiary sectors. Hence, if at all, land is required, the requisition should be limited to the minimum and, in any event, retention of land that has already become surplus, should be ruled out. This single measure combined with accelerated positive development results will, we hope, nip any efforts at insurgency in the bud.

27. It has been brought to our notice that as per an order dated 4 September 2001 of the Executive Committee of the Jaintia Hills Autonomous District Council, Christians have

been debarred from contesting election to the post of Dolloi. An appeal against this order was taken to the Gauhati High Court. The Court ruled that since Christians cannot perform the religious duties required to be performed by the Dolloi of Elaka Jowai on account of Christian religious practices and tenets, "their exclusion from participation in election and appointment to the office of Dolloi is in pursuance of the rights guaranteed to the denomination under Articles 25 and 26 of the Constitution of India and is in accordance with law".

28. One matter which was agitated by the three autonomous district councils, mention of which has been made in this note in para 7 (ii) relating to KHADC, in para 21 relating to GHADC, in para 25 (v) relating to JHADEC, concerns Para 12A of the Sixth Schedule of the Constitution reproduced herewith:

12A. Application of Acts of Parliament and of the Legislature of the State of Meghalaya to autonomous districts and autonomous regions in the State of Meghalaya. Notwithstanding anything in this Constitution, --

(a) if any provision of a law made by a District or Regional Council in the State of Meghalaya with respect of any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Meghalaya with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council, whether made before or after the law made by the Legislature of the State of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State to Meghalaya shall prevail.

It means that the laws made by the State Legislature prevail over those made either by the autonomous district or regional councils. This provision seems to have been included through the North-Eastern Areas (Reorganisation) Act 1971. Having had no such superseding legislative authority during the first two decades of their existence, the Councils resent the authority of repugnancy vested in the State Legislature. An example of it was cited by the KHADC, vide para 7(ii) foregoing. In this example, an ethnic issue had



been legislated both by the KHADC and the State Legislature and the enactment of the latter prevails. Its resolution should lie between the two bodies.

29. As mentioned, the State has three autonomous district councils, one each for the three principal tribes of the State i.e. the Khasi, Jaintia and Garo set up as per the provisions of the Sixth Schedule. These councils were designed initially to enable the tribal communities to live life in tune with their culture, traditions and customs as also to follow their own self-management paradigms within well demarcated spheres. Subsequently, they have been entrusted development functions also. Their relationship with the state-level authorities has been defined in the Sixth Schedule. It appears certain strains have arisen between the two sets of authorities owing to differing role perceptions. The ADCs not only expect more financial and administrative support from the State than they have been receiving so far, but also *de facto* recognition of the Council's *de jure* constitutional status and functions. Secondly, the ADCs complain about paucity of funds for undertaking development functions. It may not be untrue that the State authorities have not been too liberal with their financial devolutions. Shortage of financial resources with the Councils might be a factually correct position, but it needs also to be appreciated that the Councils' own efforts towards resource mobilization do not appear to be adequate. The JHADC apprised us that the tribal customs and practices inhibited tax collection. If so, provision of modern amenities like educational and health institutions, roads, power etc. could suffer. On the whole, either because of the differing viewpoints and perspectives or otherwise, we observed slow pace of the on-going planned development process. This would retard people's socio-economic progress and frustrate their aspirations. We would fervently urge that an ethnic state like Meghalaya should provide leadership to other states in the country, particularly those having sizeable ST populations.

30. Be all that as they may, it has to be realized on all hands that a better working relationship between the district level and state level authorities is a prime requirement. Neither the State administration nor the ADC administration can be wished away. In co-existence, mutual give and take, in fact active cooperation, are needed. Further, in

Meghalaya, the people's bodies below the district level are products of composite interplay of traditional and elective forces, the complexity of which only the protagonists can fully understand and negotiate. Hence, it becomes incumbent on the part of leadership to steer the traditional-modern system wisely. Needless to say, the leaders at all levels, state, district and infra-district levels have to join together as partners in the service of the people. We learnt that women are generally not welcome to ADCs and may not exercise their franchise. This is not in keeping with the day's liberal values and attitudes. We reiterate that no amount of constitutional or statutory strait-jacket caveats can ensure success. In the great adventure of development, the partners have to join hands willingly, making concessions where necessary. A cooperative and harmonious politico-administrative machinery is a *sin qua non* for the development of people of Meghalaya.

## **Recommendations**

The Commission noted the differing perceptions of the Autonomous District councils (ADCs) and the State Government of Meghalaya of the role of each other. Whereas the former felt that, as constitutional entities, they were not getting their due particularly in the matter of finances, the latter were of the view that the ADCs were emerging as parallel government. While we appreciate that there are areas of over-lap as well as gray areas, we feel that a better working relationship between the district level and state level authorities is a prior requirement and should be worked out outside the ambit of the legal frame. In co-existence active cooperation is needed.

2. Since, in Meghalaya, the people's bodies below the district level are products of composite interplay of traditional and elective forces, the complexity of which only the protagonists can fully understand, it is incumbent on the part of the leadership to steer the traditional-modern society wisely.

3. It was understood that a good number of village councils needed to be constituted as per the traditional practice. Steps may be taken therefor.

4. While signs of better quality of life were evident in Shillong and some urban pockets, the rural areas being in the grip of illiteracy, health, hygiene, income etc. required massive attention on the part of the State Government.

5. The State being more or less free from the scourge of insurgency, it is incumbent that all reasonable grounds of genuine grievances and complaints should be dealt with appropriately. Redressal should be fair and prompt.

6. One particular grievance related to transfer to and utilization by military and para-military organizations of tribal land. If, at all, land requirement is unavoidable, the requisition should be limited to the minimum and, in any event, retention of land that has

become surplus should be ruled out. This single measure combined with accelerated positive development may nip insurgency in the bud.

7. It appeared that the ADCs were not putting in adequate effort to generate resources. At the same time funds in the shape of royalties etc. were due from the State Government to them. Both need to take action in the matter.

8. One problem related to para 12(a) of the Sixth Schedule which allows paramountcy in legislation to the State Government over the legislation of the ADCs in regard to subjects allotted to the ADCs in the Sixth Schedule. This is a matter which requires accommodation and resolution between two constitutional authorities.

# Mizoram

**(Mi ( Man) Zo (Hill) ram (Land/Country) – literally means Hill Man’s Land)**

Mizoram became 23<sup>rd</sup> State of India in February 1987. Before that it was a District of State of Assam upto 1971 when it became Union Territory under North-Eastern Areas (Re-organization) Act, 1971; & the Government of Union Territories (Amendment) Act, 1971. Under the Article 371G of the Constitution special provision has been made with respect to the State of Mizoram.

The State is located in the North-Eastern part of the country. It has the International land borders with Bangladesh and Myanmar. Inter-State borders are with Assam in the North, Tripura in the North West and Manipur in the North-East of the State.

The vital statistics of Mizoram are as under:-

Total Geographical Area	21087 Sq.Km.
Population 2001 (provisional)	891058 (Decadal growth rate 1991-2001 is 29.18% against national 21.34%)
Density of population (Per Sq. Km.)	42 against national 324
Sex Ratio	938 Better than national average at 933
Literacy Percentage	88.49% against national 65.38%
	Male                      Female
	90.69% against national 75.85%      86.13% against national 54.16%

The literacy rate is the second highest in India next only to Kerala.

## The Scheduled Tribes

Under the 'Constitution (Scheduled Tribes) Order 1950' notified on 06.09.1950, when it was a District of Assam, the list of the Scheduled Tribes in the State of Mizoram is as under:-

- |  |   |
|--|---|
| 1. Chakma  | 8. Lakher   |
| 2. Dimasa (Kachari)  | 9. Man (Tai-Speaking)                             |
| 3. Garo  | 10. Any Mizo (Lushai) tribes                      |
| 4. Hajong  | 11. Mikir   |
| 5. Hmar  | 12. Any Naga tribes                               |
| 6. Khasi and Jaintia (including Khasi, Synteng or Pnar, Bhoi or Lynggam) | 13. Pawi  |
| 7. Any kuki tribes including <sup>1</sup>                                | 14. Synteng.                                      |
|  | 15. Paite (Added under the amended Order of 2002) |

Mizo (Lushai) Tribes are the largest in the State.

## Administrative Divisions

The State of Mizoram with the State Hqrs. at Aizwal has 8 Districts with 22 Rural Development Blocks. The Districts are – Aizwal; Champhai; Namit; Serchhip; Kolasib; Lunglei; Lawngtlai and Saihe. There are 3 Autonomous District Councils set up under the provisions of the 6<sup>th</sup> Schedule of the Constitution, namely –

1. Chakma Autonomous District Council
2. Lai Autonomous District Council

Both these Autonomous District Councils are located in Lawngtlai Administrative District.

3. Mara Autonomous District Council – located in Saihe District

Prior to the upgradation of the Mizo District of Assam to the status of Union Territory in 1972, the Pawi-Lakher Regional Council and Mizo District Council were in existence. With the creation of Union Territory of Mizoram, the Mizo District Council was dissolved and that the Pawi-Lakher Regional Council was split into 3 Autonomous District Councils viz. Lakher, Pawi and Chakma Autonomous District Councils. Subsequently, the Pawi District Autonomous Council was re-named as Lai

(i) Baite or Biete; (ii) Changsan; (iii) Chongloi; (iv) Doungel; (v) Gamalhu; (vi) Gangte; (vii) Guite; (viii) Hanneng; (ix) Haokip or Haupit; (x) Haolai; (xi) Hengna; (xii) Hongsungh; (xiii) Hrangkhawl or Rangkhoh; (xiv) Jongbe; (xv) Khawchung; (xvi) Khawathlang or Khothalong; (xvii) Khelma; (xviii) Kholhou; (xix) Kipgen; (xx) Kuki; (xxi) Lenthang; (xxii) Lhangum; (xxiii) Lhoujem; (xxiv) Lhouvun; (xxv) Lufheng; (xxvi) Mangjel; (xxvii) Missao; (xxviii) Rieng; (xxix) Sairhem; (xxx) Selnam; (xxxi) singson; (xxxii) Sitlhou; (xxxiii) Sakte; (xxxiv) Thado; (xxxv) Thangneu; (xxxvi) Uibuh; (xxxvii) Vaiphei.

Autonomous District Council and that the Lakher Autonomous District Council was re-named as Mara Autonomous District Council also. The larger Northern Mizo area came under the direct governance of the UT Administration. No change took place in the Sixth Schedule set-up after Mizoram attained Statehood.

The Area specified in Part-III of the Table in paragraph 20 of the 6<sup>th</sup> Schedule forming parts of the 3 Autonomous District Councils as mentioned above, are tribal areas of Mizoram. The tribal areas generally mean areas having preponderance of tribal population. The entire State of Mizoram has preponderance of tribal population and in fact, the Mizo Tribes are in the majority. There is, often, a controversy raised in the State of Mizoram among different tribes about the meaning of the tribal areas as under the provisions of 6<sup>th</sup> Schedule, the tribal areas are the areas comprised in these 3 Autonomous District Councils in existence as if the rest of the areas with the tribal preponderance are not in the tribal areas. This requires a solution as to the interpretation of the terms scheduled tribes and the 'tribal areas'. However, all the tribal communities notified as scheduled tribes under the Constitution (Scheduled Tribes) Order 1950 in respect of State of Mizoram are the scheduled tribes. A section of the non-officials who met the Commission urged that, with the exception of a small area comprising about 20 per cent and a percentage of population even less covered by the three Sixth Schedule Autonomous District Councils, the major part of the area of the State does not fall under either the Fifth or the Sixth Schedule, consideration may be given to the question of extension of either of the Schedules to it.

**It is the prerogative of the people to make a demand. Mizoram is a tribal State, and there is perhaps no purpose served by extending the provisions of the Fifth Schedule, nor it is applicable to this State under Article 244 of the Constitution. However, a point was raised before the Commission during the course of interaction with the representatives of the social organizations and political parties as to why the provisions of the Sixth Schedule were not extended to the whole of the Mizoram on the pattern of Meghalaya State. Any decision in this regard shall have to be in the larger interest of the people of Mizoram.**

## **Economy**

The State economy in terms of Net State Domestic Product (NSDP), the figures available for the year 1999-2000 registered an annual growth rate of 13.1% at current prices as against 11.4% in the preceding year 1998-1999. The per capita income at current prices during the year 1999-2000 has been estimated as Rs. 14,909.00 as against Rs. 13,479.00 during the year 1998-1999 showing annual increase of 10.6%. The Primary Sector (Agriculture and Allied Sectors) contributed 22.75% and the Secondary Sector (Industry, Trade and Commerce) contributed only 15.2% and the Tertiary Sector (Services) contributed 61.93%. The trend analysis showed that the contribution of Agriculture comparatively has declined but there has been an increase in absolute terms. The contribution of Secondary Sector remained constant comparatively on lower side.

### **Agriculture**

Being a primary and traditional sector, Agriculture is important for the economy of the State. The Agriculture depends heavily upon rainfall and the monsoon which has steadily remained normal with marginal variation over the years. Paddy is the chief food crop raised in both Kharif and Rabi season of production and there has been significant increase in the production of Kharif Paddy which has increased from 0.88 Lac MT during 1999-2000 to 1.02 Lac MT during 2000-2001 with Rabbi Paddy production at 1565 M Tonnes. Maize is the second major crop. The latest Agricultural Census is of 1995-96 which shows that there were 65919 operational holdings with an area of 85000 hec. in the State and most of which are in the category of marginal and small holdings. The State is deficit in food production.

**Jhum or shifting cultivation** is still a prevalent method of cultivation in the State of Mizoram. Figures for 2000-2001 showed that over 35000 hec. of land which is about 34% of the total cropped area has been under jhum cultivation. The State Administration as well as the farmers admit that jhum cultivation which causes soil erosion resulting in destruction of valuable forest vegetation, eco-degradation and that its yield has also been comparatively low. The forest policy measures and initiatives have been taken by the State of Mizoram to stop this destructive method of cultivation.



But, there has been total failure as far as implementation of these policy objectives in respect of Jhum cultivation.

**Jhum cultivation is presently indispensable for tribal economy, the mindset of the people should be changed to switch over to permanent cultivation that is eco-friendly. The Commission is of the view that a viable alternative to Jhum cultivation should be found and that the areas so far put under Jhum cultivation should be brought under the social forestry, fruit-tree plantation and settled cultivation by the farmers who can be given the title of Settlement Certificate Holder or pattas in eligible cases so that they can invest on the development of their holdings by terracing the land for cultivation. Where the ownership of the land is with the community a legal instrument should be devised to enable the cultivators to avail of the loan facilities from the financial institutions, where security is required to be furnished by the loanee.**

There should be, in pursuance of the policy objectives, a Master Plan to be put in place for development of terrace cultivation both on the hill slopes and in the valley areas. The soil depth is good for the purpose of cultivation at most places as per the Expert's Report on the subject. Rainfalls and Monsoon have been steady and there has not been any variation as per the trend analysis to cause concern as there has hardly been any occasion when State was hit by drought conditions. The entire State of Mizoram is under direct influence of Monsoon receiving an annual average rainfall of 2693 mm. In fact, Jhum cultivation depends mainly on the Monsoon rains. The settled cultivation by terracing the hill slopes, **soil in the valley areas can be undertaken with the help of Monsoon.** Except for the Paddy which mainly depends upon regular irrigation, and the other crops depend on Monsoons as is the case in most parts of the country. In fact, the soil conditions, the hill slopes and the climatic conditions are well suited for the horticultural development. The Commission was told that the State Government is placing a considerable emphasis on the development of horticulture. The traditional fruits grown are Oranges, Bananas and Lemons etc. There are vegetable crops also grown in the State which can be further promoted to meet the requirement of the State of Mizoram. Certain off-season vegetables can be promoted for export market from the State. There are irrigated areas as per the

Government record which is about 11629 hectares out of the total cash cropped area of 104689 hectares. Small irrigation schemes including the lift irrigation can be developed by tapping the streams, rivulets, rills and the rivers.

**The Commission recommends that the State may draw-up a comprehensive plan for the development of fruit crops like Oranges and Lemon for long distance markets i.e. for exports to generate employment and income for the State. These citrus fruits do not generally require immediate storage, the cold storages would be required for long term storage awaiting despatches to the distant markets. The agro-climatic conditions are well suited for these fruits, the Commission observed. Considering the geographical location of the State, there should be marketing infrastructural facilities both for agri-produce and for the industrial goods particularly for the long distance market.**

The development of Agriculture/Horticulture, for a quantum jump in the production of food crops and fruits by using modern methods of cultivation taking cue from the green revolution which the country succeeded in bringing about. This would require initial investment for terracing of the land, arranging improved seeds, plant materials, agriculture inputs like chemical fertilizers, compost and farm manure plant protection inputs like pesticides, insecticides, fungicides etc.

**The Commission observed that the major impediment to the Agriculture/Horticulture development in the State has been the existing land tenure system which needs to be regulated. The investments of the type as discussed above would require finances and the investors will have to plan on a long-term basis and he must have the land in his ownership or on a long term lease for cultivation. The cultivators should at least have right to possess the land holdings through long-term patta/or lease for cultivation on a continuous basis. This is the major incentive that is needed to help the farmers, invest on a long-term basis which alone can bring green revolution resulting in employment and income generation. The Commission, therefore, recommends that the land holdings settlement need be conducted as fast as possible in this respect.**

Allied to the Agriculture/Horticulture is Animal Husbandry. The latest live-stock Census 1997 shows that there were 2.56 lacs live-stocks in Mizoram. Of these 1.63 lacs were pigs and there were only 33,000 cattle heads in the State. The poultry population at 18.76 lacs is impressive. The cattle development and the milk production have not received substantial impetus. Development of Animal Husbandry in the green hills of Mizoram with good forest vegetation has tremendous scope which can help further increase the opportunities for the employment and income generation. It appears that dependence on Jhum cultivation was primarily on account of non-availability of compost and farm manure apart from the vast tracts with vegetative growth available on the gentle hill slopes. The settled cultivation and agricultural production can be helped by raising the cattle to provide compost and farm manure to augment the chemical fertilizer as an essential input in production.

**The Commission recommends that the cattle development should receive impetus in the state along side the development of pigs and poultry as there is a scope for the cattle development in the view of the greenery and the vegetation available naturally in the State.**

### **Forest**

87% of the total geographical area of the State, as per the Forest Survey of India, is the forested area covering over 18,338 Sq. Km. 20% of the forested area is under dense forest while 68% of it is open forest. Actually 38% of the total geographical area shown as forested area is with the Department of Forest. The forest vegetation is comprised of tropical wet ever-green and semi ever-green forest. As reported there are more than 200 medicinal plants and 22 species of bamboo in the forests of Mizoram. The income from the forest produce as per the figures available for 1999-2000 was at Rs. 122.85 lakhs only. The approved Annual Plan outlays for the year 2002-2003 for the forestry and wild-life was at Rs. 600 lakhs. The forestry programmes under the plan are comprised of the survey of forest resources; silvicultural research including survey of the minor forest produce. The major development work of the minor forest produce pertains to bamboo plantation development which is being undertaken with the active participation of farmers and

growing bamboo in the farm sector by using improved bamboo technology/processing etc.

The State and particularly the Department of Forest is currently faced with the problem arising out of the **Jhum Cultivation** despite the policy declarations to do away with the Jhum cultivation and the realization has dawned on the Department and the people as well that Jhum cultivation is the destructive way of crop cultivation resulting in ecological degradation which will cause devastation if it is continued perpetually.

**The Commission observed that the fragile eco-system of the Mizoram hills can be protected and the fast depletion of the forest resources can be checked only when the State finds a viable alternative to the Jhum cultivation. The Commission further recommends that the State programme launched for the development of bamboo plantation with the active participation of the farmers with the help of bamboo technology/processing should receive impetus, as the development of improved bamboo plantation as a commercial venture will help generate employment and income.**

It has also been reported that the Department has over 800 staff of uniformed cadre and due to the funds constraint uniforms are not being provided to the staff for the last five years and this situation has caused a serious erosion of discipline and has adversely hit the morale of the staff.

**The Commission observed that deployment of staff i.e Guards and Rangers in uniform is essential particularly for establishing perceptible interaction between the forest staff and the people, who have the traditional rights to exploit minor forest produce and for timber rights regulations etc.**

The Commission was told that there have been problems associated with the farmers – forest interface as well as the territorial disputes between the Forest Department and the Revenue Department. Forest Department considers that over 38% of the geographical area are forest lands which can not be put on non-forest use such as farming or for the development of infrastructure for trade, commerce and industry. Actually as reported by the farmers as well as by the Departmental Officers there

are conflicting claims of areas under the Forest Department and the Revenue Department. The Local Village Councils have been earmarking areas for Jhum cultivation in the forest lands as well assuming them to be the Revenue lands.

**The Commission observed that no solution has been found by way of survey and settlement as more and more areas turn out to be the forest land as per the records although these are actually in the possession of farmers under cultivation whether it is the settled crop farming or encroachment i.e. occupation without any document. This State Government may have to settle this issue effectively with the help of Land Holding and Settlement Act 2000 and by completing the joint survey being conducted by the Forest and Revenue Departments.**

During the discussions in the meeting with the Officers, it was reported that there are cases of encroachment by the farmers on the forest land and that the Department of Forest has conducted survey to prepare the cases of encroachments which has not yet been completed. It might still take much longer time to complete the survey work and the compilation of the cases of encroachment on forest land.

**The Commission recommends that the cases of encroachment which fulfil the eligibility criteria as laid-down by the Government of India Policy Directions under the provisions of the Forest Conservation Act, 1980 should be processed for regularization.**

The State Government has not so far taken any policy decision in this regard as was revealed during the discussion with the officers. The Departmental Officers revealed that the number of encroachment will be quite large and that substantial area of the Forest Department is either under encroachment by the farmers or being disputed between the Forest Department and the Revenue Department. In fact, in respect of such a dispute a joint survey is being conducted to ascertain the ground realities so that an all-time settlement could be done. At present, as nothing substantial has been done to stop the Jhum cultivation despite the policy declarations, there are cases of land allotted for Jhum cultivation by the Village Council assuming the said land to be the land with the Revenue Department.

## Industry

The Secondary Sector comprised of trade, commerce and industry have very little contribution in the State economy as per the figures for 1999-2000. The Secondary Sector has contributed only 15.32% which has been the case in the State for a number of years in the past. The State Government has adopted "The New Industrial Policy of Mizoram, 2000" for the accelerated industrial and economic development of the State. As per this policy some priority industries have been identified. There are virtually no big industries. The figures for March, 2001 revealed that there were 4600 small industrial units which provided employment for 25,974 persons. Some more SSI units were registered thereafter including under Khadi and Village Industries. Taken together, trade, commerce and industry there were 23,199 non-agricultural enterprises in the State as per economic census conducted in 1998. But forest based industry has a potential, as 22 species of bamboo and more than 400 varieties of medicinal plants have been reported, apart from the usual timber and non-timber species. Two particularly conspicuous small industries with wide scope, are textiles (with typical ethnic styles, colours and designs, true of the entire north-eastern region) and IT for which the pollution-free atmosphere and climate of Mizoram are well suited.

The main reasons for the industrial backwardness as stated are lack of communication and infrastructural facilities and also for the fact that the State is power deficit. The total consumption of electricity during 2000-2001 was 137.40 mkwh. out of which over 70% was on account of domestic consumption against which the power generated in the State during 2000-2001 was only 12.45 mkwh. Availability of the power supply is the pre-requisite for any industrial development activities that too at reasonable rates. The State will have to build its installed capacity of power in the absence of which it will have to purchase power from the national/regional grids. The Commission was apprised that two major projects Tuirian (60 MW) and Bhairavi (18 MW) were under completion. **It is only with the assurance about adequate supply of power that the entrepreneurs can be attracted for the setting up of industrial projects and for the commercial venture in the State.** The banking infrastructure is not adequate in the State as at the end of the financial year 2000-01 there were only 94 bank branch offices.

**The Commission observed that the Secondary Sector is important for raising the level of State economy which will have a multiplier effect on employment and the income generation. Equally important is the network of infrastructural facilities such as road, water supply, modern communication and information technology made available for the faster economic development.**

The figures for 2000-2001 was that the total length of roads in the State was about 4000 Kms. out of which little over 2000 Kms. were surfaced road. Out of the total 732 (2001 census) inhabited villages in the State, 360 villages were connected by all weather roads and the rest were connected by fair weather roads. The major road communication connecting the State was via Silchar. The State is approachable by train upto Bairabi for the goods train and upto Silchar in Assam by passenger train.

**None in the State Government talked about the feasibility or demand thereof for the rail links and network of rails for the State. At least the road development through Mizoram connecting States on the North-East and North-West of the State should receive consideration if the economy of Mizoram is to be galvanized, the Commission observed.**

Other things like banking network etc. would automatically be followed when there is an industrial development and progress made in the field of trade and commerce.

**The Commission observed that the tropical climatic conditions of the State of Mizoram is well suited for the development of sericulture which can play a significant role in the re-construction of the rural economy that would provide employment and income mostly to the weaker section of the society.**

Sericulture as reported, is economically and commercially viable rural industry although it is being developed at a slow pace and the reasons attributed are lack of infrastructural facilities and paucity of funds etc. The Xth Five Year Plan 2002-2007 has given emphasis on the development of Sericulture. Priority is being given to seed production to cater the demand of the farmers and also for the development of Silk Reeling and Silk Weaving units. In fact, the State has set up a Department of

Sericulture which has also research and training programme contents in the process of development of Sericulture in the State.

**It appears that although the emphasis is rightly on the development of Sericulture yet there is no survey or any feasibility exercises undertaken to ascertain the potentiality of Sericulture and its impact on the rural economy. The State Plan Budget outlays in respect of Sericulture is mainly on the Direction and Administration where staffing structure does not provide for the deployment of the experts and scientists who should be having major role to play in the development of Sericulture.**

### **Rural Development**

The State Government is implementing various schemes under State Plan as well as the Centrally Sponsored Schemes under rural development programmes including all poverty alleviation programmes for the development of rural poor etc. It was reported that all 911 habitats identified within Mizoram have been provided with at least one source of water supply. Out of 910 villages in the State, 430 have been reported to be fully covered with piped water supply and 480 have been partially covered. This programme would need to be attended to expeditiously.

**It is a good thing that the State Government has made efforts to improve and supplement the existing level to a minimum level of 40 litters per capita per day, the Commission observed.**

### **Education**

In terms of literacy percentage as per the vital statistics given at Para 1 above, the State of Mizoram is the first only to Kerala in the country with 88.49% literate persons. In the field of education, no problems were faced by the people nor any issues related to education came up for discussion with the State Administration. However, in a meeting with the NGOs, Voluntary Organizations and the Representatives of the tribal leaders, the Commission was told that there was a need for setting up hostels for the tribal students from Mizoram and other States in the North-East in the cities like Delhi and Kolkata.



**The Commission recommends that some more hostels be built in the State and that hostels for the tribal students from Mizoram and other States in the North-East may be set up in the metros – Delhi & Kolkata under Centrally Sponsored Scheme or under any other schemes to meet the demand which appears to be quite pressing as well as genuine for those students who are to pursue their higher education and professional courses outside the North-East States.**

### **Health Services**

Reports say that the overall health status of the people of Mizoram has shown improvement with the network of the facilities such as State level Hospitals, Community Health Centres, Primary Health Centres etc. The birth rate as per the Civil Registration System operated in Mizoram estimated 21.38 per thousand against the death rate of 4.02 per thousand during the year 2000 and that the infant mortality rate was at 11.5 per thousand during the same year which surely are the progressive indicators. However, the Commission was told by the Chakma and Lai Autonomous District Councils that the infrastructural facilities for health set up in these Autonomous District Council Areas are inadequate. The Council Members alleged total neglect by the State Government in the field of health services.

**The Commission recommends that the State Government may consider strengthening the health services in the Autonomous District Council Areas by augmenting budgetary support for the ADC areas located at long distance down-south of the State. Drug abuse has been increasing and there is a need to keep the situation of HIV/AIDS under constant observation. The State Government with the assistance of the Central Government and the society as a whole need to build awareness and jointly take measures particularly to tackle the drug-trafficking in the region being used as a corridor.**

The Acting Chief Secretary said in the meeting that some measures to rehabilitate the drug addicts have been taken and that the NGOs and the Health Department are actively engaged in the campaign against HIV/AIDS and addiction problems. There should be de-addiction centres set up in the State as a measure of rehabilitation.

## **Autonomous District Councils of Mizoram**

There are three Autonomous District Councils namely – Lai Autonomous District Council, Chakma Autonomous District Council and Mara Autonomous District Council with Hqrs. at Lawngtlai, Kamla Nagar (Chawngte) and Saiha respectively. The Sixth Schedule confers wide legislative, judicial, financial and administrative powers on the Autonomous District Councils (ADCs). In theory, the autonomy has been so significant as to induce a former Chief Justice of India, Justice Hidayatullah, to describe the Sixth Schedule as “a Constitution within the Constitution”. The ADCs have the full paraphernalia of the three wings i.e. legislative, judiciary and executive. The Council functions as a mini-Assembly of predominantly elected tribal representatives from amongst whom an Executive Council, virtually corresponding to a State Cabinet, is constituted. The ADCs can have 30 Members of which 4 are nominated by the Governor and the rest are elected with a five-year term. The ADC has the power to create a judicial apparatus in the District. The Schedule lists of a wide variety of subjects with regard to which the ADCs exercise powers. On 8<sup>th</sup> April, 2003, the Commission had the chance to visit Members, Ex-Members and the public of Lai ADC at Lawngtlai and of Mara and Chakma ADCs at Siaha. The meetings at the two places with a cross-section of Members of the three ADCs, representatives of political parties, representatives of different organizations and members of the public gave the Commission insights into the working and performance of the ADCs. In the first instance, the three Districts in South Mizoram are comparatively small and mountainous. As per the 2001 census, the Lai ADC has a population of 51,878, the Mara 50,188 and the Chakma 32,807. The villages are small and scattered. Flat patches of land are not common; hence, communications are difficult. In fact, the administration suffers from lack of accessibility. The economic condition of people is not too good. More than 70% of the families depend on agriculture and jhuming is practised.

The Government of Mizoram has entrusted many functions to these District Councils under paragraph 6 (2) of the Sixth Schedule in relation to agriculture, animal husbandry, community projects, social welfare, industries, soil conservation, forest etc. all put together about 20 subjects/departments by notification No. B.17012/3/92-DCA dated 22<sup>nd</sup> Sept. 1993. In addition ADCs handle land and land revenue matters. The

duties devolving on the ADCs are clear-cut and, apparently, going by the figures of staff strength furnished, the administrative apparatus does not appear to be inadequate. Yet attention seems to have been focused on self-reinforcement rather than on opportunities for service in the interest of the people at large.

The ADCs have been demanding delegation of powers/functions to them on the subjects/departments listed in the Eleventh Schedule and the Twelfth Schedule of the Constitution also.

**The Commission observed that most of the subjects/departments as listed in the Eleventh Schedule and the Twelfth Schedule of the Constitution have already been transferred to the ADCs in the Council Areas. It recommends that the Government of India may consider constituting a Task Force to conduct appraisal to establish whether it is feasible to integrate subjects/functions assigned to the Panchayati Raj Institutions and the Municipalities under Article 243 G & W as listed in the Eleventh Schedule and the Twelfth Schedule of the Constitution with the powers/functions assigned to these Councils under the provisions of the Sixth Schedule of the Constitution, and to make necessary recommendations in this regard.**

The areas specified in these three Autonomous District Councils as per the provisions of paragraph 20 Part III of the Sixth Schedule are named as Tribal Areas in the State of Mizoram. The Governor has certain constitutional roles in respect of these Autonomous District Councils Areas under the Sixth Schedule of the Constitution. The laws and rules framed by the District Councils require approval of the Governor. He can also specify the jurisdiction over suites/cases to be tried by the District Council Courts. There are Village Councils cum Village Courts constituted in each of these District Councils – Lai ADC – 83; Mara ADC – 60; and Chakma ADC – 69. The appeal against the decisions of the Village Councils lie before the Subordinate District Council Court and from that to the District Council Court, finally to the High Court having jurisdiction in the State of Mizoram. Under the customary laws and practices, even crimes like murder and rape are compoundable.

**The Commission observed that the administration of criminal justice as obtaining under the Sixth Schedule at present needs an appraisal/review**

particularly in respect of heinous crimes under IPC and so also the law and order and procedural matters under the Cr.PC. The Judicial Wing of the District Councils may not be fully equipped to try many cases under the IPC and special Acts. Such cases need be tried by the Magistrates and Judges duly appointed with the Jury comprised of Judicial Members nominated by the District Councils. This will entail necessary amendment of the provisions of the Sixth Schedule.

### **The Discretionary Powers of the Governor**

The Governor in the discharge of his functions under various paragraphs and sub-paragraphs of the Sixth Schedule shall, after consulting the Council of Ministers, and if he thinks it necessary, the Autonomous District Councils or the Regional Councils concerned, take such action as he considers necessary in his discretion under 20BB of the Sixth Schedule whereas in the cases of Autonomous District Councils in Assam under 20 BA, the Governor can take any action as he considers necessary in his discretion. The ADCs demanded that the Governor in all cases where he exercises his own discretion under the provisions of the Schedule should do so only after consultation with the District Councils.

**The Commission recommends that necessary provisions may be made in paragraph 20 BB of the Constitution making it compulsory for the Governor to exercise his discretionary powers only after consultation with the Autonomous District Councils in Mizoram as has been provided under 20 BA of the Schedule in respect of Autonomous District Councils of the State of Assam.**

### **State of Financial Resources**

The allocation of funds made for three Autonomous District Councils were under Plan, Non-Plan; CSS and NLCPR during the first year 2002-2003 of Xth Five Year Plan. The total allocation to these three Autonomous District Councils under Plan was Rs. 1890.66 lakhs and under Non-Plan Rs. 3335.00 lakhs. During the year under CSS a sum of Rs. 50 lakhs was allocated to Lai ADC and the other two District Councils were not provided with any allocation under CSS. The Lai ADC has also been declared a Nodal Department for Border Area Development Programme but no funds

were released during year to the Council as the works under this programme were undertaken by the Rural Development Department of the State in the past. There is no mention about the releases under SCA and grants-in-aid under Article 275 of the Constitution to these Councils during the last five years. The funds allocation under Plan to these Councils are for the subjects/functions allocated to the District Councils. In respect of the allocations under Non-Plan, these are meant to meet the requirement of Non-Plan Expenditure in the Autonomous Districts. There may be a number of schemes under Plan not specifically allocated to the Councils which are utilized for the schemes executed by the Line Departments.

All the Autonomous District Councils stated that 2/3<sup>rd</sup> of the allocations of funds are being spent on establishment.

**The Commission observed that the Councils expenditure on the staff and establishment is on the higher side leaving very little for the execution of the development works allocated to the Councils. The question of disparity in the allocation of funds to Councils raised by the representatives of these Councils can be examined by the State Government. We would like to stress that since estimated receipts and expenditure are assessed by the Council through discussion and then are to be shown separately in the annual financial statement of the State to be laid before the legislature of the State under Article 202, the financial procedure prescribed should be followed. The State Government may view the matter of devolution of funds both in the light of needs expressed in the Council's communications and the overall availability of resources in the State's coffers. However, the Planning Commission may consider indicating the share of ADCs separately in the Plan budget of the State.**

Another question raised by them was that only the Autonomous District Council Areas being the Tribal Areas alone can claim grants-in-aid under Article 275 of the Constitution. What they mean is that Non-Council Districts in the States are not entitled to the grants under the Article 275. This claim is not credible as the grants

under the said Article can be released for welfare and development of Scheduled Tribes including the Scheduled Areas and Autonomous District Council Areas and the dispersed tribal population as well.

**The Commission found, from the perusal of the funds allocation, that no grants-in-aid were released for these Autonomous District Councils under Article 275 during the last five years. The Commission recommends that the State Government should entertain the claims for such grants from the Councils and submit them to the Government of India for the release of such grants.**

Another point raised by these Councils was that the Plan expenditure currently made by the Line Departments should also be brought under the control of the Councils. This claim does not appear to be on sound footings as it is apparent that the Councils are not well-equipped with the technical staff and infrastructure for execution of larger schemes/projects requiring the application of expertise and some level of technology.

**The Commission further recommends that the works and the plan funds assigned to the Line Department in all sectors of economy in the ADC Areas should be planned in consultation with the Councils and implemented by the Departments with the approval of the Councils. The ADC may also be given powers to monitor and evaluate the results in terms of financial and physical targets fixed and achieved. Such delegations of power and functions to the Councils and the enlistment of their participation are the essential features of self-governance enshrined in the provisions of the Sixth Schedule particularly in the social sectors – education, health services and also in the civic functions.**

## **General**

- (1) These Councils also mentioned that unemployment problem is greatly faced by the District Councils and a good number of educationally well qualified persons are without jobs/work. They alleged that the candidates from District Council Areas are not given reasonable opportunity of employment by the

State in all the State level posts. As per the figures presented by the ADCs the employees from the ADCs Areas constitute only 0.67% of the local strength in the State Secretariat. In the Mizoram Civil Services and Mizoram Police Services, the ADCs have the strength of 13.61% and 4.82% respectively. There should be, as they claimed, separate reservation for the Scheduled Tribes of the Autonomous District Councils for appointments at the State level in all categories of posts.

**The State level appointments are made on the basis of merit where all tribes are given equal opportunities. The State Government should develop and launch a project/scheme for the training/coaching for the basic knowledge and skill upgradation of the candidates from the ADC Areas.**

- (2) The Lai Autonomous District Council brought to the notice of the Commission the fact that although the name of the District Council - Pawi Autonomous District Council was re-named as Lai Autonomous District Council under the State Schedule to the Constitution (Amendment) Act, 1988, the name of tribe 'Pawi' into 'Lai' was not changed. Similarly, Mara ADC pointed out that with the said Amendment of the Sixth Schedule the Lakher ADC was renamed as Mara ADC but without changing the name of the tribe 'Lakher' into 'Mara'.

**The Commission recommends that the Constitutional (Scheduled Tribe) Order, 1950 of State of Assam now pertaining to the State of Mizoram be amended by substituting Pawi with Lai and Mara with Lasha.**

Hmar People's Convention Sinlung Hills Development Councils in their memorandum submitted to the Commission have demanded that the area under Sinlung Hills Development Council constituted in 1997 be brought under the provisions of the Sixth Schedule of the Constitution in pursuance of the Accord signed by the State government with the HPC. The Commission did not have had the opportunity to discuss view-points of the State Government in the matter.

- (3) The Autonomous District Councils in Mizoram have proposed amendment to the Sixth Schedule of the Constitution vide their communication dated 30<sup>th</sup>

January, 2003 to the Secretary, Ministry of Home Affairs, Government of India.

The amendments sought are listed as follows:-

- 1) Institutional set up and its functional procedure for the working of the Autonomous District Councils should be enlarged to the extent similar to the powers vested in Autonomous Councils in Assam.
- 2) The Autonomous District Councils in Mizoram may be re-named as Autonomous Councils – Lai Autonomous Council, Mara Autonomous Council and Chakma Autonomous Council (In that they want deletion of 'District' from the present name assigned to the Councils).
- 3) The Autonomous District Councils should have enlarged functions and grants-in-aid under Article 275 should be released by Government of India straight to the Councils and that there should be provisions made for direct fund allocation to the District Councils by the Planning Commission.

The Councils claimed that despite the Planning Commission's directions, the Government of Mizoram failed to allocate at least 25% of the State Plan funds to the Autonomous District Councils and that these can be rectified only by making direct allocation to the Councils by the Planning Commission.

- 4) The District Councils have demanded that the Centrally Sponsored Schemes should be given to the District Councils for execution rather than getting them executed by the Line Departments.

**The Government of India may consider making necessary amendments to the Sixth Schedule as per the demands listed at Sl. No. 1, 2 and 4 above. The Commission feels that the demand at Sl. No. 3 in its present form is perhaps not feasible technically as per the well established National and State Budgetary and Funds flow system/procedures in the country, in that all devolution and funds flows to the States and other agencies must be reflected in the State Budget as passed by the State Assemblies.**

Some of the prominent leaders, social workers during the interaction said that except for the three ADC areas in the south of the State which are under the Sixth Schedule



of the Constitution rest of the areas in the State is neither under the Fifth Schedule nor under the 6<sup>th</sup> Schedule of the Constitution. Although, the tribes of Mizoram are Scheduled Tribes under the Constitution (Scheduled Tribes) Order 1950, but because of the fact that the areas under the ADCs are the 'Tribal Areas' and rest are not, there is a confusion created in the minds of the people they added. Further, some benefits like income tax exemption which was available when the whole of the Mizoram was the District of Assam under the Sixth Schedule of the Constitution are not available now to the tribals of the Mizoram which do not belong to the Tribal Areas under the Sixth Schedule. They stated further that the people have been demanding the entire State of the Mizoram to be covered under the Sixth Schedule. They cited the example of when the District Councils of Meghalaya when it was part of Assam, changed to Autonomous District Councils covering the whole of Meghalaya under the Sixth Schedule, after it became State. The Speakers questioned as to why the entire Mizoram was not placed under the Sixth Schedule when it became the Union Territory on the pattern of Meghalaya.

# Nagaland

Way-back in 1866, the Government of India decided to form Naga Hills District and it was made part of undivided province of Bengal prior to 1874. The Naga Hills District was made part of Assam in 1912. Various enactments viz. the Government of India Act 1870, Scheduled District Act 1874, the Government of India Act 1915, the Government of India Act 1919 and the Government of India Act 1935 had legal effect on the erstwhile Naga Hills District. A separate State of Nagaland comprised of Naga Hills – Tuensang Area was formed with effect from 1<sup>st</sup> December 1963 under the State of Nagaland Act 1962.

The State is located in the North-Eastern part of the country. It has the International land border with Myanmar, bounded by Arunachal Pradesh in the East, Assam and Arunachal Pradesh in the North, Assam in the West and Manipur in the South. Kohima is the State capital. There are 8 Districts with 20 Sub-Divisions.

The vital statistics of Nagaland are as under<sup>1</sup>:-

Total Geographical Area	16,579 Sq.Km.	STs
Population (Census 2001 provisional)	19,88,636	1769561
Tribal Population (Provisional)	1769561	
Density of population (State)	120 per Sq. Km.	
Sex Ratio (State)	909 F : 1000 M	942
Literacy rate (State)	Total 67.11%	
	Male	Female
	71.77%	61.92%

<sup>1</sup> To be updated on the release of the 2001 census data.

## **The Scheduled Tribes**

Under the 'Constitution (Nagaland) Scheduled Tribes Order 1970', the following tribes have been notified as the Scheduled Tribes in the State:-

1. Naga
2. Kuki
3. Kachari
4. Mikir
5. Garo

Neither the Fifth Schedule nor the Sixth Schedule of the Constitution is made applicable to the State of Nagaland under the Constitution. Article 371 A of the Constitution provides special safeguards relating to religious and social practices and customary law of the Nagas; administration of civil and criminal justice according to the Naga customary law; ownership and transfer of land and its resources etc. under which no Act of Parliament relating to these subjects shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by resolution so decides.

Each tribe has its own independent and distinct language/dialect, dress, costumes, manners and custom. The villages in most cases are located on the hill tops which helped in the past fortification for the protection of the village against external attacks.

The traditional institution of Morung is in vogue even today which is often misunderstood as clubhouse. The Commission had the opportunity to visit one such Morung. It is here that the young people (male) get together and sleep in their Morung. Traditionally there is a code of conduct enforced in Morung which serves as an academy to train the young people as soldier – farmers. Today, however, it imparts some training in self-defence and on farming and allied avocation.

**The Commission recommends that the traditional institution of Morung should be strengthened and training on agriculture and allied sector extension services can be imparted to the young people through the Morung. The institution can also be used as a centre for health care education. In fact, this institution which is found in**

**almost all the villages in Nagaland can be funded under Article 275 (1) of the Constitution as it appears to be an important infrastructure for overall development of the village and its environs.**

## **Economy**

Land and agriculture with allied sectors continue to be the basic resource of the tribal communities in the State. The trend analysis shows that for many years the economy will continue to be agri-forest based. The secondary sector of economy comprised of industry, trade and commerce has yet to take-off. The tertiary sector has not made any headway in this tribal State due to lack of adequate infrastructural facilities and logistics etc. The relative proportions in terms of percentages of contribution of various sectors of economy to the family budget in the State as per the current assessment done by the State Government are as under:-

- i) Agriculture : 35%
- ii) Horticulture : 35%
- iii) Animal Husbandry : 10%
- iv) Cottage Industry : 5%
- V) Business and Service Sector : 15%

### **Agriculture and Allied Sectors**

The Tenth Plan objectives are to achieve commercial scale agri-production. In the Annual Plan for 2002-03, the targets fixed for the production of major crops rice, wheat, maize and other cereals put together at 391 MT was nearly achieved. Similarly, in respect of other commercial crops the achievement was close to the target fixed. For the Annual Plan 2003-04, the outlay fixed is Rs. 43.29 cr. i.e. 7.05% of the total State Plan outlay of Rs. 614.15 cr. As per the strategy adopted, the State Government will concentrate on cultivation of vegetables and fruits which have the unique advantage over other States in the neighbourhood. The target fixed in the horticulture sector was almost achieved. The State Government has now given priority to the animal husbandry and dairying. The livestock farming done on the scientific lines is going to provide lot

of employment opportunities in the State particularly when the State is way behind in the industrial development sector. The budget provision for 2002-03 was only Rs. 5.05 crores whereas for the current year 2003-04 it is at Rs. 5 crores. One important aspect of the agricultural practices is the use of organic manure which has been the traditional farming practices in the State. In the Tenth Plan document emphasis has been given on the use of organic manure in the agricultural production, which is a welcome step taken.

Jhum cultivation is still practised in parts of the State. The Nagaland Jhumland Act 1970 regulates the rights to Jhumland in Nagaland. Under the Act "Jhumland" means such land which any member or members of a village or a community have a customary right to cultivate by means of shifting cultivation or to utilise by clearing jungle or for grazing livestock.....but it does not include:-

- (i) any land which has been terraced or may be terraced for the purpose of permanent or semi-permanent cultivation whether by means of irrigation or not, or .....

This traditional system may have to undergo certain modification in modern times considering the urgency of maintaining the fragile eco-system of the Naga Hills and also for higher productivity. Although, this traditional jhum cultivation provides villagers with an access to land and the right to cultivation and it had for time-immemorial ensured the availability of food for the local people, yet, today, they need some more income out of the foodgrains production, horticulture production and animal husbandry, and additional returns by way of income for meeting the other basic needs apart from food.

**Agricultural land development on a sustainable basis and the settled cultivation on long-term basis can become a big source of employment and income for the people, the Commission observed.**

**With the rising population the pressure is building on the land resources which are limited. The Commission recommends that where the ownership of the land is with the community, a legal instrument should be devised under the provisions of the Nagaland Land and Revenue Regulation (Amendment) Act, 2002 to enable the**

**cultivators to avail of the loan facilities from the financial institutions where security is required to be furnished by the loanee. Higher productivity in the agriculture and allied sectors can be achieved only through the improved extension services and the application of technology suiting the local conditions which will require higher investment to be financed by the financial institutions and under the soft loan assistance programme.**

70% of the total population engages in farming and 4% are in the Government jobs and the rest are engaged in other occupations.

Agricultural extension services are being provided by the Agriculture Department in the State. The extension services provided by the State agencies in these sectors include – supply of improved high yielding varieties of seeds for various grains/cereals; improved varieties of fruit plants material etc; crop pattern and scientific management of the farm; improved methods for the production of organic manures, proper use of insecticides, pesticides and wherever necessary use of chemical fertilizers etc. although the stress is on the use of organic manure etc.

**The State has reported that the transfer of technology by various agencies from lab to the farm have helped upgrade the production of various crops, fruits and vegetables and that the extension services delivered have had necessary impact. The Commission observed that the policy of the State Government to promote animal husbandry i.e. livestock farming on scientific lines would help the production of organic manure and the development of dairy on a larger scale resulting in employment and income generation.**

**Although there is an Evaluation Wing of the State Government for monitoring the implementation of various programmes in the various sectors of economy yet the infrastructural facilities for transfer of technology from lab to the farm for the increased productivity needs strengthening, the Commission observed.**

The State has Agriculture Research Station with a couple of Sub-stations. The State has a seed multiplication farm and there is an ICAR Complex at Jharnapani and an Agriculture College in Dimapur District and their efforts have been for the experimentation of high yielding varieties of agricultural crops in the State. The soil conservation programmes are – land development and terracing of the farms, forestry, orchard plantation and contour bunding etc.

### **Forest**

The dense forest area at the end of financial year 2002-03 was anticipated at 31% of the State's geographical area. The long-term target is to bring under effective tree cover 66% of the total geographical area as envisaged in the National Forest Policy 1988. The 88% of the total land – with or without forest – is with the community/individuals under overall control of the Village Councils. It is the Council which allots land for cultivation. The forest area with the Forest Department is only 12% of the land area.

The Forest Policy of the State Government is to convert jhumlands into woodlands and to regulate harvesting of forest resources. Under the Nagaland Jhumland Act, a customary right to jhumland is deemed to be established in favour of an individual cultivator, if he has inherited the jhumland as per the local custom. No jhumland can be leased by any one having a customary right thereto without the permission of the Deputy Commissioner given on the recommendation of the Village and Area Council. Under the Act, no Jhumland to which a community has a customary right shall be transferred by sale or mortgage to any community or to any individual except on the authority of the Deputy Commissioner given on the recommendation of the Village and Area Council concerned.

**The Commission recommends that the forest policy of the State Government to convert jhumland into woodland should be implemented effectively in keeping up with the local traditions in so far as it is beneficial to the inhabitants. The areas covered under jhum cultivation in the past should be brought under the social forestry, fruit tree plantation and settled cultivation by the farmers**

**who may be given a certificate of holder so that they can invest on the development of their holdings by terracing the land for agricultural farming and horticultural orchards.**

In the State, the tribals have their rights to collect herbs and roots for local consumption and rarely for trade. There is however no mechanism for regulating prices of herbs and roots in the State. Tribal communities freely collect forest produce including minor forest produce for domestic consumption as well as for trade. The Department of Forest and Environment allows the tribals to freely forage the forest areas throughout the year.

**The Commission observed that there is a need to undertake documentation of the rights of the individual residents in the forest land with the Forest Department and also in the community land in consultation with the Village Councils. The Commission recommends that the land traditionally under the ownership of the community and the land under individual ownership as well should be surveyed and the revenue records should be built up on permanent basis. The State Government had accorded recognition by notification to 10 villages inside the Rangapahar reserved forest which had occupied the area.**

Since the State Forest Department has in their ownership only 12% of the forested area of the State, it does not have any working plan for the extraction of timber from the forest. Most of the forested areas are with the communities and also some small parts with the individuals in the State of Nagaland. The State Government has, under the directions of the Supreme Court of India (1997), have regulated the extraction of timber, its transportation and sales in the State as well as in the markets outside the State. Under the regulations working schemes are required to be prepared by the State Government and put into operation with the approval of the Central Government. These regulations have been in operation for the last two years only. There are 21 working schemes in operation now in the State regulating extraction of timber in the forested area under the community or individuals. Under the regulations only trees which have



attained maturity can be felled somewhat on a silvicultural pattern. After the extraction, the transportation within and outside the State is regulated. Sales returns by way of income are appropriated by the concerned communities/individuals. The State Government gets only royalty under the regulations. Although, the timber extraction and marketing by the communities and the individuals provide employment and income yet, the forest officials and the environmentalists feel concerned about the possible ecological degradation adversely affecting the fragile eco-system of the Naga Hills.

**The Commission observed that the timber extraction under regulated working schemes should be strictly on the silvicultural pattern. In the area where the trees have been removed, re-generation scheme should be put in place for the plantation of timber trees.**

### **Rural Development**

For the current year the outlay for the sector under Plan is Rs. 38.52 crores i.e. 6.2% of the total outlay. As against Rs. 46.46 crores provided for the previous year, the stress laid is on the alleviation of poverty through implementation of SGSY Programme. The policy of the Government is to involve Village Development Board in the overall process of rural development.

### **Infrastructural Development**

#### **Roads**

The Annual Plan 2003-04 provides for the Transport and Communication Rs. 73.53 crores i.e. 11.97% of the total plan outlay. The State of Nagaland has the road length of 10,130 km. the break-up of which is as under:-

1. National Highways	= 474 Km.
2. State Highways	= 974 Km.
3. District Roads	= 3263 Km.
4. Village Roads	= 5419 Km.
<b>Total</b>	<b>= 10,130 Km.</b>

In terms of connectivity by the road, 1092 villages i.e. almost 89% of the villages have been connected so far. The State Government has given priority to the following projects:-

1. Improvement of Kukidolong Hiningkongla-Jalukie-Peren road;
2. Upgradation and improvement of roads connecting National Highways with all District Headquarters measuring 591 Km;
3. Improvement of roads for District Headquarters.

Under the Pradan Mantri Gram Sadak Yojna which envisages connectivity by the end of 10<sup>th</sup> Plan period to all unconnected habitations, State Government received Rs. 87.26 crore upto 2003-04. It is estimated that by the end of 10<sup>th</sup> Plan Rs. 250 crore would be required under the programme.

The State has rail link only upto the town of Dimapur at one corner of the State border with Assam. The Chief Minister of Nagaland during the interaction with the Commission said that there is a proposal for building a rail link upto Kohima. The town of Dimapur has an Airport.

The State Government has proposed for consideration of the Central Government that the 'Quadrilateral' road programme of the nation should be extended to cover Dimapur – Kohima – Imphal and Moreh Section. The development of roads as proposed by the State Government is not only vital for the economic development of the State, it may promote International trade through Nagaland as per the thinking in the State Government, the Commission observed.

#### **Maintenance of Infrastructural Facilities**

Although the road network and the coverage is good yet the road infrastructure is not well maintained. The Chief Minister during the interaction said that the National Highway itself is not being maintained by the Border Roads/Surface Transport. It was reported that the work charged staff in PWD and Irrigation is huge and, therefore, the Voluntary Retirement Schemes have been introduced to economise on the expenditure by these Departments. There is a need to

augment investment on maintenance of the roads where periodical soling and tarring would be required.

**Considering the weak tax-base of the State, there is a need to augment the funds for the maintenance of the infrastructural facilities which may not be available under the Planned fund, the Commission observed.**

The North-Eastern States being special category States can divert around 20% of the Plan funds on to the Non-Plan expenditure. But this would not help much for the maintenance part of the work. There is perhaps a need to augment the resources of the State by providing Special Central Assistance, the Commission observed. The State of Nagaland has assessed the additional funds to meet the requirement for the implementation of Common Minimum Programme which is to the tune of Rs. 150 crores as per annual plan which the State expects as one time central assistance funding beginning with the current year Annual Plan, covering various sectors but major expenses out of this would be on roads – express-ways and upgradation of the existing road network transportation etc.

**The working of the present tele-communication infrastructure in the State was also discussed in the meeting the Commission had with the officers. It was reported that the system is not working effectively. The Commission observed after talking to the development agencies and also with cross-section of people that nothing substantial has been done so far in the field of tele-communication.**

**The Commission recommends that the tele-communication system should be strengthened and these facilities should be expanded and upgraded which appears to be vital for the overall economic development of the State.**

### **Power Development**

The total generation of electric power at the end of the financial year 2002-03 was 29 MW. During the year a 24 MW Likimro hydel project was commissioned.

Out of the total number of 1,212 villages in the State, 1,107 villages have been electrified which works out to 90% coverage as per the plan document for the year 2003-04. However, the State will have tremendous power shortage if industrial development in the State is given impetus. A project report for 120 MW Dikhu multi-purpose power project has been prepared which the State may have to take up as State project, as the NEC has indicated that they would not be able to take up this project. This project apart from meeting the power requirements of the State will also generate revenue for the State.

**The Commission observed that there is a tremendous scope for hydro-power development in the State. The NEC and the Planning Commission may consider financing the hydro-power projects as proposed by the State so that in the long run it becomes a major source of revenue for the State which has, at present, a weak tax-base.**

### **Industry**

So far not much headway has been made in setting up major and medium size projects. The outlay for the sector is kept at 6.8% of the total outlay which includes allocation for the mining also during the current year. Sericulture is being given importance. Geology and Mining is also receiving attention. Nagaland State Mineral Development Corporation has taken some industrial projects including mini cement plant. It appears that the private sector projects have not come up in the State except those in village and small industrial sector. Tourism is coming up as prospective future in the State.

The policy of the State although not amplified in the Government documents is perhaps not to encourage large industries mainly on account of dismal performance of some of the medium sector industries set up in the public sector. The Private Sector investment is not forthcoming. Now that peace is restored in the State as a result of the peace process initiated the Private Sector investment and tourism may get some boost. The secondary sector has a lot to contribute towards employment and income generation particularly in the small scale industries sector. There is a good, though not efficient, road and communication

infrastructure to promote industry, trade and commerce in the State yet it did not have multiplying effect on the economy which was expected to result in employment and income generation perhaps mainly because of lack of investment in the Private Sector. The Agriculture and Allied Sector cannot absorb additional man-power.

**There is already excessive pressure on land. Young educated people may have to move away from the agri sector to secondary and tertiary sectors under the self-employment schemes and in larger projects in the private sector. This will help generate State revenue and enlarge tax-base to augment the financial resources for planned development purposes, the Commission observed.**

### **Tourism**

In the absence of faster surface transport facilities such as express ways, rail and air links tourism activities are restricted. The tourists flow into the State is not much as the whole State is covered under inner line permit regulations. The State Government still considers tourism as an important source of revenue and employment. The policy of the State Government is to develop tourism in private sector but in the absence of adequate infrastructural facilities the private sector entrepreneurs are not attracted to undertake tourism activities in the State, although there is a tremendous scope now as peace has been restored in the State.

### **Communitisation of Public Institutions and Services**

The concept of communitisation under the Act of 2002 is intended to tap the age-old tradition and practice of community participation of the Naga Society in the economic development, community welfare programmes. The State Government feels that the communitisation project has worked well and has shown good results.

Under the Nagaland Communitisation of Public Institutions and Services Act, 2002, the State Government has delegated the powers and functions of the State Government to the local authorities at the village levels by way of

communitisation of certain public utilities, public services and activities of the State Government. These are connected with the education, water supply, roads, forests, power, sanitation, health and other welfare and development schemes including the community based schemes so as to enlist the participation of the community in the planning, programming, implementation and management of these schemes and services. The Act provides for constituting authorities that may be called Board of Committee in their nomenclature for declaring in all the existing authorities in force for a village/villages to exercise the powers and discharge the functions delegated in respect of the services, activities, projects and schemes listed as above. These authorities so established would have funds established which may have its source from the grants and financial allocations made by the State Government in connection with discharge of the functions delegated.

**The Commission observed that the scheme of the communitisation of public institutions and services is in line with the age-old tradition of Nagaland and it needs further strengthening with larger investment. Government of India may consider providing One Time Central Assistance and also the Special Central Assistance annually to make it successful.**

### **Village Development Boards**

The State Government has the Village Development Boards set-up for the implementation of the programme launched for communitisation of public institutions in its efforts to decentralize the planning and development which would enlist participation of people at the Village Council level.

The Village Development Board has been set up in pursuance of the provisions of the Nagaland Communitisation of Public Institution and Services Act, 2002. The communitisation is an age old tradition but in the modern planned development process there is delegation of powers and functions truly designed for the empowerment of the people who are themselves beneficiaries at the village level as a community at the grass-root. This approach is in keeping with the Naga village Council system.

### **Human Resource Development**

Educational infrastructure at the school is generally good but there are no Medical or Engineering Colleges in Nagaland. There is a proposal for setting up a Medical College in collaboration with CMC – Vellore. There is also a proposal for setting up an Engineering College and also a Management Institute in the State.

The State Government of Nagaland has initiated the process of implementing the Common Minimum Progress (CMP) in the HRD sector also based on the mandate of the people received by the Democratic Alliance of Nagaland which formed the present State Government. The implementation of CMP requires additional investment of a substantial amount. The resource position of the State continues to be weak and the State Government is in need of Special Assistance from the Planning Commission.

### **Medium of Instruction**

Three language formula is being followed upto the elementary stage. Efforts have been made to produce and make available text books in local languages. Intensive community mobilization are in progress through communitization of Sarva Shiksha Abhiyan. The State has passed a legislation on communitization of elementary education which aims at community ownership of the school facilities for achieving universal elementary education. Total literacy campaign has been launched from the year 2003 throughout the State. In order to improve sports activities, the State has introduced 'Catch Them Young' programme for all the Government middle schools too.

### **Health Services**

The State Government is of the view that the plans and programmes at the National level are designed mainly for the plain areas of the country which might not hold good for the tribal habitats of the hill areas.

**The Commission agrees with the State Government that any policy decision on the subject should consider tribal customs, culture of the tribal community and wide range of factors like education,**

**income, food, security and environmental conditions etc. There should be some special packages for the hill tribes of the country.**

On the problem of deployment of personnel in the health sector, the State Government has found a solution and it has already initiated communitization of the health centres. Nutritional status is not bad compared to National standards. The State has incorporated in the school syllabus the HIV/AIDS education.

The Commission further observed that drug abuse is a major problem faced by some parts of the region affecting tribals also. The drug de-addiction centers need be strengthened. The Commission was told that the drug-abuse is caused by the lack of adequate employment opportunities and it has led to the prevalence of HIV/AIDS problems.

**The State Governments with the assistance of the Central Government and the society as a whole need to build awareness and jointly take measures particularly to tackle the drug-trafficking in the region being used as a corridor, the Commission observed.**

### **Problem of Unemployment**

The State of Nagaland right from the time it was Naga Hills District and particularly during the period after Independence a major achievement was made in the Human Resource Development as is apparent from the present literacy percentage. The agricultural holdings and cultivation thereon are not in a position to absorb these educated young people who have to some extent become misfit for the agricultural cultivation. The Government is the only employer as the industry, trade and commerce have not yet come-up in substantial way to provide employment opportunities to these educated unemployed, the number of which is increasing very fast year after year. For want of employment opportunities some of these educated unemployed have joined the militant organizations as was reported during the interaction with the cross-section of people. As stated earlier in this report that drug abuse is the major problem faced by the State and the Commission was told that the drug abuse is caused by the lack of adequate employment opportunities and it has led to the prevalence of HIV/AIDS problem.



The State Government under its Common Minimum Programme (CMP) has given priority to find a solution or a sustainable basis to the problem of unemployment. Apart from the normal State Plan, Development Plan funds for the overall economic development of the State, there is a need to assist the State of Nagaland by additional special funds from the Central Government/Planning Commission to generate gainful employment in the State. The State Government has also requested the Planning Commission to provide funds for supplementing the backward area development for the development of Tuensang and Mon Districts and other identified backward areas.

There is another important programme for tackling the problem of unemployment by implementing special programmes for the educated unemployed, special funds for the backward areas development for Mon and Tuensang Districts and also for the Communitisation of the Public Institutions for capacity building under the one time central assistance programme.

**The important thing is that some urgent measures may have to be taken by the State with the assistance of the Central Government for creating employment opportunities and helping these uneducated people to earn their living. The problem, to some extent, can be solved by strengthening the agricultural and allied sector such as commercial crop production, animal husbandry, poultry and piggery eco-friendly industry, college and handloom sector and hydro-power projects etc., the Commission observed.**

**Another way out to deal with growing unemployment and the resultant problems in the State is perhaps the eco-friendly industrial development particularly Village and Small Industries, Forest and agro-based Industries, medicinal and essential oils manufacturing industries. Handloom and handicraft development etc. which have tremendous scope for raising the employment opportunities. Tuensang District is declared as non-industrial District, the Commission observed.**

The State economy has, in all these years, been land and forest based. Now the emphasis is given on the development of horticulture, poultry, piggery, sericulture, village and cottage industry, forestry, agro based industries, traditional handloom and handicraft. With increased investment in these fields under the plan and Special Central Assistance programme, particularly the one time central assistance programme demanded by the State would really solve the problem of unemployment and the resultant problems too.

**The Commission recommends special funds flow under one time Central Assistance programme to State of Nagaland.**

### **Child Labour**

The State Government reported that as per primary survey conducted, there were about 3000 child labourers identified in the State who were compelled to work for their livelihood. There are no separate figures exclusively for the tribal child labourers. The State will have a new survey conducted to identify the existence of actual child labour in the State of Nagaland.

The State Government has framed the Nagaland Child Labour (P&R) Rules under the provisions of the Child Labour Act, 1986 which is still under the examination of the Law Department. The Government has set up a separate Child Labour Cell to deal with the matters relating to the child labour in Nagaland. With regard to free education to all children between 6 to 14 years, the matter is still under consideration of the State Government. The State has also funded some NGOs for taking up projects for the Child Labour Awareness Programmes, Vocational Trainings and Non-formal Education etc.

### **Bonded Labour**

The State Government has enforced the Central Act i.e. the Bonded Labour System Abolition Act, 1976. The State has reported that there has been no case of bonded labour in the State.

## **Land**

The 88% of the total land with or without forest is with the communities and with the individuals in a few cases under the overall control of the Village Councils. The Department of Forest has 12% of the land areas.

Land with the communities is in collective ownership of the communities. The village as a whole owns major part of the land in the jurisdiction of village. The land of a particular village is retained within that village. Customary law as well as State laws regulate the land transfer under which land cannot be sold to an outsider. During the course of interaction with the State officers and cross-section of people, it was reported that the individual ownership of land has also come up in the State.

With respect to the State of Nagaland, the Article 371 A of the Constitution provides that no Act of Parliament in respect of the ownership and transfer of land and its resources shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by resolution so decides.

## **Transfer of Land**

The Assam Land and Revenue Regulation, 1886 is applicable to the State of Nagaland. This was amended by the Nagaland Adoption (Second) of Laws Order, 1965 and it was further amended by the Nagaland Land and Revenue (Amendment) Act of 1978 and of 2002. The State has reported that land reform measures have been taken by the State to protect the interests of the tribal people of the State. The statutory and customary laws strictly regulate the transfer of land. The State in its replies have not mentioned any case of land alienation. Under the provisions of the Nagaland Land and Revenue Regulation (Amendment) Act, 1978, no person other than the indigenous inhabitants of Nagaland shall acquire or possess by transfer, exchange, lease agreement or settlement of any land in any area or areas constituted into belts or blocks in contravention of the provisions of the land regulation. The amended Act of 2002 allows any transfer by way of mortgage in favour of any nationalized banks, cooperative society registered under the Assam Cooperative Societies Act 1949 or such other financial institutions with the approval of the State Government.

The nationalized banks, cooperative banks and other financial institutions cannot transfer the land mortgaged with them to a person other than the indigenous inhabitants of Nagaland except with the previous sanction of the State Government.

The Nagaland (Ownership and Transfer of Land and its Resources) Act 1990, regulates prospecting or mining operations under licence or lease. It also provides for conservation and development of minerals in the States.

**The Commission observed that these regulations are essential for maintaining the fragile eco-system of the Naga Hills. It is hoped that these regulations are strictly enforced in the larger interest of the protection of ecology and development of the economy of the State.**

### **Village Council**

Since time immemorial, the Naga villages were self-ruled, self-sufficient, small independent republics, having no common or superior authority above the independent villages either to control over them or to adjudicate them in case of inter-village conflicts. Every Naga village had a village council or authority constituted according to the usage and customs of the tribe. During the British rule, the Naga areas were treated as 'backward tracts' and 'excluded areas'. However it appears that Nagaland has been experimenting to evolve a system by recognizing and empowering the traditional Naga villages constituted according to their customary practices and usages.

Under the provisions of the Nagaland Village and Area Councils Act, 1978, Village Council shall consists of Members chosen by the Villagers in accordance with prevailing customary practices and usages. The hereditary Village Chiefs GBs and Angs shall be the Ex-Officio Members with voting rights of the Village Council. Every Village Council shall continue for five years from the date of appointment unless otherwise dissolved by the State Government. The Village Council will have a Member chosen as Chairman of the Council. The Council also appoints a Secretary who may or may not be a Member of the Council.

There is a procedure laid-down for the conduct of the business in a Village Council and a written record of the gist of its proceedings is maintained.

The Village Council has been assigned duties such as to help Government agencies in carrying out development works in the Village. It can also undertake development work on its own initiative. The Council can raise funds for the utility services within the village with the approval of the State Government. It can apply for and receive grant-in-aid, donations, subsidies from the Government or any agencies. It can borrow money from the Government, commercial and cooperative banks or from financial institutions for the development and welfare work of the village. The Council is required to provide security for the repayments of loan received by any permanent resident of the village. The Council can also lend money from its funds to the deserving permanent resident of the village.

The traditional Village Council System of the Naga people has been strengthened under the modern enactments of laws and regulations to strengthen the traditional local self-government. Under the Nagaland Village and Area Councils Act 1978 particularly for regulating their duties, functions and matters connected therewith, the Village Councils have been given powers and duties to formulate the Village Development Schemes, supervision and maintenance of various public schemes and development activities, human resource development, sanitation and health etc. in the Council Area. It also provides for constitution of Village Council Board as an agency for implementation of various programmes and schemes. The Act also empowers Village Council to administer justice within the village level in accordance with customary law/usage. In any case of serious nature the Council can arrest the offender who should be handed over to the nearest Administrative Officer or Police Station. The Village Council has also been assigned the task of maintaining law and order. No transfer of immovable property can be effected without the consent of the Village Council. A written record of this is required to be maintained by the Village Council.

Under the Act, there is a provision for the Constitution of **Area Council** for each area to be notified by the State Government in the Gazette. The Area Council shall consist of Members elected by the Village Councils as per the modalities and norms fixed under the Act. These Village Councils as well as Area Councils are elected for five years.

**The Commission visited the Phesima Village Council.** It was reported that the Village has been divided into various wards where from the Members are nominated. These nominated Members of wards in the Village elect Executive Members of the Council from amongst the Members. However, for the Area Council Members are elected by the Village Councils as per the modalities and norms laid-down under the Act. There are two persons nominated as Members by the State Government, one of whom shall be a woman ordinarily resident of the Area. The Chairperson of the Area Council is elected from among the Members of the Area Council. The local Administrative Officer is an Ex-Officio Executive Officer and Secretary to the Area Council. The Area Council has been given powers and duties to examine the development schemes formulated by various Councils within its jurisdiction and it will also settle the disputes referred to it. The funds of the Area Council shall consist of grants and subsidies. It appears that Area Councils are like Panchayat Samities at the Development Block level under the Panchayati Raj system elsewhere in the country.

There is State level Advisory Board set up under the Act which is headed by Minister incharge of the Council Affairs and there are ex-officio Members from the administration and there are some nominated Members with voting power. The Advisory Board has been assigned powers and duties to review from time to time working of the various Village and Area Councils and also advise the Government about the allotment of funds to various Village Councils as grants-in-aid etc.

**It appears in fact that there is a tripartite democratic set up in the State of Nagaland. However, there are no evaluation studies done to see whether these Acts and Rules framed from time to time for building this tripartite democratic system have weakened the**

**traditional self-governing Village Council or it has in turn strengthened the Village Council, the Commission observed.**

**Phesima Council which the Commission visited functions as an Assembly of self-governing village. The Commission recommends that the Village Councils need to be empowered further to strengthen this institution of self-governance which is transparent, cohesive and effective. Major developmental transformation can be brought about with the assistance of modern science and technology and the extension services by way of technical assistance and with the flow of funds from various sources – viz. plan allocation, special central assistance, centrally sponsored schemes funding, grants under the Article 275 (1) of the Constitution and from World Bank/UN funding agencies etc. which can ensure a sustainable employment and income generation. If this is not done the traditional self-governance of these villages is likely to get weakened, the Commission observed.**

**The Commission observed that the economic gains of the development process after the formation of the State of Nagaland has been quite impressive in comparison to some other North-Eastern States particularly in the field of education and the rural development etc. At the time of the formation of the State in 1963, the total length of road in the State was of 837 km., whereas at the end of financial year 2002-03, the total length of road was 10130 km. connecting over 1,092 villages which would works out to 89% coverage. There are no figures available about the water supply at the time of the Statehood but at the end of 2002-03 over 82% of the villages have been covered under the water supply scheme. 90% of the villages in the State have already been electrified. There are 1,342 primary schools which is more than the number of villages. The enrolment in the primary schools is over 100% at the end of year 2002-03. There are today 463 Sub-Centres/Dispensaries for just 1,225 villages and a few towns.**

**These achievements have been significant in the State of Nagaland. Despite all these achievements under the planned development programmes in all these years there is a need felt for a lot to be done for the economic empowerment of the villages.**



## ORISSA

The total population of Orissa stood at 3.67 crores as per the provisional results of the census of India 2001. The state holds 11<sup>th</sup> position among the states and union territories in terms of population. The population rose by 15.94 per cent between 1991-2001. The sex ratio was recorded as 972. The total literacy in the state showed improvement from 49.09 per cent in 1991 to 63.61 per cent in 2001.

2. Orissa has quite a large scheduled tribe population of 70.3 lakhs, being the third ranking state in this regard in India after Madhya Pradesh with 96.82 lakhs and Maharashtra with 73.2 lakhs. These figures are based on 1991 census as ST figures of 2001 census have still not been published, though figures relating to the general population are available. There are 62 communities in Orissa recognized as Scheduled Tribes under Article 342 of the Constitution. Of them, 16 may be considered as major, the population of each exceeding one lakh: Bathudi, Bhattada, Bhuyan, Bhumia, Bhumij, Binjhal, Gond, Kharia, Khond, Kisan, Kolha, Munda, Oram, Paroja, Santal, Saora. The ST population is concentrated in 12 out of total of 30 districts in Orissa namely Malkangiri, Koraput, Nawarangpur, Rayagada, Kalahandi, Gajapati and Kondhamal in the southern part, Mayurbhanj, Keonjhar, Sundergarh and Sambalpur districts in the northern part and Balasore district in the central zone. These areas have been declared as Scheduled Areas under the Fifth Schedule of the Constitution by the President in the Scheduled Areas (Orissa) Order 1977 dated 31.12.77. Incidentally, Scheduled Areas are now co-terminus with the Tribal sub-Plan (ITDA areas) area in Orissa, except Suruda tehsil (excluding Gochha and Gazalbadi Gram Panchayats) in Ganjam district. Some relevant statistics are herewith:

	2001	
	Total	STs
Population (in lakhs)	367.1	81.4 (22.19 %)
Sex ratio females/ 1000 males	971	1002
Literacy rate total	63.61(2001)	22.31(1991)
Female	50.97	10.21
Male	75.95	

Work participation rate	37.53	49.36
Families below poverty-line	49.72	71.26
(Rural 1999 – 2000 )	48.13	73.93
Health sub-centres (1998 – 99)	5927	2454
Primary Health Centres (1998 – 99 )	1508	118
U.C.D.S. Projects (1999 – 2000 )	281	118

{Collected from folder of the Planning Commission (Backward Classes and Tribal Development Division) Government of India, New Delhi – July 2000 & Scheduled Castes and Scheduled Tribes Research & Training Institute, Bhubaneswar under Scheduled Castes & Scheduled Tribes Development Department, Government of Orissa – March 2001 & Tribal Sub-Plan from Annual Plan 2002 – 2003, SC & ST Development Department, Govt. of Orissa.}

3. As per information available, the land under forests in 1991 was 54.76 lakh hectares, while the land available for crop cultivation was 66.37 lakh hectares and land put to non-agricultural use amounted to 7.46 lakh hectares. The principal crops have been rice, maize, pulses, oil seeds, sugarcane. In the tribal areas where rainfall is erratic and soils generally poor, to an extent coarse millets take the place of paddy. Over 44 per cent of the main workers have been engaged in cultivation, nearly 29 per cent as agricultural labour and nearly 2 per cent in livestock, forestry etc. These overall state figures do not reflect the situation in tribal areas where next to agriculture, forestry is the predominant occupation.

4. In the Fifth Plan period, 21 integrated tribal development projects (ITDPs) were established. Subsequently, they were converted into integrated tribal development agencies (ITDAs). These ITDAs covered 118 community development blocks out of 314 community development blocks of the State Government. The total number of villages covered in the Tribal sub-Plan (TSP) areas is roughly twenty thousand out of nearly fifty-one thousand villages. The area covered by TSP is 68,702 sq. kms. out of the total area of 1,55,707 sq. kms of the State i.e. about 44.1 per cent.

5. During the Sixth Plan period, 46 pockets of modified area development approach (MADA) were set-up, each pocket having not more than a total of ten thousand population of which a majority were to be STs. During the Seventh Plan period, 14 cluster pockets having a total population of less than five thousand each, a majority belonging to STs, were identified. The three approaches still left dispersed ST population of 16.5 lakh outside to be covered in the normal programmes. Thus, the ST population coverage in the State is as here under:

ITDAs	47.49 lakhs	67.54 %
MADA pockets	5.67 lakhs	8.06 %
Cluster pockets	0.53 lakhs	0.75 %
Dispersed STs	16.50 lakhs	23.47 %

6. There are 62 scheduled tribe communities in the State, mostly confined to localized areas. Of these, some are extremely backward and much more isolated. On the basis of criteria prescribed by the Government of India, 13 ST groups have been identified as "primitive tribal groups" comprising a population of about 70,000. Special micro-projects numbering 17, run by organizations registered under the Societies Registration Act 1860 with cent percent financial assistance from the Government of India, are located in the State. Though we do not have in our possession detailed performance report or reports, the impression we gathered was that the micro-projects have hardly made any impact on the life and economy of the members of any of the 13 groups.

7. The Commission had the opportunity of gaining insights of tribal areas and tribal people during their extensive tour of Orissa between 22 April and 2 May, 2003. They toured the districts of Rayagada, Nawarangpur, Koraput, Sundergarh, Jharsuguda, Sambalpur, Mayurbhanj, Keonjhar and Kandhamal districts. We went into the far interior areas to see the conditions of the people living in these areas. During the course of our visit, the Commission met a large number of people in villages and hamlets through whom we tried to ascertain the state of administrative, educational, health and numerous other institutions. We held open meetings with sitting and former MPs, MLAs, Sarpanches, ward members, public men and women, representatives of various organizations like

NGOs, cultural bodies etc. along with the Collector and other officials. Members of the media were also invited and they participated in these meetings. We feel that we could obtain a fair view of the state of affairs at the grass-root as well as at the higher levels.

8. Before proceeding on tour, on 22 April 2003 we had the benefit of discussions at Bhubaneswar with the Chief Secretary, Shri P.K. Mohanty and his team of Secretaries and other officers. We were glad we had a wrap-up round of discussions with them at the end of the tour.

9. Further, towards the end of our more than a week-long field visits, on 29 April 2003 we had the opportunity of holding discussions with the Governor of the State, Shri M.M. Rajendran, the Chief Minister, Shri Naveen Pattnaik and his Ministers in charge of Tribal Development, Shri Kalindi Behra and Shri Balabhadra Majhi and the Minister for Revenue, Shri Biswabhusan Harichandan. The discussions with the Governor, Chief Minister, Ministers in charge of Tribal Development, Minister for Revenue, the Chief Secretary and other officers at the State level enabled us to not only clear our ideas and put matters in perspective, but also to place our points of view before them for consideration and such action as they considered necessary. On 6 May 2003 we sent to the Chief Minister and the Chief Secretary, a summary record of our discussions with the Chief Minister so that action could be initiated on vital matters without waiting for the publication of this report. A copy of that record is appended herewith.

#### **Tribal sub-Plan**

10. We have treated the subject of Tribal Sub-Plan at length in another chapter of this Report. But, to briefly recapitulate its essentials, the authorities of a State need to identify development blocks in the State having more than 50 percent of ST population and constitute such contiguous blocks into an integrated tribal development pocket (ITDP) or integrated tribal development agency (ITDA); earmark from the State Plan budget a percentage of funds proportionate to, if not in excess of, the percentage of the ST population in the State; pool all financial resources available in the State from State Plan, special Central assistance, Central and Centrally sponsored schemes and institutional

finance, and allocate the pooled resources to the different ITDPs/ITDAs in the State on a rational basis; prepare a project report for the ITDP/ITDA basing it on availability of natural resources like land, water, forest, minerals, ores etc. and relating their utilization to the skills and aptitudes of the people, particularly STs, in the ITDP/ITDA area to enable a projectised approach; finally to instal in the ITDP/ITDA area a techno-administrative structure capable of acting as a purposeful delivery system.

11. At the beginning of the Fifth Plan period 1974-79, the TSP strategy comprising a Tribal sub-Plan for the State and the requisite number of ITDPs/ITDAs in the districts along with corresponding perspective project reports, was put into effect in Orissa. A Tribal Sub-Plan was formulated which, incidentally, was the first in the country and it was discussed thread-bare in the Government of India. As per the 1990-91 census, the ST population in the State was 70.3 lakhs constituting 22.21 percent of the State's total population of about 3 crores. The number of scheduled tribe communities notified in Orissa is 62, including 13 groups identified as "primitive tribal groups". The 21 ITDAs in the State cover a population of nearly 48 lakhs (54.4 per cent) of the total ST population. MADA pockets numbering 46 and cluster pockets numbering 14 cover 6.20 lakh STs. The remaining ST population of 16.6 lakhs live dispersed outside ITDA, MADA and cluster areas. Next to MP and Maharashtra, Orissa has the largest ST population living in hilly, forested and more or less inaccessible areas of the State.

12. The Tribal sub-Plan (TSP) objectives were, in the main, to protect the ST population from exploitation through legal enactments and their application and, secondly, to effect social and economic advancement through relevant positive development measures. Thus, the TSP concept is wide and comprehensive, and covers both the protective and promotional aspects. So far as the first objective is concerned, action has been necessary in the fields of land, money-lending, trade etc. Relative to the second, through measures adumbrated in States' Tribal sub-Plans and ITDP/ITDA project reports, efforts have to be made to increase STs' income, food security, shelter, education, health etc. levels.

## **Land**

13. The Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 provided that no transfer of tribal land to non-tribals can take place in the Scheduled Areas without prior written permission of the competent authority. Violation of this provision led not only to restoration of the land to the tribal owner/successor, but also punishment to the offender. Less than thirty years adverse possession did not create any right, title and interest against tribal land-owners. It has been admitted by the State Government that the provision of this Regulation could not check tribal land alienation to the desired extent, as fraud and inducement have continued to play their role. The Regulation was amended through Regulation 1 of 2002 to make it stringent. We are glad to learn that the amended Regulation 1 of 2002 forbids any transfer to non-S.Ts land belonging to S.Ts in Scheduled Areas. The other salient features of the amended law are that an ST land-owner cannot transfer his land even to another ST if he is left with less than 2 acres of irrigated or 5 acres of unirrigated land after the proposed transfer; that no tribal land can be sold to non-STs even in execution of decrees of the court; that all transfers between 4-10-1956 and 4-9-2002 shall be verified to ascertain their genuineness and to enable this the transferees will have to give a declaration to the Sub-Collector concerned within a period of two years i.e. by 3-9-2004 indicating the means of such transfers; persons in possession of tribal land in contravention of this provision are liable to rigorous imprisonment up to two years and fine up to Rs. 5000/-. Further, the Orissa Grama Panchayat (Amendment) Act, 1997 empowers the Gram Panchayat, subject to the control and supervision of the Gram Sabha, to prevent alienation of land and restore any unlawfully alienated land to the ST land-owner. These are welcome provisions and should be implemented sincerely. Careful monitoring will be required to assess their effectiveness. Nevertheless, in the paragraphs following, we record a few observations as a result of our tour.

14. Land is the basic resource of tribals and it is this resource that has been and is being drained away from his possession over decades mostly through means foul and fair. In our view, it is highly essential that administration should clamp down rigorous measures to not only stop the drainage but also to restore land which has been illegally or illegitimately transferred from the tribal hands. For instance, in the district of Koraput, we came across two outstanding instances wherein fraudulent means had been adopted to dispossess tribals of their land. In the village of Kindriguda, one Gangadhar Dass, a lawyer of Koraput was successful in having his title inserted in the record of rights (ROR) during settlement operations in the late fifties and early sixties in respect of 84 acres which belonged to ST land-owners and have actually been in the possession of ST villagers. It seems that the matter is now pending in a civil court. Similarly, one Manmohandas of village Kotgad purchased 1400 acres of tribal land and succeeded in recording his title in the ROR. If we have mentioned these two cases, it is only for the sake of illustration. We brought to the notice of the State authorities that such instances point to the need for instituting in the undivided district of Koraput survey and settlement operations once again i.e. after a lapse of more than four decades, to set matters right and enable the ST land holders to secure both de jure title and de facto possession.

15. During our tour in different tribal district of Orissa, particularly in Rayagada, Koraput and Sundergarh districts, we noticed barren hill-side patches which, presumably, had been put under shifting cultivation, locally called "Podu" or Dongar Chash" during the *Kharif* season. We do not have figures of the extent of the area under Podu in the State nor the number of families involved fully and partly in shifting cultivation. We would like to have an idea. A view has been expressed that since shifting cultivation is ecologically harmful, the concerned cultivators should be weaned away from it and should be settled in sedentary agriculture. This begs the question. If flat land had been available for settled cultivation and since productivity in flat lands is higher than in swidden, the chances are that the concerned peasants would not have undertaken Podu. The basic problem is that there is no alternative in such areas. As a result, the life-style of the Dongar Chashis revolves around Podu. It would appear, therefore, that shifting cultivation is, more or less,

indispensable in the given environment. Attention needs to be paid towards ameliorating its harmful effects and raising productivity levels of shifting cultivation through various

inputs. Raising of commercial crops in swiddens is sometimes recommended. We refrain from giving any such suggestion, as the farmer is in a good position to decide, particularly since food is naturally the first priority.

### **Money-lending**

16. To prevent the exploitative tendencies of money-lenders as well as to counteract them, the State Government enacted the Orissa (Scheduled Areas) Money Lenders' Regulation, 1967. The Orissa Grama Panchayat (Amendment) Act, 1997 empowers the Gram Panchayat, subject to the control and supervision of the Grama Sabhas to exercise control over money-lending to the Scheduled Tribes in Scheduled Areas. As such, the original Regulation has been amended and through the amendments, Panchayats within the Scheduled Areas have been empowered to regulate loans to the members of Scheduled Tribes, so much so that the prior recommendation of the Gram Panchayat has been made mandatory for advancing loans to members of the Scheduled Tribes. Where the loan is advanced in the absence of such recommendation, the debtor is not liable to repay the loan amount or any interest thereon. Further, it is mandatory for the money-lender to submit annual statements of account to the concerned Gram Panchayat about the status of the loan advanced, payments made by the debtor, balance outstanding against him etc. On receipt of complaint of the debtor, the Gram Panchayat has the authority to take appropriate action. The legal provisions are undoubtedly sound. But it will have to be seen how they are translated in to practice. Careful monitoring will reveal the way the amendments carried out about two years have been implemented. We do hope that the effect would be salutary.

### **Forest**

17. A vital question relates to so-called 'encroachers' on forest land. In 1972, the Government of Orissa resolved, as a matter of policy, to settle forest habitation and lands occupied by forest dwellers with them and prescribed a detailed procedure therefor.



However, the process got bogged down in administrative delays and when the Forest (Conservation) Act, 1980 was enacted, it came to a grinding halt. In 1991, the Government of India in the Ministry of Forest and Environment issued a set of guide-lines for regularization of occupancy prior to 1980. The State Government launched a drive to identify the pre-1980 occupants of forest land and sent proposals to the Govt. of India for regularization of 3,754 cases involving 3,320 hectares in 17 districts of the State. The matter has been pending in the Ministry. The State Government's assessment is that the number of 'ineligible encroachers' occupying forest lands subsequent to 1980 in tribal districts would be very high and, further, the removal of such a large number of families from their present habitat and location of alternative land and vocation for their rehabilitation as well, will be onerous, leading to large-scale human misery. We agree to this view. We feel that the entire situation has not been judged in the proper perspective. Most of the so-called encroachers have been living in the lands occupied by them for generations and evidence of that may not, more often than not, be forthcoming because no documents had been issued to them and, in any case, the tribals have a tradition of oral culture only. Hence, even enquiries by the Committee appointed at the behest of the Supreme Court, may not be able to unravel facts as they exist. The Commission feel, as a consequence, that while maintenance of forest as a certain percentage of total land area of the country is vital, there cannot be two opinions that it should take into account human cost.

18. The Forest (Conservation) Act, 1980 has placed a blanket ban on transfer of forest land for non-forest purposes. This has, indeed, extended protection against indiscriminate tree-felling and consequent depletion of forest cover. To that extent, the Act has been salutary. But, the flip side is that it has placed a lid over availability of land for critical needs like a health sub-centre, a primary school, a drinking-water well and numerous such other items constituting life-support system. In fact, during our visit to both rural and urban areas in Orissa, we came across demands for release of forest land on which health and educational institutions could be located and drinking-water wells, electric poles and transmission lines could be provided. It was suggested that the powers to release small pieces of land for such vital and well-defined purposes should be conferred on appropriate tiers by the Panchayats. The Provisions of the Panchayats (Extension to the Scheduled

Areas) Act 1996, as per which acquisition of land is possible only after consulting the Gram Sabha and the Panchayats at the appropriate level, also comes into play. We can only observe that the matter deserves consideration and examination.

19. We are glad to peruse the State Government's note and the observation that the tribal communities traditionally value and conserve forest and have developed their own methods of preservation of forest wealth and that extraction of MFPs for their own use and sale has been integral part of the livelihood of the support system of tribals of Orissa. We agree to their statement that the regeneration and conservation of forests is of utmost importance to them and joint forest management system as well as formation of Van Sanrakshan Samitis should make contribution in this regard. We also agree that any tribal development strategy for the next few decades has to accord a high priority to the forestry sector; that sustained food-for-work programme for assisted regulation of forests will help recreate forest wealth while providing food security to the tribal household living in remote tribal villages and in need of wage employment. But, we wish the State Government had spelt out the measures they have been taking or are taking in this regard

20. The steps that the State Govt. has taken in abolishing the monopoly leasing system in respect of some items of Minor Forest Produce (MFP) to contractors and allowing free access to the primary gatherers appear to be in the right direction. As per the 1997 Orissa Gram Panchayat (Amendment) Act, ownership of MFP has been vested in the Gram Panchayats and they have been empowered to fix a minimum of procurement price to be paid to the primary gatherers. The State Government's comment is that the free play of market has resulted in price-hike in favour of primary gatherers for deleased items like, Siali, hill broom, Amla etc. Unfortunately, our field observations do not confirm it. A bumper harvest of items like Mahua, has resulted in a tendency for fall in prices which needs to be counter-balanced through price-support and other mechanisms. The Panchayat system has to step in and play a crucial role in ensuring proper price to the tribal collectors, pluckers, processors etc.

21. We were apprised that there are forest villages in Orissa, but no number could be given. The condition of forest village dwellers in other parts of the country is, generally,

much worse than in those living in the revenue villages. Development items like irrigation, agricultural inputs, communications, health and educational institutions, PDS flow into the revenue villages as a matter of course and in accordance with Government policies and programmes, but the forest villages are deprived as a matter of course. It is commonly presumed that the forest villages are the protectorate of the Forest Department; that department does not command the programmes and resources available in the different government departments. Consequently, the condition of the forest villagers has been deteriorating. Traditionally, they have been treated as just wage-earners, if not coolies. They do not have the advantage of title over the land which they till or over the homestead where they live. The Government of India has, over the years, communicated their views to the States that they should be conferred title over land and the forest villages should be brought within the ambit of the development process. In fact, the Government of India has, since the middle seventies urged the concerned State Governments to convert the forest villages into revenue villages. We request that the State Government takes steps accordingly.

### **Trade**

22. On account of the insular habitation of STs, they have suffered much at the hands of traders, merchants, middlemen, touts as well as even petty government officials like the village revenue in-charge, police constable, excise peon, forest guard who have exploited them, taking advantage of their ignorance throughout these two or three centuries, during which tribal areas have opened out. An effective solution lies in raising their awareness and educational level so that they do not fall an easy prey. That indeed may take time and, in the meantime, vigilant institutions need to be built up. Some have been created and, if necessary, more need to be conceived to protect them from the predators. To that end, during the past quarter century, institutions like large-sized multipurpose cooperative societies (LAMPS), tribal development corporations, forest cooperative societies have been established. At the grass-root level, in Orissa 220 LAMPS were set up, a Tribal Development Cooperative Corporation and a Forest Development Corporation have been functioning. The purpose was to enable tribals to (a) sell their produce for reasonable return (b) purchase at controlled and/or reasonable prices commodities of daily use and (c)

secure production and consumption loans at moderate rates of interest. During the past couple of years, the State Government have attempted to build up grain-banks from where during the lean season, tribals can borrow at a nominal rate of interest and return with small interest at harvest time. However, during our tour, we learnt that not many LAMPS were functioning effectively, the health of TDCC and FDCs left something to be desired and grain-banks had yet to take off. We would like to stress LAMPS, the grass-root organization and exhort that they should be enabled to perform through all the means at the disposal of the State Government.

23. Recently, 18 commodities have been delicensed by the State Government and the Panchayats have been authorized to deal in them. Though the initial results appear to be discouraging, in our view, the Panchayats should be given enough time to work the system. Since the accountability of the Panchayats to the people is immediate, our hope is that the Panchayats would respond and implement the scheme responsibly. At stake is large quanta of agriculture produce, but even more important is the generally neglected, and in non-tribal areas relatively unknown, items of minor forest produce. We learnt during our tour that bumper crops of Mahua, paddy and other items are expected. We expect the Gram Panchayats to rise to the occasion and ensure good returns to the tribal through open licensing competitive system. At the same time, market interventions by apex bodies like the TDCC, FDC through mechanisms like minimum support price may exercise a wholesome influence on the MFP market. that is in favour of benefit to STs.

24. Different rural development schemes, mostly related to employment on the one hand and income-generating through self-help on the other, have been in force. The beneficiaries receive 50 per cent subsidy and 50 per cent loan in respect of beneficiary-oriented schemes. We heard complaints in this regard both in respect of loan and subsidy. The basic problem is the low educational and awareness level of the members of the scheduled tribes. The development administration has to exhibit higher motivation and greater alertness in conveying benefits to this most backward section of the society. Secondly, while several schemes like the Pradhan Mantri Sadak Yojna, rural communications etc. have been running, we found that roads in tribal areas are in poor state. Our road journey from Rayagada to Puttasing via Ramanaguda, a distance of about

30 kilometres, took us about three hours. There are several such instances. Greater attention needs to be paid to communication development in these interior backward areas, since one way of pulling them out of backwardness is through a good roads network; railways may take ages to reach there.

25. A persistent problem about which we heard complaints almost everywhere during our tour, relates to drinking-water supply. We found that the State Government had given emphasis on the provision of tube-wells. Tube-wells score over open wells because they reach deeper draw. But the disadvantage in tribal areas is that, geologically, the hard rocky strata resist tube-well rigs. Secondly, the problem of repair of tube-wells which go out of order often, is acute since mechanics take a long time in reaching the distant villages from the Panchayat headquarters, if indeed they respond at all. We understand that shallow open wells also may not be an ideal solution because of low water-table. We were glad to find the State Government's programme of water-harvesting structures. They should be encouraged for the reasons that water from perennial sources like springs and streams can be drawn therefrom and, at the same time, the underground water regime is reinforced. Hence, we feel that situational solutions as to tube-wells, open shallow wells, water-harvesting structures etc., should be decided upon and adopted. The aim can be fulfilled only if a discerning and motivated delivering system is in place.

## **Education**

26. We consider education as a key factor for development of scheduled tribes. Both in the field as well as at State headquarters we went into details in so far as this sector is concerned. In summary, our perceptions were as follows:

- (a) Primary education should be paid the utmost attention as it is the foundation. It has not received the attention it deserves. The quality of education imparted in the schools run by both the Tribal Development Department and the Education Department was discouraging owing to several reasons. Firstly, the number of vacancies of teachers was very large. There were complaints that teachers did not stay in the villages and absenteeism was common. One reason for this appears to be that residential accommodation

along with some basic facilities like electricity have not been provided to the teachers. Secondly, teachers were generally recruited from outside the tribal areas and they were disinclined to stay far away in inhospitable tribal areas. Such school buildings as existed appeared to be in a state of disrepair, while, in other places, school buildings hardly existed.

- (b) In the districts, we were apprised that there was a ban on recruitment of teachers, giving rise to a large number of vacancies. During the meeting with the Chief Minister on 29 April 2003, it was indicated that the State Government had proposed recruitment of 10,000 teachers. We requested the State Government to assign priority to filling up of the vacancies in tribal areas and particularly Scheduled Areas, since vacancies in these areas were proportionately larger and long-standing. The proposal of placing Shiksha Sahayaks also should be implemented. Further, it was essential to recruit ST teachers from the Scheduled Areas but not from the same village, to reduce absenteeism. It appeared that some time ago the village education committees (VECs) exercised some control over the teachers acting as some check, but their powers had been withdrawn since; even the Collector did not exercise any powers or control. In our view, control of VECs over teachers would help put primary education on a sound footing. In fact, apart from the authority of the district inspector of schools and circle inspector of schools, the Collector also should be brought into the picture for supervision of the work of District and Circle Inspectors of Schools.
- (c) Female literacy percentage was generally very low in tribal areas. It was disconcerting to note that in some blocks like Kashipur in Rayagada district, it was as low as 3 per cent. According to the Collector, in the district of Koraput female literacy would not exceed 10 per cent. As such, special attention needs to be paid to female education and greater and more liberal use should be made of the schemes like residential accommodation, scholarships of the State Government and the Government of India's scheme for spreading female education in low literacy pockets.
- (d) It was found that the rates of drop-out were alarmingly high in tribal areas ranging from 60 per cent to 90 per cent. While there could be many reasons

for it like the economic condition of STs, the attitude of tribal parents, the general condition of education in these areas, one reason which we thought was remediable related to the system of promotion of students from class I to class VII without any examination. The result: quite often the students could not pull on in the higher classes from VIII onwards since the foundation itself was poor, contributing to a high rate of drop-outs. The State authorities were requested to review the matter.

- (e) It is not remembered frequently enough that in tribal areas, tribal festivals, religious rites etc. are observed and holidays are declared on such days, in addition to the mainstream holidays, thus swelling the number of holidays in a year disproportionately. Secondly, the timings of the classes do not quite fit the routine of tribal children who are also required in many cases to attend to chores assigned by parents in field or at home. The matter needed to be looked into.
- (f) At times, in the field we were reminded of a long-standing demand of the tribal people that the medium of instruction in tribal areas should be the local language, since, particularly at the primary level, tribal children do not follow the instruction imparted in any other language. It was seen from the State Government's reply to our questionnaire that they have yet to take a policy decision in the matter. During discussions at the State headquarters we dwelt on this aspect and requested the State Government to consider it.
- (g) Unemployment was increasing everywhere and tribal areas were no exception, especially with the shrinking role of the State. At the same time, in Orissa, we came across old and relatively new public sector units, examples of which were the Rourkela Steel Plant, NALCO in Koraput and Dhenkanal districts, Mahanadi Coal Fields Ltd. in Sundargarh and Sambalpur districts where potential for employment of STs exists. There are several private sector units also. The condition precedent is that the ST boys and girls should have good grounding in general, vocational and technical education, like in the electronics field. Both the State Government and the managements of the PSUs should act in unison for imparting of not only

general but also vocational training to tribal youth to qualify them in traditional and upcoming trades and callings.

- (h) At many places where we chanced to go, the demand for establishment of boys and girls hostels and residential schools was strong. The tribal domestic environment being what it is, hostels and residential institutions serve the purpose of a critical need and, hence, should be given priority in the educational scheme of things. Further, a general complaint was that stipends were not being received on time. After more than half a century of working, this chronic administrative shortcoming should be eliminated. It was deplorable that the school managements were asked to subsist on credit for months on end and stipend funds were being released towards the end of financial year. The vicious circle needs to be broken.
- (i) Under Article 275(1) of the Constitution, the Government of India provides sumptuous funds (Rs. 2.5 crores) for establishment of a model school for STs to ensure quality education, the other schools in the area feeding such model schools. It is a matter of regret that the State Government have not been able to utilize the funds. In the field, we did not find the location of the model school at Palupai near Ramanaguda in Rayagada district whose construction had just begun, too proper. Further, Novodaya Vidyalayas need to be set up at each district headquarters.
- (j) Some of the schools in tribal areas in the State function under Education Department and some under the Tribal Development Department. There were divergent views as to whether the educational institutions of the former run better or the latter. But we would like to bring to the notice of the State Government a suggestion, which crops up now and then, having had a long standing history, that there should be integration of the schools of the two Departments and all schools should be run by the Education Department. The Government of Orissa may like to examine the matter.

27. An important issue has been highlighted in the Replies to the Commission's questionnaire where the State Government states: "The mainstream education adopted so far ignores the tribal view-point, their culture and traditions upon which their life edifice is placed. A curriculum is to be designed taking a holistic view of their culture, tradition and



social ethics". No indication is available of the line or lines of action which the state has taken in the matter. Understandably, it requires sustained thought and application. But the lack of action is not justified.

### **Health**

28. In the field of health also, the biggest failure seems to be in allowing vacancies of medical and para-medical staff to subsist for years. Adequate personnel from tribal areas are not available and staff belonging to distant non-tribal districts are reluctant to stay in tribal areas partly because of distance and partly on account of lack of residential, educational and various other facilities. With every passing year, the situation has become chronically worse. During our discussions we found that the State Government had been alive to this problem, but no concrete action plan had been implemented to meet the situation. They have been aware of the suggestions in the Maheshwar Prasad Committee Report (1979) published by the Department of Personnel, Ministry of Home Affairs that sub-cadres of medical personnel should be constituted and that members of the sub-cadres serve for a certain period in tribal areas and this service should count with weightage for seniority and promotion. It appears that, earlier, compensatory allowance was attached to the posts, but subsequently it was withdrawn. Grant of monetary incentives, provision of residential accommodation, electricity and water facilities will go a long way in attracting and retaining the personnel.

29. We came across deficiency of equipment and medicines in the places we visited. In one district, even the single X-ray machine had been lying out of order and in another district not a single lady gynecologist was available.

30. It was not clear to us whether the total number of institutions required to be created on the basis of relaxed norms for tribal areas prescribed by the Planning Commission had, in fact, been established. Even the State Government's replies did not carry the required information. This ought to be done, if not already done. Mobile units also fulfil a vital need. But we felt that for inaccessible pockets like Puttasing in the district of Raigada, the norms have to be even more relaxed. Travel time should be an important factor.

31. We have had occasion to have a look at the presentation of the Health and Family Welfare Department of the State made on 18 November 2002 before the Chief Secretary. It was disconcerting to find out exactly the same causes, which came to our notice during our tour projected in the presentation:

Shortage of doctors

Shortage of specialists: anesthesia, paediatrics etc.

Absenteeism of doctors

Shortage of paramedical staff like radiographers, supervisors

Transformation of state cadres like those of nurses and paramedics to district cadres

Large number of vacancies of multi-purpose health workers

The other problems and constraints highlighted in the presentation were in regard to drugs i.e. inadequacy of funds, inadequacy of storage facilities, procedural delays in the purchases and inadequacy of funds for diet and contingency. The other problems and constraints related to inadequate equipment and its lack of maintenance. The infrastructure had also been under handicap because of inadequacy of buildings, absence of staff quarters and poor maintenance. Clearly, the diagnosis of the ills that beset the health sector in the state has not been in doubt. The prescriptions are equally clear. The remedies need to be applied.

### **Administrative Structure**

32. During our visit, we found the Project Administrators and Integrated Tribal Development Agencies (ITDAs) more or less marginalized. At the same time, the other constituents of the district administration in Scheduled Areas and tribal areas were not functioning too well. We did not find them fully alive or even as active as they ought to have been. Insularity has imparted a laid-back character to the tribal areas leading to backwardness of the tribal population. In the first instance, it is essential to infuse a sense of requisite responsibility among the members of the district administration, a sense of dedication combined with a degree of competence and integrity. among the people,

ferment is necessary and we found some symptoms of it in the districts we visited. This calls for two essential ingredients: an administrative structure which is appropriately suited to the milieu of the tribal areas and, secondly, committed and competent individuals manning it.

33. In so far as the administrative structure is concerned, it has originally been conceived that a geographic unit like the ITDP/ ITDA should be composed of several contiguous development blocks enabling an integrated and projectised approach within the ITDP/ITDA areas. The post of the Project Administrator of an ITDA/ITDP was expected to be filled up by a capable person who would be able to lead a team towards fulfilment of goals marked out in the project report. Members of the team belonging to different disciplines were to be selected with due care and discrimination to be able to meet the challenges. The Project Administrator was required to be guided by the project level committee, comprised of tribal leaders, legislators, concerned officials and non-officials. The execution of schemes and programmes of development adumbrated in the project report was to be undertaken by the Block Development agency which usually has multi-sectoral staff at its disposal and is assisted at the village level by the Panchayats and village level workers. At the supra level, the ITDP/ITDA would have the benefit of leadership of the Collector as well as inter-linkages with the DRDA and district level officers of the line departments. Thus, a module was conceived with the aim of optimal coordination and synergy. However, as already mentioned in the field, we found that the ITDAs were functioning with a small complement of engineering and clerical staff, in isolation from other district organisations. It appeared that the ITDAs are being utilized to take care of only the special Central assistance (SCA). In other words, far from the comprehensive concept of the ITDA visualized at the time of Fifth and Sixth Five Year Plans, it has shrunk into a minor subsidiary entity.

34. Our further observation in the field was that funds had accumulated in almost every one of the ITDAs running into several lakhs and even crores. A bird's eye view led us to a rough assessment of the total accumulation in the ITDAs we visited, as Rs. 50 to 60 crores. It was explained to us that much of this accumulation resulted from late receipt of sanctions of SCA by the Government of Orissa from the Government of India and subsequently by

the ITDAs from the Government of Orissa. In fact, we could not obtain a full picture of TSP allocations [i.e. State Plan flows + SCA+ Article 275(1) funds + any others], utilization thereof and physical achievements therefrom. We would urge both the Governments to release sanctions and funds to the field formations in advance, to enable purposeful utilization. This situation has been consternating.

35. Another issue to be considered is whether much purpose is served by adopting the agency system in the form of an ITDA (registered as a private society), in contradistinction to an ITDP (a government organisation) model, since the former allows idle accumulation of tax-payers' money but otherwise acts as a Government formation to all intents and purposes. Even if a State Government comes to the conclusion that they would like to continue the agency system, they may like to examine whether the accumulated balances should not be parked in a way that earns interest.

36. The question of administrative structure for tribal development was discussed during our visit to Orissa with the Chief Secretary and departmental secretaries, as well as with the Chief Minister. Considering the plethora of organizations in the district, like the representatives of nearly all line (including regulatory) departments, the ITDA, the DRDA, the Block Development agency, and now the Panchayat institutions i.e. the Gram Sabha (Palli Sabha in Orissa), Gram Panchayat, intermediate Panchayat and the Zilla Panchayat that have been assigned a major role in planned development by Articles 243 to 243 (O), the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996 and the corresponding enactments of the State Government, it is necessary at this stage to take a comprehensive view and to evolve for the State a module of district administration which aims at optimal utilization of the different constituents for the sake of maximum benefit returns in tribal areas. The State Government officers were requested to prepare a concept paper on the subject and it is still awaited. A view will be taken on its receipt.

37. In some earlier paragraphs, we have dwelt enough on the need for positioning in Scheduled Areas and tribal areas competent men and women in the various posts. Hence, whether it is the Collector or Project Administrator or an officer or a teacher or clerk or secretary Gram Panchayat, selection has to be done with care and caution. At the same

time, it is obligatory on the part of the authorities to ensure that the personnel posted do not suffer undue hardships and handicaps while living and working in the usually difficult and inhospitable areas. They need to be compensated adequately, say through payment of compensatory allowance and/or double establishment allowance etc. Residential accommodation along with the requisite facilities for electricity, water need to be provided. Communications should be improved. Further incentives also might work - an example may be weightage in the matter of seniority and promotion for the years of service rendered in these areas.

38. Considering the general rung of the administrative and technical personnel, it might be expedient to institute sub-cadres of certain cadres, stipulating that a member of a sub-cadre would be required to serve in the Scheduled and tribal areas for a certain length of time: thereafter he would join the mainstream cadre along with the weightage in service for seniority and promotion. The personnel policies for tribal areas have been discussed in the Maheshwar Prasad Report (1979) of the Union Department of Personnel. The suggestions contained therein, may be helpful to the State Government.

#### **The Panchayat system**

39. Before we deal with the Panchayat system, we would like to refer to a constitutional body, the Tribes Advisory Council (TAC). Such a Council has been prescribed in the Fifth Schedule for States having Scheduled Areas. Since Orissa has Scheduled Areas, it has a TAC. Our observations indicated that it has not been very effective. Even its meetings have not been held regularly.

40. Panchayats in Orissa came to be governed by the Orissa Gram Panchayat Act 1964. No distinction was made in this Act between Gram Panchayats in tribal areas and those established in other areas. Over the years, the importance attached to the Panchayats fluctuated from time to time, not only in Orissa but in other states of the country also. The result was that the 73<sup>rd</sup> Constitutional Amendment relating to Panchayats for rural areas and the 74<sup>th</sup> Constitutional Amendment covering urban area were brought on board. The two Amendments found place in the Constitution in its Part IX, the rural panchayats in

Articles 243, 243A to 243 O and 243 P to Article 243 ZG respectively, Article 243 M(4)(b) enjoined that Parliament may, by law, extend the provisions of Part IX to the Scheduled Areas and the tribal areas (the Sixth Schedule Areas), subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of the Constitution for the purpose of Article 368. In pursuance of this provision, the Government of India appointed a Committee under the chairmanship of Shri Dileep Singh Bhuria, the Chairman of the present Commission, with the aim of obtaining recommendations relating to extension of the provisions of Part IX to Scheduled Areas. The Bhuria Committee submitted its report in early 1995 and, based thereon, Parliament passed the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act 1996). We have dealt with this matter in an earlier chapter and we feel no need here to elaborate it. More to our purpose here, is a comparison between the Central PESA Act and the enactment of the State Government mandated by it. The comparison follows.

41. Broadly, on a reading of the two pieces of legislation, one comes to the conclusion that while the PESA Act focuses its attention on the powers and functions of the Gram Sabha, (which is the grass-root fourth tier in Scheduled Areas below the Zilla Parishad, intermediate Panchayat and Gram Panchayat,) such orientation has got diluted in the Orissa legal enactment. In fact, the three Orissa Amendment Acts relate separately to Gram Panchayat, Panchayat Samiti and Zilla Parishad. While this is a major issue and needs to be looked at closely by the State authorities, other points of comparison requiring attention are as hereunder:

<b>PESA ACT 1996</b>	<b>ORISSA AMENDMENT ACT 1997</b>
Section 4(i) provides that the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making acquisition of land in Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas	It is significant that neither the Palli Sabha (roughly corresponding to Gram Sabha), nor the Gram Panchayat, nor even the Panchayat Samiti have been allowed such consultation and only the Zilla Parishad is so empowered. It is submitted that the idea behind not empowering any Panchayat below the Zilla Parishad was that relatively large areas of land need to be acquired and

may be coordinated at the State's level.	the matter should fall within competence of the Zilla Parishad. However, there could be several instances of acquisition of small land patches with which the Gram Sabha may be more intimately concerned and the higher Panchayat bodies may show no concern.
Planning and management of minor water bodies in the Scheduled Areas has been entrusted to Panchayats at the appropriate level. This means that even Gram Sabhas can be so entrusted.	Neither the Gram Panchayat nor the Panchayat Samiti has been entrusted with such functions.
The recommendations of Gram Sabha or the Panchayat at the appropriate level are mandatory prior to grant of prospecting licences or mining lease for minor minerals in the Scheduled Areas.	The power has been conferred only on the Zilla Panchayat.
The prior recommendation of the Gram Sabha or the Panchayat at the appropriate level is mandatory for grant of concession for exploitation of minor minerals.	-do-
The power to enforce prohibition or to regulate it or to restrict the sale and consumption of any intoxicant vests in the Panchayats at the appropriate level and the Gram Sabha.	Such power has been vested in the Gram Panchayat subject to the control and supervision of the Gram Shasan.
Ownership of minor forest produce has been vested in the Panchayats at the appropriate level as well as the Gram Sabha.	Such power has been vested in the Gram Panchayat subject to the control and supervision of the Gram Shasan.
The power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe vests in Panchayats at the appropriate level and the Gram Sabha.	- do -
The power to manage village markets by whatever name called vests in	- do -

Panchayats at the appropriate level and the Gram Sabha.	
The Panchayats at the appropriate level and the Gram Sabha have the power to exercise control over money-lending to the Scheduled Tribes.	-do-
The Panchayats at the appropriate level and the Gram Sabha have the power to exercise control over institutions and functionaries in all social sectors.	This power does not vest either in the Palli Sabha or in the Gram Panchayat. The Panchayat Samitis have been empowered to exercise control and supervision, the nature and extent of which shall be such as may be prescribed over institutions and functionaries of various social sectors in relation to the programmes and measures, as the Government may, by notification, specify. Thus the power has been clarified and circumscribed.
The Panchayats at the appropriate level and the Gram Sabha have the power of control over local plan and resources for such plans including Tribal sub-Plans	No such power has been conferred either on the Palli Sabha or Gram Panchayat. It vests in the Panchayat Samiti. It is presumed that by extension it vests also in the Zilla Panchayat.
The State legislations should contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or the Gram Sabha.	This provision is totally absent.
The State legislature shall endeavour to follow the pattern of the Sixth Schedule of the Constitution while designing the administrative arrangements in the Panchayats at levels in the Scheduled district Areas	This provision is totally absent.

42. It may thus be seen that there are significant variations between the PESA Act and the Orissa enactments. At the risk of repetition, one has to add that the basic orientation is different. In the PESA Act, the grass-root tier, namely, the Gram Sabha is centre stage. On the other hand, the tendency in the Orissa legislation is to shift the power fulcrum to the intermediate and district tiers of Panchayats. The substance of the Orissa enactment may have been drafted in the light of wisdom and experience of the concerned functionaries. But attention needs to be invited to the provisions of the Constitution which



stress the need to reconcile differences between the legislation on a particular subject of the Parliament and a State legislature. We do not, however, wish to press this point further, except to say that in our view too, the strengthening of the grass-root democracy is the key to a strong democratic federal structure at the successively higher tiers. This beacons to the lowest tier of democracy as its very foundation.

43. We were apprised that Vishwase Bhuyar community, Banki Bahal petitioned for inclusion of Bhuyar community in the Orissa ST list, as it has been notified as ST in the neighbouring Chhatisgarh State. The Ministry of Tribal Affairs would, no doubt, take note for necessary action.

44. A copy of letter dated 5 May 2003 of the Chairman, Second Scheduled Areas & Scheduled Tribes Commission addressed to the Chief Minister Orissa is placed at Annexure I.

### **SUMMARY OF RECOMMENDATIONS**

The Regulation I of 1956 as amended in 2002, besides prohibiting transfer to non-STs land belonging to STs in Scheduled Areas, does not permit transfer of land between two members of ST community or communities if the vendor is left with or less than two acres of irrigated or five acres of un-irrigated land after the proposed transfer. Further, it prescribes that all transfers between 4 October 1956 and 4 September 2002 shall be verified to ascertain their genuineness. To enable this, the transferees have to give a declaration to the Sub-Collector concerned within a period of two years indicating the means of such transfers; persons in possession of tribal land in contravention of this provision are liable to rigorous imprisonment up to two years and a fine up to Rs. 5000/-. This and others are welcome provisions and should be implemented faithfully and monitored carefully.

2. Similarly, the provisions of the money-lending laws should be implemented and monitored stringently.

3. Most of the so-called encroachers in forest land have been living in the lands occupied by them for generations. But, often, evidence of that may not be forthcoming because no documents have been issued to them and, in any case, the tribals have a

tradition of oral culture only. Enquiries by the district committees may not be able to arrive at satisfactory conclusions. While considering the question, human cost involved should be recorded as a vital factor.

4. The ban on transfer of forest land for non-forest purposes contained in the Forest (Conservation) Act 1980 has successfully extended protection against indiscriminate tree-felling and depletion of forest cover. But, simultaneously, it has shut out availability of land for even small critical needs like health sub-centres, primary health centers, primary schools, drinking water wells etc. The matter deserves close examination and consideration.

5. Regeneration and conservation of forests are of utmost concern to tribals. In planned tribal development over the next two decades, forestry sector should be accorded a high priority.

6. Sustained implementation of food for work programme will help recreate forest wealth while providing wage-employment and food-security to the tribal house-holds living in remote tribal villages.

7. As per the 1997 the Orissa Gram Panchayat (Amendment) Act, ownership of MFP has been vested in the Gram Panchayats and they have been empowered to fix a minimum procurement price to be paid to the primary gatherers. As there has been a bumper harvest of certain items of MFP e.g. Mohua in 2003 in Orissa, there is a tendency for fall in prices. This needs to be counter-balanced through price-support and other mechanisms. The State Government has to step in to activate the Panachayat system for playing a crucial role and ensuring proper price to the tribal pluckers, cultivators, processors etc.

8. The condition of forest villagers has been deteriorating. They do not usually have title over the land which they till or over a home-stead where they live. They should be conferred title over the land and forest villages should be converted into revenue villages and brought squarely within the ambit of development process.

9. In the State, not many LAMPS were functioning effectively. The health of TDCC and FDC left something to be desired. Grain-banks had yet to take off. Steps should be taken to revitalise these organisations. The secondary bodies like TDCC, FDC should undertake market intervention through mechanisms like minimum support-price to benefit the STs.

10. The road-network in tribal areas is very poor. Since railways may take a long time in connecting interior parts of tribal areas, greater attention needs to be paid to communications.

11. Drinking water supply is still a problem in tribal areas. Consequently, various solutions like tube-wells, open-wells, water-harvesting structures, springs should be considered for adoption since tube-wells alone may not offer an ideal solution on account of difficulty in boring in hard rocky strata and requirement of frequent repairs of tube-wells.

12. In the field of education, the following may be attended to:

- (a) To meet the disinclination of teachers hailing from outside the tribal areas to serve in tribal areas, basic facilities like staff quarters should be provided. As far as possible, teachers should be recruited locally to enable free communication between the teacher and the taught. Teachers should be recruited locally but not from the same village.
- (b) School buildings should be provided where they do not exist and those in a state of disrepair should be attended to.
- (c) The large number of vacancies in Scheduled and Tribal Areas should be filled up on priority basis. Village education committees may be vested with authority to control teachers. The Collectors should be brought into the picture for supervision of the work of District and Circle Inspectors of schools.
- (d) As female literacy percentage in tribal areas has been abysmally low, special attention should be paid to female education, making liberal use of schemes like hostels, residential schools, scholarships, low female literacy pockets scheme of the Government of India.
- (e) The quality of education needs to be drastically improved to check high rates of drop-outs.

- (f) The holidays, schools timings, calendar etc should be adjusted to accord with the tribal cultural milieu.
- (g) As, initially, the tribal children are able to follow instructions in their mother-tongue only, at least in the primary classes instruction should be imparted in their own language.
- (h) According to the State Government " a curriculum is to be designed taking holistic view of their (tribal) culture, traditions and social ethics". This is an important facet and vigorous action should be taken in line with this statement.
- (i) The growing demand for residential schools and hostels, both for boys and girls should be urgently met, particularly since funds are no constraint now. Scholarships should reach the students in time.
- (j) Model Schools for which money has been given by the Centre under Article 275(1) to the State Government, should be constructed expeditiously and studies commenced promptly.

13. In the field of health also, a large number of vacancies of medical and para-medical staff subsist for long time on account of distances, poor communications, lack of residential, educational and various other facilities. As in the field of education, an appropriate personnel policy is required by way of provisioning of requisite facilities and incentives.

14. We could not obtain full information in regard to health situation like SHCs, PHCs, CHCs and hospitals existing in the State relative to the prescribed normative numbers. These need to be checked up. Further, we feel that considering the almost inaccessible tribal areas in the state like Puttasing tract in the Rayagada district, another look at the norms by the Planning Commission for further relaxation is necessary. Travel time should be an important factor.

15. Problems of para-medical staff like radiographers, supervisors, nurses, ANMs, Dais can be solved only by locating adequate number of training institutions in the tribal areas and training local boys and girls. Like-wise, local multipurpose health workers need to be trained.

16. For implementation of various development programmes and schemes, inter alia, two essential ingredients are necessary: an administrative structure appropriately suited to the milieu of the tribal areas and, secondly, committed and competent individuals manning it.

17. Considering the plethora of organizations in a district, the State Government may take a comprehensive view to evolve a module of district administration that aims at rationalisation of organisational structure and optimal utilisation of the different constituents for maximum-benefit returns in tribal areas. The ITDA has shrunk in the State in respect of both its areas and functions. Its comprehensive character covering both the developmental and protective functions should be restored.

18. A comprehensive personnel policy for tribal areas should be worked out including both the system of rewards and punishments. Incentives should be inbuilt for class III and class IV and even for class II services. District cadres like that of teachers, nurses, and other para-medical staff should be constituted.

19. The Tribes Advisory Council in the State was found to be not meeting regularly. Further, it was not very effective. It needs to be activated.

20. The Orissa Gram Panchayat Act as amended in 1997 falls short of the Central PESA Act 1996. One major difference is that while the PESA Act focuses on the Gram Sabhas, the orientation has been diluted in the Orissa enactment. There is need to re-orient the Orissa Act to approximate it to the PESA Act.

**SECOND COMMISSION FOR SCHEDULED AREAS  
AND SCHEDULED TRIBES  
SUMMARY RECORD OF MEETING WITH  
THE CHIEF MINISTER ORISSA  
AT BHUBANESHWAR**

**Present**

1.	Shri D.S. Bhuria Chairman, Second SA ST Commission	Shri Naveen Pattnaik Chief Minister, Orissa
2.	Dr. Bhupinder Singh, Member, -do-	Shri Kalindi Behera, Minister for SC & ST Development Deptt. Orissa
3.	Dr. P.K. Patel Member -do-	Shri Balabhadra Majhi Minister of State for SC & ST Development Deptt. Orissa
4.	Shri Sanjeev Patjoshi Jt. Director, -do-	Shri Ardhendu Sarangi Principal Secretary and Commissioner, SC ST Dev. Deptt.
5.	Dr. P.K. Mohanty Expert, -do-	Shri Santosh Satpathy, Additional Secretary to Chief Minister
		Shri J.D. Sharma, Addl. Secretary, SC ST Development Department.

The meeting was held on 29 April 2003 in the Office of the Chief Minister.

2. The Chief Minister Shri Naveen Pattnaik welcomed the Chairman and the Members of the Commission.
3. Shri D.S. Bhuria, Chairman of the Commission thanked the Chief Minister for all the facilities and courtesies extended to the Commission. He apprised that the Commission had toured Rayagada, Koraput, Navarangpur, Sundargarh, Jharsuguda and Sambalpur districts of Orissa and had gained valuable insights about the tribal people and tribal areas.
4. The Commission's first anxiety related to education. For instance, female literacy percentage was mentioned in each district as very low, as low as 2-3 per cent in Kashipur Block of Rayagada District and 3-4 per cent in Koraput District. It might have improved in the meantime, assuming these figures to relate to 1991 census. But even so, the spread of education among tribals was very limited. Drop-out rates varied from 60 per cent to 90 per cent. The educational backwardness could be ascribed to the large number of teachers'

vacancies, teacher absenteeism, their general negligence, lack of residential accommodation for them, lack of school buildings at several places, bad condition of existing buildings, lack of control over teachers etc. In KBK area, vacancies to the extent of 30 percent persisted.

4.1 According to the Chief Minister, ten thousand more teachers were being posted and in positioning them priority would be given to areas having larger number and persisting vacancies. The village education committees would continue to have control over the teachers. With these and other measures, he hoped the situation would improve. The officers of the Orissa Government asked that the expenditure on scholarships should be shared 50-50 between the Government of Orissa and the Government of India.

5. The Chairman of the Commission pointed out that the performance of tribal development in Andhra Pradesh was better, partly owing to the fact that the Chief Minister of Andhra Pradesh had instructed that the Project Officers to be posted to the ITDAs should be selected with care. The policy of posting dedicated and competent young officers as Project Administrators to ITDAs in Orissa should be followed and the results would be rewarding. The Chief Minister instructed his officers to adopt these measures particularly as the transfer season was at hand. He mentioned by way of example, that the stewardship of Malkangiri district by successive capable Collectors had brought peace to it leading to its development.

6. The Commission found that in the ITDAs that they visited, cash balances in PL accounts to the extent of Rs.50 to 60 crores were lying un-utilized, when the state was facing financial crunch. It was explained that the contracts had yet to be decided and the money would be spent soon. The State Government would arrange timely release of funds to the field formations for better utilization.

7. The Commission appreciated the amending Regulation 2 of 1956 passed in 2002 which places a blanket ban on transfer of lands belonging to STs in Scheduled Areas to non-STs. This should go a long way in curbing tribal dispossession. But the authorities in Scheduled Areas should remain alert to under-hand dealings like benami transfers. Further, intensive efforts were needed for restoration to STs of illegal transferred lands.

8. It was brought to the notice of the Chief Minister that irregularities had been committed in 1957 - 61 survey and settlement operations in as much as land had been recorded in the name of some influential non-tribals through fraudulent means, but, in cases brought to the Commission's notice, the ST land-holders continued to retain the possession. It was requested that the State Government take up survey and settlement operations in the districts to remove the anomalies and enable tribal owners to acquire title to the land so that they could avail of facilities like bank loans. In a subsequent discussion with the Minister for Revenue, Shri Bishwabhushan Harichandan, the same point was raised and he assured appropriate action in the matter.

9. It was noted by the Commission that, as per the current excise policy of the State Government, while liquor vending had been banned in the rural parts of the Scheduled Areas, it continued at the district and sub-divisional headquarters. This resulted in illegal flow of liquor from urban centers to rural areas and, in consequence, exploitation of tribals by liquor contractors. In fact, the earnings of tribal families were, in large part, being mopped up by liquor vendors. It was urged to the State Government that the policy recommended by the Government of India in 1974 to the effect that liquor vending should be abolished in toto in tribal areas including Scheduled Areas, and tribals should be allowed to brew their own liquor for domestic and social purposes be adopted. The point was appreciated by the State representatives and they expressed that action would be taken accordingly.

10. In Orissa this year, bumper crops of minor forest produce (MFP) items were expected and, on behalf of the Commission, it was urged that their proper marketing should be facilitated. The State representatives stated that a number of items of MFP had been de-licensed and the Panchayats had been authorized to issue licenses for trade in those items. However, since markets in tribal areas are habitually inclined towards middlemen and trading classes, it was essential that marketing interventions by agencies like LAMPS and TDCC in the form of minimum support price should be effectively implemented. The discussions then turned around Kendu leaves. Trade in this item was being run departmentally. Giving a rough idea, the State representative stated that malpractices were still being indulged in and these needed to be weeded out. On behalf of the Commission, it



was urged that from the annual gross profit of Rs.200 crores, some amount should be set apart for distribution as cash bonus to the pluckers and collectors of Kendu leaves in the form of Chief Minister's Bonus Fund.

11. The Chief Minister and the other two Ministers were apprised of the differences between the Central Provisions of the Panchayat (Extension to Scheduled Areas) Act 1996 and the Orissa Gram Panchayats (Amendment) Act 1997. It was pointed out that the one basic difference between the two was that the former was Gram Sabha oriented and the latter was more oriented towards higher bodies like Panchayat Samitis and Zila Panchayats and less towards Palli Sabha. The result was that the original purpose of focus on the grass-root tier had got diluted in the Orissa enactment. A bureaucratic element also had been introduced in the Orissa law for budgetary procedure, going against the grain of the Central Act. The differences needed to be appreciated in the context of Provision of Part XI of the Constitution, particularly Article 254.

12. The Commission felt that one reason for sub-optimal performance in tribal development has been the lack of synergy in the various components of the district administration like DRDA, ITDA, line departments, development blocks and the erstwhile Panchayats. It was observed that ITDAs which had been conceived earlier as the major delivery agent for tribal areas had been marginalized. Now that a pro-active role has been assigned to the four-tier Panchayats in tribal areas by the 73<sup>rd</sup> Constitutional amendment, Article 243M, the PESA Act 1996, an analytical and constructive review of the entire district machinery needs to be undertaken with the following objects in view:

- a) In terms of Article 243G making Panchayats engines of preparation of plans for economic development and social justice as well as for implementation of such schemes
- b) For achievement of the purpose in (a) above, integrating the Panchayat system organically into the district development administrative machinery
- c) Identifying and demarcating appropriate roles of the ITDA and the DRDA as vehicles of planning and implementation in the tribal context and inter-locking

them, keeping in view the block agency as the single implementational tool in the district.

The Chief Minister was informed that the matter had been discussed with the Chief Secretary and his colleagues of different departments and they had been requested to prepare and send to the Commission a concept paper within a fortnight on the subject delineating as to how best the integration and implementational roles could be conceived.

13. Another important administrative matter concerned financial procedure. It is understood that the Tribal sub-Plan out-lay was being budgeted under the demands of the concerned department and shown under appropriate scheme heads under the minor head "Tribal Area sub-Plan" under each relevant major head. In the State document, it had been admitted that this procedure has not helped effective monitoring. The State Officers proposed showing the entire TSP out-lay provided in the budget demand of each department under a separate major head, booking it under the respective scheme heads below appropriate minor heads under the major head. It had been stated that the advantage of this mechanism would be that the entire host of TSP schemes implemented by each department would appear at one place in the demand (budget book) of that department, leading to budgetary transparency and facilitating easy identification with the planned schemes and the ear-marking TSP out-lay of each department. The advantage would be substantial improvement of monitoring. The Government of India had been advocating the concept of single demand budgeting in the Tribal Development Department. While there is something to be said in favour of the procedure suggested by the Orissa officers, it seems to be aimed merely at better monitoring. But a single demand budgeting in the Tribal Development Department system goes further than that. It would enable the Tribal Development Department to select, in consultation with the concerned line department, suitable programmes and schemes for tribal people and tribal areas and/or to modify/alter the running schemes as necessary through the mechanism of budget control. At the same time, it has the advantage of better monitoring. The State Government was requested to consider.

14. The Chairman and Commission members appreciated the fine work being done in the State through creation of Womens' Self-help Groups and the vital projects these Groups

have been putting through. The Commission also expressed its appreciation of implementation of the scheme of water-harvesting structures bringing in the benefits of irrigation, improvement of soil moisture regime, drinking water and, in the wake of these benefits, leading to trigger effect in the mode of living and attitudes to education etc.

15. The Commission observed that the public and private sector units like RSP, NALCO, MCL, J.K. Paper Mill etc. in Orissa had been contributing somewhat to tribal welfare through peripheral development schemes. It was felt that the effort was marginal. Having taken over the means of livelihood of tribals such as land, water, it is incumbent that these PSUs should take over substantial responsibility like integrated development of the villages affected, mobile medical units with specialized equipment, funding vocational and technical education, financing meritorious ST students for higher studies etc. The Chief Minister agreed to the suggestion and expressed the desire to take up the matter.

**DILEEP SINGH BHURIA**  
CHAIRMAN

**GOVT. OF INDIA**  
**SCHEDULED AREAS &**  
**SCHEDULED TRIBES**  
**COMMISSION**

No.PS/BS/61/03  
5 May 2003

Dear Shri Patnaik,

I write to thank you for all the arrangements that the State Government made for the Second Scheduled Areas & Scheduled Tribes Commission to tour the different interior areas of the State and the hospitality that they extended to us. Further, I would like to express my gratitude for the meetings which the Commission had in the field with different officers and non-officials as well as at the State headquarters, particularly with yourself and other Ministers, the Chief Secretary and other senior officers. The Governor was good enough to give us an opportunity to exchange views.

2. I enclose herewith a summary record of the meetings held with you, the two Ministers for Tribal Development, the Minister for Revenue and other officers of the State Government. I have no doubt that you would be kind enough to ensure action in accordance with our discussion.

With kind regards,

Yours sincerely

( Dileep Singh Bhuria)

Shri Naveen Patnaik  
Chief Minister of Orissa  
BHUBANESWAR.

## STATE REPORT ON RAJASTHAN

Rajasthan, the largest State of India constitutes about 10.40 per cent of the total geographical area (3,42,239 sq.kms.) of India. It is bounded by Pakistan in the West and North-west with an international border of 1,070 Kms. by the State of Punjab in the North and Haryana in the North-east and by the State of Gujarat in the South-west, by Uttar Pradesh in the East and Madhya Pradesh in the South-east.

2. The process of integration of Rajasthan which commenced in 1948 and culminated in 1956 by merger of 19 erstwhile princely States of Rajputana, merger of Ajmer-Merwara, the former centrally governed state and inter transfer of small enclaves from Rajasthan to the neighbouring states and vice versa It is noticed that the Schedule Tribe (ST) population of in the state spiralled from 2.04% in 1951 to 11.70% in 1961, due to the inclusion of many tribes in category of ST, the ST population showed a drastic increase of 720.95 per cent in 1961.

3. As per 1991 Census the total population of Rajasthan was 44,00,59,990 persons while that of STs was 54,74,881 persons (12.44% ). Density per sq.km.of the State was 129 (General ) and 16 (ST).

4(a). Shri Dileep Singh Bhuria, Chairman, Scheduled Areas and Scheduled Tribes Commission, S/Shri S.K. Kaul, K.F. Valvi, Dr. B.D. Damore and Ram Sevak Paikera, Members accompanied by Shri P.D. Gulati, Expert undertook the tours of Rajasthan in three phases. In the first phase, the border districts of Barmer, Jaisalmer and Jodhpur were covered (Part III) while the second phase involved touring in the Scheduled Area, Sirohi (Abu Road), Kotra Tahsil (Udaipur), Banswara and Dungarpur as well as Udaipur town (Part I) for discussions with the TAD Commissioner and district level officers. The third phase covered habitations of PTG in Baran district, Kota for the study of Seharua and Jaipur (Part II) for discussions at the State level with the officers.

4(b). This report is divided into three parts. Part I deals with Scheduled Areas (SAs) and Tribal sub-Plan. In Part II, we have discussed the problems of Seharua, the only primitive Tribal Group (PTG) in the State. Part III indicates the position of scattered ST communities in 29 out of 32 districts of the State.

## PART - I

5. Decadal growth of population in Tribal sub-Plan area during 1971-81 and 1981-91 was as under:-

Decade	% age Rajasthan	% age TSP Area
1971-81	32.97	+30.80
1981-91	28.07	+24.40

6. The above figures reveal that there was a fair growth rate of 28.0% in the decade 1981-91 in comparison to the previous decade 1971-81. However, in case of TSP, the growth rate of population from 1971 onwards is less than the decadal growth. This is so because the tribal population due to loss of command over resources is migrating to the urban industrial areas outside the sub-Plan area for livelihood.

**TABLE - 1**

### RAJASTHAN AT A GLANCE

I (a).	Geographical area in square Kilometres.	3,42,239
(b).	Total population (2001 Census)	44,00,59,990 (5% of India's population)
II (a)	No. of revenue districts	32
(b)	No. of revenue divisions	06

### III Demography

(a)

Census year	Total (in crores)	Total decadal growth	ST (in lakhs)	%age of STs to total population	ST decadal growth
1991	4.40	28.44	54.75	12.44	31.19
2001	5.65	28.33	70.98	12.57	29.64

(b)

Population (ST)	1991	2001	Decadal growth
Rural	5220549	6717830	28.68
Urban	254332	379876	49.36
Total	5474881	7097706	29.64

(c) Sex Ratio - 1991 - 910 (Total) 930 (ST)  
2001 - 922 (Total) 944 (ST)

### IV Districts having 20% or more ST population: (1991 Census)

S.No.	District	% age
1.	Banswara	73.5
2.	Dungarpur	65.8
3.	Udaipur	36.8
4.	Sirohi	23.4
5.	Sawaimandhopur	22.6
6.	Bundi	20.3
7.	Chhitorgarh	20.13

**V Number of Integrated Tribal Development Projects (ITDPs), MADA Pockets, Clusters and PTGs:**

ITDPs	5	MADA Clusters	11
MADA Pockets	44	PTG	1 Seharia(District Baran)

**VI ITDPs:** The STs covering 23 blocks and an area of 19,105.93 sq. kms. and a total population of 35,19,311 of which 24,01,711 or 68.24 per cent belong to STs. The five ITDPs (Udaipur, Banswara, Dungarpur, Chittorgarh and Sirohi) consist of 4,440 villages out of which 4,367 are inhabited.

**VII MADA Blocks:** 44 MADA Blocks have got 3,592 villages, with a total population of 22,58,134 out of which the tribal population is 12,49,231 or 55.32 per cent. These 44 MADA Blocks are located in 16 districts.

**VIII MADA Clusters:** The 11 MADA Clusters falling in 8 districts and lying in 161 villages have a total population of 83,799 and a tribal population of 45,494 or 54.29 per cent.

**IX PTG Group:** Seharia is the only PTG group in Rajasthan. They inhabit Kishangarh and Sahabad Tehsils of Baran district of Rajasthan. This area covers 439 villages having a population of 1.91 lakhs out of which 0.66 lakh are ST and of them 0.48 lakh belong to Seharia community (1991 Census).

**X Scattered Tribal Population:** Scattered ST population of 17.53 lakhs found in the 29 districts of the State formed 32.70 per cent of total ST population according to 1991 census.

**Tribal Sub Plan:**

**TABLE - 2**

**7(a). Flow to TSP:**

Plan Period	State Plan Outlay	State Plan expenditure to expenditure in Scheduled Areas	
		% age Flow	Rs. In Crores
V Plan	611.08	8.97	55.00
VI Plan	1899.87	11.09	236.19
VII Plan	3258.15	10.30	319.89
VIII Plan	11950.00	8.88	1053.35
IX Plan (*)	22177.16	6.7	1496.61
X Plan (x) (proposed)	31831.75	5.83	1855.00

(\*) State Plan provision to expenditure in Scheduled Areas.

(x) State Plan provision flow for Scheduled Areas.

7(b). Percentage flow to TSP as given above indicates that though it continued to increase from 8.97 in the V Plan to 11.09 in the VI Plan. However, from the VII Plan onwards the percentage flow showed a down swing from 10.30% (VII Plan) to 5.83% in X Plan (Proposed). The State Govt. had issued orders in December, 1999 that "8% of the funds of plan ceiling of divisible outlay of all executive departments will be allotted in lumpsum to Tribal Areas Development Department" when the population of STs is 12.5% of the total population.

8. Considering that the development activity in Tribal Sub Plan area should have picked up at the commencement of X Plan, the flow to TSP both in percentage and absolute terms should have increased side by side with the increase in the Tenth Plan outlay compared to the Ninth Plan. It is evident from the above figures that whereas the Tenth Plan allocation has increased by 43.53 per cent, allocation for Scheduled Areas has decreased from 6.7 to 5.8 and yet the state Govt. makes a claim that they are following 'Maharashtra Pattern' in allocating funds from State Deptts. for the TSP areas. The Commission recommends that the State Government should make earnest efforts to ensure that various Deptts. earmark at least 12.5 per cent of funds for TSP areas. The Departments of education, health, irrigation, public health should increase their outlay earmarked for TSP area considering the backwardness of these areas rather than on the basis of percentage of ST population.

**TABLE - 3**

9. **Work Participation Rate: (1991 Census)**

Category	Total Workers	Cultivators (%age)	Agricultural Cultivators (%age)	Workers other than cultivators and agricultural labourers (%age)	Marginal Workers (%age)
<b>General</b>	13915070	58.8	10.0	31.2	22.9
<b>ST</b>	1908531	76.1	13.5	10.3	33.1

10. The above table reveals that while the percentage of cultivators among ST population was 76.1 per cent that among general population was only 58.8 per cent, which means that there were more cultivators among STs than the general population. However, the position is reversed when we take into consideration the statistics about agricultural labourers. The agricultural labourers among STs constituted 13.5 per cent while that among the general population was 31.2



per cent only. As regards marginal workers the same story is repeated, there were 33.1 per cent marginal workers among STs while only 22.9 per cent among the general population which is due on account of factors like loss of land due to alienation, fragmentation of land holdings among STs which are quite often without irrigation facilities and therefore their agricultural production is dependent on rain-fed agriculture. It also compels the tribals to migrate to industrial and urban centres in the neighbouring States of Gujarat, Delhi, Punjab, Haryana, etc. for livelihood.

**TABLE - 4**

**11. BPL families in rural areas:**

Category	% age (Rural Areas) (1999-2000)
General (India)	27.11
ST (India)	45.86
ST (Rajasthan)	25.27

**12. List of Scheduled Tribes**

STs and their names as per Constitution (Scheduled Tribes) Order, 1950 are given below:

1. Bhil, Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia, Mewasi Bhil, Rawal Bhil, Tadvi, Bhagalia, Bhilala, Pawra, Vasava, Vasave.
2. Bhil Meena
3. Damore, Damaria
4. Dhanka, Tadvi, Tetaria, Valvi
5. Garasia (excluding Rajput Garasia)
6. Kathodi, Katkari, Dhor Kathodi, Dhor Katkari, Son Kathodi, Son Katkari
7. Kokna, Kokni, Kukna
8. Koli Dhor, Tokre Koli, Kolcha, Kolgha
9. Meena
10. Naikda, Nayaka, Cholivala Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka
11. Patelia
12. Seharia, Sehria, Sahariya

13 (i). **Appendix I** gives the distribution of STs population of the State by sex according 1991 census. The tribals in Rajasthan are of varied ethnic composition and cultural patterns comprising mainly Bhil, Damore, Bhil Meena, Garasia, Kathodi and Seharia. The first three tribals are mainly concentrated in Banswara, Dungarpur and Southern half of Udaipur district and the next two in parts of Chittorgarh and Sirohi district and Seharia in Baran district.

### 13 (ii). Classification of Scheduled Tribes

The Commission during its tour in the Scheduled and non-Scheduled areas of the state received persistent demands from tribal leaders that some tribal communities had received disproportionately large benefits of policy of reservation in employment and admission to educational institutions. The Commission after deliberations have come to the conclusion that the State Government should go into all aspects of reservation in employment and admission to educational institutions and examine whether a disproportionately large number of benefits have gone to some tribal communities and take measures required for equitable distribution among various ST communities.

The Commission tentatively suggest that the STs should be categorized into four groups A,B,C, and D on a rational basis as indicated below:

- A. Seharias who are classified as PTGs
- B. STs living in Scheduled and Tribal Sub Plan areas
- C. STs living in the scattered areas, and
- D. STs living in rural and urban areas who are not covered in the above mentioned three categories.

### 14 Scheduled Areas:

The Scheduled Areas in Rajasthan were originally specified under the Scheduled Areas (Part B States) Order, 1950 (CO 26) dated 07.12.50 and had been re-specified under Scheduled Areas (State of Rajasthan) Order, 1981 (CO 114) dated 12.12.81 after rescinding the first order referred to above.

These areas are as under.

- 1. Banswara district
- 2. Dungarpur district
- 3. The following in Udaipur district:
  - (a) Tahsils of Phalasia, Kherwara, Kotra, Sarada Salumbar and Lasadia,
  - (b) The eighty-one villages of Girwa tahsil as mentioned below:
    - (i) Sisarma Devali, Baleecha, Sethji ki kundal, Rayta, Kodiyat and Peepliya villages of Sisarma panchayat,
    - (ii) Bujra, Naya Gurha, Popalti and Naya Khera villages of Bujra Panchayat,
    - (iii) Nai village of Nai Panchayat,
    - (iv) Dodawali Kaliwas, Kar Nali Surna, Borawara Ka Khera, Madri, Bachaar and Keli villages of Dodawali Panchayat,
    - (v) Bari Sadri, Chhoti Sadri, Peepalwas and Kumariya Kherwa villages of Bari Sadri Panchayat,
    - (vi) Alsigarh, Pai and Aar villages of Alsigarh Panchayat,
    - (vii) Padoona Amarpura and Jawala villages of Padoona Panchayat,

- (viii) Chanawada village of Chanawada Panchayat,
  - (ix) Saroo and Baran villages of Saroo Panchayat,
  - (x) Teeri Borikuwa and Gojiya villages of Teeri Panchayat,
  - (xi) Jawar, Rawan, Dhawari Talai, Nayakhera, Kanpur and Udaiya Khera villages of Jawar Panchayat,
  - (xii) Barapal, Torana Talab and Kadiya Khet villags of Barapal Panchayat,
  - (xiii) Kaya and Chandani viliages of Kaya Panchayat,
  - (xiv) Teetardi, Phanda, Biliya, Dakankotra, Dholiya Ki Pati and Saweena Khera villages of Teetradi Panchayat,
  - (xv) Kanpur village of Kanpur Panchayat,
  - (xvi) Wali, Boodel, Lalpura, Parawal, Kheri land Jaspur villages of Wali Panchayat,
  - (xvii) Chansada, Dameron Ka Guda, Mamadeo, Jhamar Kotra, Sathpura Gujara, Sathpura Meenan. Jali Ka Gurha, Kharwa, Manpura and Jodhipuria villages of Chansada Panchayat,
  - (xviii) Jugal Village of Jugal Panchayat.
  - (xix) Dateesar, Runeerja, Basu and Rodda villages of Dateesar Panchayat,
  - (xx) Lokarwas and Parola villags of Lokarwas Panchayat,
  - (xxi) Bhala Ka Gurha, Karget, Bhesadha and Bichhri villages of Bhala Ka Gurha Panchayat.
4. Pratapgarh tahsil in Chittaurgarh district.
5. Abu road Block of Abu Road tehsil in Sirohi district.

15. **Addition to the list of Scheduled Areas:** The Dhebar Commisison had recommended the following criteria for notification of the Scheduled Areas:

- i) Preponderance of the Scheduled Areas by tribal population.
- ii) Compactness and reasonable size of the area.
- iii) Under-developed nature of the area, and
- iv) Marked disparity in economic standard of the people.

**Dhebar Commission had mentioned in 1961 that the following areas where the tribal concentration is more than 50 per cent have been proposed by the State Government to be declared as Scheduled Areas. These areas cover 3,927 sq. miles with a tribal population of 2,65,978 at that time and tribal concentration varying from 52 per cent to 65 per cent. These areas are:**

1(a) Sarada Sub-Division comprising Sarada, Salumber, and Kherawara Tehsils; Kotda tehsil; Phalasia Tehsil; Lasadia Tehsil; Gogunda Tehsil; Girwa Tehsil (villages of Nae, Bunjhada, Naya Guda, Popalati, Naya Khera, Dodavali, Surana, Karmali, Boravar, Ka Khera, Kachhar, Kaliwas, Madari, Keli, Beri

Undari, Chhoti Undari, Peepalwas, Kunwaria Khera, Alsigarh, Pae, Aar and Sang of Barda village Panchayat and all the villages of Sub-Tehsil Barapal); and Vallabhnagara Tehsil (village of the following Panchayats - Adinda, Modida, Panund, Syiand, Lunda, Kundiya, Kuntwas, Akola and Sgrampura) of Udaipur District.

- (b) Achanera Tehsil and villages of Chooti Sadri Panchayat Samiti of Chittorgarh District.
- (c) Abu Road Panchayat Samiti of Sirohi District.
- (d) Shahbad and Kishanganj Tehsils of Kota District.
- (e) Sawai Madhopur District.
- (f) Lalsot and Sikrai of Jaipur District.
- (g) Rajgarh Tehsil of Alwar District.
- (h) Bali Tehsil of Pali District.
- (i) Pindwara Tehsil of Sirohi District.
- (j) Hindoli and Talera Tehsils of Bundi District.
- (k) Jahajpur and Mandalgarh Tehsils of Bhilwara District.
- (l) Deoli Tehsil of Tonk District.

16. A comparison of the Scheduled Areas list declared in 1981 with the recommendation made by the State Government to the Dhebar Commission in 1961 reveals that some areas have been included in the Scheduled Areas while other areas have not been included.

17. The State Government of Rajasthan had given five reasons in declaring the above areas as Scheduled Areas. One reason relates to contiguity and is understandable, other reasons such as; the people living in these areas are ethnically, socially and culturally linked with the tribals living in the Scheduled Areas; there is not much difference in social and economic conditions existing in the two areas and their non-inclusion lead to psychological tension and protection of the tribals regarding indebtedness, forest rights, etc. cannot be afforded unless the areas are declared as Scheduled Areas, cannot hold water. It is also not understood as to how Meenas stand on an equal footing with Bhils, Garasias, Kathodi, Damore, etc. of Southern Rajasthan as the latter group is a world apart in so far as their social and economic conditions are concerned. Meenas who constitute more than 49% of the tribal population of Rajasthan, are prosperous agricultural farmers and on account of their social, educational advancement and economic upward mobility have cornered major chunk of benefits in professional education and civil services compared to other tribal communities of southern Rajasthan. There is need for a suitable affirmative policy within the overall policy of reservation for the tribal communities of Rajasthan so as to ensure social justice to all tribal groups including Meenas. However, we have asked the Tribal Areas Development (TAD) Commissioner, Govt. of Rajasthan to let us know what are the areas dominated by Bhils and Garasias in southern

**Rajasthan which deserve to be included in the Scheduled Areas.** The Commission also reiterated this view at the meeting with the Chief Secretary and the Secretaries of the Rajasthan Government on 5th July, 2003 and it was indicated by the State Government that the Commissioner, TAD was seized of the matter.

18 (i) The State Govt. of Rajasthan has proposed to the Ministry of Tribal Affairs, Government of India for addition of ten more tehsils in the existing Scheduled Areas of Rajasthan on 11.07.2002 the details are as follows: -

**TABLE - 5**

District	Tehsil	Population		%age of ST Population
		Total	ST	
1	2	3	4	5
<b>I UDAIPUR</b>	1. Mavli	1,80,953	32,091	17.73
	2. Girwa	4,39,131	59,114	13.46
	3. Vallabhanagar	1,59,424	37,834	19.35
	4. Gogunda	1,22,578	51,490	42.00
<b>II RAJSAMAND</b>	5. Kumbelgarh	1,12,626	28,105	24.95
	6. Nathdwara	1,94,470	39,666	20.39
<b>III CHITTORGARH</b>	7. Choti Sadri	99,523	31,420	31.37
	8. Badi Sadri	90,228	13,540	15.00
<b>IV SIROHI</b>	9. Pindwara	1,52,236	53,909	35.41
<b>V PALI</b>	10. Bali	3,29,265	55,178	16.73
<b>Total I - V</b>		19,16,864	4,02,347	20.98
<b>VI Existing Scheduled and TSP Area</b>		35,19,311	24,01,711	68.24
<b>Total I-VI</b>		54,36,175	28,04,058	51.58

18(ii). The Government of India, Ministry of Tribal Affairs had asked the State Govt. on 29.08.2002 to furnish a comprehensive proposal on a format indicating MADA Pockets/Clusters, names of villages with Census Code, No. of ST Population-Village-wise as per 1991 Census proposed for inclusion in the existing list of Scheduled Areas on a format enclosed therewith for being placed before the Second Scheduled Areas and Scheduled Tribes by the Ministry for giving their recommendations. The enquiries made by the Commission from the Ministry till date (22.09.2003) reveal that the State Government has not furnished the requisite information so far. However, the State TAD Commissioner, Udaipur has informed the Commission vide letter dt. 03.07.2003 that the Tribal Research Institute, Udaipur has been asked to undertake a socio-economic

survey of above mentioned 10 Tehsils as per the suggestion made by this Commission and the Ministry of Tribal Affairs and submit a Report alongwith a map of the proposed areas for inclusion in the list of existing scheduled areas. It is understood that a survey has since been completed.

18(iii). Shahabad and Kishanganj tahsils (Baran district) which are contiguous tahsils have a combined Seharia FTG population of 32 per cent. The Seharias are under developed, with marked disparity in economic standard, land holdings are uneconomic, representation in services and posts is abysmally low and their female literacy in the 2 tahsils is 3.96 and 4.06 per cent respectively. These tahsils, therefore, deserve to be included in the list of Scheduled Areas. Even the Govt. of Rajasthan had suggested to the Dhebar Commission "..... That in special cases a block with an even lower percentage might be considered" for addition to the list of Scheduled Areas. In this connection, it may also be mentioned that the tribal population concentration of Scheduled Areas of Singbhum and the Santhal Parganas (now in Jharkhand) "...is less than 40% and yet it continues to be a part of Scheduled Areas. **The Commission, therefore, recommends that Shahabad and Kishanganj tahsils of Baran District may be included in the list of Scheduled Areas of Rajasthan. The Govt. may submit a suitable proposal on the prescribed lines to the Union Ministry of Tribal Affairs.**

### Land

#### **Allotment of Agricultural land to STs**

19. The total quantum of land declared surplus in Rajasthan as on 31.03.2002 was 6,11,096 acres out of which 5,69,211 acres was taken possession of by the Government and only 4,61,847 acres was distributed to 81,806 beneficiaries out of which the number of ST beneficiaries is 11,586 (14%) getting 49,957 (10%) acres of land. The STs are also beneficiaries of Bhoodan land and Government waste lands. Available information shows that as on 31.03.2002, out of 1.15 lac acres of total donated land, 1.14 lac acres was distributed amongst the landless. Similarly, 0.93 lac acres of Government waste land was also distributed among the landless for which separate figures are not available for STs. **The Commission recommends that the State Government shall maintain Tehsil-wise separate figures of STs given surplus, Bhoodan and Government waste land both in terms of beneficiaries and acreage of land distributed.**

## **Alienation of Tribal Lands**

20 (i). The framers of the Constitution had specifically provided under the 5<sup>th</sup> Schedule to the Constitution to enable the State Governments to enact regulations for the protection of STs in the Scheduled Areas. Dhebar Commission had suggested that these special measures should be extended to the STs living outside the Scheduled Areas. The State Government had framed Rajasthan Tenancy Act, 1955 (RTA) which made codification of the laws relating to tenancies in the state. In 1956 the Government modified the RTA, 1955 and extended the provisions against alienation of land to both the Scheduled Castes and STs and imposed restrictions on transfer of land by STs under Sections 42, 43, 46-A & 49A. In spite of these statutory provisions, which have existed since 1956, transfers of land belonging to STs have taken place. Non-tribals adopted various ingenious methods for validating transfer of land. Remedy against such illegal transfers is provided u/s 175 of the RTA, 1955 and both the tenant and transferee are liable to ejection from the land in violation of the statutory provisions. However, in reality no follow up action has been taken up in terms of these statutory provisions. In September 1975 RTA, 1955 was amended in respect of usufructuary mortgages and the maximum permissible period of usufructuary mortgage was reduced from 10 to 5 years, after the expiry of which land will revert to the original landholder, who would not make any payment towards mortgage debt. In 1976, another important provision in respect of usufructuary mortgage was made by making the mortgagee on his failure to restore land to the tribal, liable to imprisonment upto one year and a fine of Rs.1,000/- or both. If the mortgagee does not surrender the land even after the expiry of 5 years, the landholder has to go to a court of law to secure possession which he is unable to do so because of his limited means and is thus deprived of his land permanently. The relevant provisions in protective laws against land alienation and related matters are given in **Appendix - II**.

20 (ii). In \*1961, Shri U.N. Dhebar called a conference of the Seharias under the auspices of Adimjati Sewak Sangh at Sita-badi in Shahabad and resolved that Seharias would give up the practice of shifting cultivation and take to agriculture as their main source of livelihood. The then Chief Minister allotted 15 bighas of land for each Seharia family who decided to settle in the villages. The land allotment made so liberally to the Seharias by the Government was based on the land settlement of 1955. But the settlement records were updated in 1964. According to the new settlement record most of the land allotted to the Seharias was included as forest land in the records of the forest department. This upset the rehabilitation scheme of Seharias.

\* Pages 184-185 of the Report on survey of alienation of tribal land - 1987 Centre for Tribal Development, MLV - Tribal Research & Training Institute, Udaipur.

## **Statistics of land alienation**

21. The State Government has not furnished complete information regarding the alienation of tribal lands in the State. Partial information has been furnished indicating that till September 2002 there were 84 cases with 111.98 hectares pending under S-175 of RTA, 1955 & 38 cases with 65.75 acres under S-183-B of RTA, 1955 in the Scheduled Areas. However, the Union Ministry of Rural Development has informed the Commission that out of 651 cases of land alienation involving 2,300 acres of agricultural land, 53 cases involving 187 acres were rejected by the courts and 187 cases involving 587 acres were disposed of in favour of the STs and restored to them till 31<sup>st</sup> March, 2002. 411 cases involving 1526 acres were still pending with the courts. **TAD Commissioner who is also the Revenue Divisional Commissioner of Udaipur division should collect information from all the districts in a systematic manner on land alienation cases, analyze them and monitor the same for expeditious disposal of these cases. At the same time, the State Government in the Revenue Department should monitor the cases of land alienation, the restoration and actual possession of land to the tribals and disposal of these cases on regular basis.**

## **Modes of alienation of tribal lands**

22. The Tribal Research Institute, Udaipur had undertaken a survey on the subject in 1987 and Astha Sansthan, Udaipur made a study of tribal land alienation in 1998. During the tours of the Committee and meetings held with the voluntary agencies, tribal leaders and villagers, it was evident that the alienation of the tribal land has been continuing inspite of the provisions of RTA, 1955. The Commission was informed that land alienation is taking place by forceful occupation of tribal lands by non-tribals, leasing out land by the tribals, mortgage of lands or sold (illegally) to non-tribals, acquisition of tribal lands by Government for developmental projects like dams, roads, canals etc. and setting up of public and private sector mining and industry. In addition, conversion of tribal lands in rural or urban areas for residential or commercial purposes is another method of alienation. We propose to deal with each of these methods in the subsequent paragraphs.

## **Land grabbing by non-tribals and leasing out of land**

23. The Tribal Research Institute has mentioned that "we have enough evidence to show that there are several instances of land grabbing and encroachment. The case studies conducted on the Seharias of Shahbad and Kishangarh and Arnod of Pratapgarh (Chittorgarh) amply show that those who have political influence and economic power tend to grab or encroach upon the tribal land." Incidence of land grabbing was larger wherever the tribal land was



fertile. It was alleged that the land grabbers in collusion with the lower level revenue officers are involved in the alienation of tribal lands. They approach the tribal persons and inform them that their land papers are invalid and in the process manage to transfer the land in revenue records to non-tribals. At times, if land of a tribal is forcibly occupied and the Court's decision is in favour of a tribal and the land is restored to him, the trespasser-again forcibly occupies it. The Police fail to take action under Atrocities Act, 1989. Sometimes the court cases are prolonged inspite of Section 183-B & C that illegal trespassers must be evicted by summary proceedings.

24. A case was brought to the notice of the Commission in which a tribal had given land for share cropping to a non-tribal. But at the time of settlement, the land was registered in the name of the non-tribal. In fact, once a tribal gives his land on share cropping basis to a non-tribal, the land is seldom restored to him. Under RTA, 1955 the Tehsildar can hold camps to decide the land dispute cases. It was informed that at a camp held a couple of years back in Chittorgarh district by a Tehsildar, a number of land alienation cases were brought to his notice, but so far no case has been decided. It is observed that very few alienation cases are brought to the court because the tribals are not aware about the protection available to them under RTA, 1955, the inability of the tribals to pay the fees of the lawyers and withstand prolonged litigation in the courts of law. The Commission recommends that the existing schemes for providing legal aid of Rs.1,500/- and organizing judicial awareness camps have not made an appreciable dent in the situation and needs change by enhancing the quantum of legal aid to enable tribals to engage reputed lawyers to plead their cases in the courts of law. At the same time, the law may be amended so that State is a party to all alienation case. The responsibility for organizing camps could be entrusted to voluntary agencies that are conversant with the tenancy law and other related laws etc.

25. The land holdings of tribal cultivations are small, which is evident from the following table based on agricultural census for the year 1995-96.

<u>District</u>	<u>Number of Farm Families</u>	<u>Number of Hectares</u>	<u>Average No.of Ha.</u>	<u>District Average Ha.</u>
Jaipur (& Dausa)	20,342	9,923	0.49	2.75
Banswara	58,094	27,883	0.48	1.71
Chittor	19,066	10,538	0.55	1.90
Rajsamand	6,303	2,857	0.45	1.31
Sirohi	8,188	4,265	0.52	1.80
Udaipur	68,828	32,907	0.48	1.49

26. We have elsewhere in the report emphasized that assured means of irrigation should be provided to the tribal cultivators so that even with their small holdings they can make their both ends meet.

### **Tribal land mortgaged or sold to non-tribals**

27. Many cases of tribal lands sold to the non-tribals were brought to the attention of the Commission in violation of Rajasthan Tenancy Act, 1955. The fact that land revenue officers are able to record these sales indicate that there is no check by senior officers and Patwari is able to make changes in the revenue records. RTA, 1955, provides that action is to be taken against revenue department employees who are a party to the illegal occupation of tribal lands. In fact the SC / ST (POA) Act, 1989 also says the same thing. But nothing seems to have been done to give effect to these provisions. Among the non-tribals who have illegally purchased land, we were told that a number of non-tribals have set up shops/hotels in Abu Road town but the district revenue officials have taken no effective/deterrent steps against them. A tribal when he is in need of money urgently in the absence of alternative consumption loan, is compelled to mortgage his land and at times puts his thumb print on the blank stamp paper and when he is not able to repay the amount, the land passes out of his hand and the revenue officials without following the RTA, 1955 register the land in the name of the non-tribal.

28. A large number of tribals are being rendered destitute due to grabbing of their agricultural land by the non-tribal institutions, like hotels, public schools and social institutions. The Commission recommends that the State Government should set up booths for allotment to the tribals at Abu Road which is a gateway to Mount Abu, an internationally acclaimed tourist destination and at other vintage places visited by tourists. Such tribal allottees should be financially assisted by the State Government through the Rajasthan Scheduled Castes & STs Finance and Development Corporation for economic advancement of STs. A suitable package of programmes should be prepared by the State Government for the purpose. In this connection, the Commission found that Andhra Pradesh Government has been implementing with success a scheme for tribals in the Araku Valley for construction of tribal huts for hiring out to tourists.

## Acquisition of Land

29. Under the Land Acquisition Act, 1984, the Govt. of Rajasthan has acquired land for developmental projects like dams, roads, canals, etc., and setting up of public and private mining and industries. In the Banswara Distt., the Mahi Bajaj Sagar Dam Project, the Kadana Dam Project in the districts of Dungarpur & Banswara and the Sagra Dam in the district Sirohi have displaced a large number of tribal families with inadequate relief and rehabilitation package for the oustees.

30. The Mahi Bajaj Sagar Dam' submerged 13,683 hectares out of which 7,500 hectares were cultivable land. 98 villages were affected out of which 21 were fully submerged and the remaining 77 were partially submerged. The total number of families affected due to the submersion, was 6,979 out of which 5,321 (76.25%) were tribal. About 5,060 families were holding land as *khatedars*, out of which 3,842 were STs. The Dams submerged about 4,800 houses, 1,345 wells and about 1,86,643 trees. The Kadana Dam Project was completed in 1977. The Dam at Kadana lies in Panchmahal district of Gujarat, 25 kms. from the nearest border village in Rajasthan. 132 villages of Sagwara tehsil of Dungarpur district, and Bagidora and Gerhi tehsils of Banswara district were affected. 5,940 tribal families were affected out of which 3,267 were totally displaced. Cash compensation was paid to the oustees for their property, land and houses. It was informed that some of the oustees of Kadana Dam did not receive any compensation. Some of them were given plot of land in other villages which was already occupied by others and they, therefore, returned to their own homestead area and occupied hilltop land by the new lake made by the Dam. Regardless of the average size land owned by the displaced tribal, he was not given more than 4 bighas.

31. Sagra Bandh was built in 1988 in Panchyat Samiti Abu Road district Sirohi. Land and houses of 20 Garasia families were submerged. They were given Rs. 500 per bigha and between Rs. 500 and 1000 for their houses and no compensation was given for the well. These tribal families are living on the steep hill side besides the Dam. A canal was built from the Sagra Dam and all the families who lost their land were not paid any compensation.

32. It was also brought to the notice of the Commission that tribals from Banswara had been displaced due to the construction of Mahi Dam and were settled in Chittor district in Sita Mata Game Sanctuary, Pratapgarh and now are to be displaced again because the Sanctuary is being converted into National Park. Most of the oustees have migrated to work as labourers in Gujarat. The tribals informed the Commission that the water of Kadana Dam was planned for the use of residents of Gujarat, but no arrangements were made for providing irrigation facilities to the local tribals of Rajasthan. **The Commission**

recommends that the oustees of Kadama Dam should be provided water for irrigation and the compensation must be given to the oustees who have not been paid any compensation. Land for land must be the corner stone of rehabilitation of all dam oustees. The consent of tribals must be obtained before land is acquired and relief and rehabilitation package should be drawn up in consultation and to satisfaction of the affected tribal families.

## **Mining**

33. Rajasthan is rich in lime, marble, zinc, rock phosphate, gypsum, etc. Mining leases are controlled by the Govt. of Rajasthan. The Govt. of Rajasthan has in a circular dated 25.09.99 directed that before grant of mining lease, prospective licences and quarry licences for minerals in the scheduled areas and also before grant of any mineral concession for minor minerals by auction, the consent of Gram Sabha or Panchayat Raj Institution under clauses (i)(j) of section 3 of the Rajasthan Panchayati Raj Act 1999 must be obtained.

34. Under the Land Acquisition Act, the Govt. of Rajasthan acquires the land and then passes it on to the non-tribal holders of the mining lease. The Commission observed that the tribals in Rajasthan live close to the mines, but licenses for lease of mines were being given to influential non-tribals. In the Scheduled Areas, which the Commission visited from 27<sup>th</sup> to 31<sup>st</sup> May, 2003 the Commission found the same position. In the tours to Jodhpur, Barmer and Jaisalmer districts of Rajasthan in February, 2003 it was complained by a number of tribals that their ancestors were once masters of the soil close to the mines, but with the grant of lease of mining to non-tribals, they had become hapless and refugees on their own land and were forced to work as daily labourers in the mines on paltry wages. The Commission highlighted this point during its meeting on 5<sup>th</sup> July, 03 with the officers of the State Government that the interests of tribals have been adversely affected by grant of mining leases to non-tribals. The Chief Secretary, Government of Rajasthan, informed the Commission that the State Government was aware of Samatha judgment in its application to the Scheduled Areas and has in pursuance of the directions of the Supreme Court banned grant of mining leases as well as transfer of existing leases in the Scheduled Areas for masonry stone. It was however, learnt that the ban on mining was imposed only after extending the leases for 20 years in favour of the non-STs, a point not disputed by the State Government. **The Commission recommends that there is an urgent need for grant of licenses for lease of mining minerals to STs. The Rajasthan SCs and STs Tribes Finance & Development Corporation should grant financial assistance at easy rate of interest to such of the tribals who are keen to avail the facility of leasing of mining minerals in the Scheduled and tribal areas.** Some cases brought to the notice of the Commission related to illegal purchase of tribal land by non-tribals for taking out marble. In some cases, a tribal is brought into a partnership by a

non-tribal who invests his capital and develops the mine. The tribal partner is not compensated for the land and gets only a paltry share of the profit that mine owner makes. **The Commission recommends that the tribals should get annual fees from the lease holders as part of compensation for the loss of his land and when the mineral deposit has been exhausted, the land should be reclaimed environmentally/restored and returned to the former tribal owner.**

**35. Urban and rural developers for residential and commercial purposes:**

The Rajasthan Land Revenue Allotment, Conversion and Regularization of Agriculture Land for Residential and Commercial purposes in Urban Areas Rules, 1981 and the Rajasthan Land Revenue Conversion of Agriculture Land for Non-Agricultural purpose in Rural Areas Rules, 1992 make it legally possible for land owners to convert their agricultural land, and if so desire to sell it to a third party. A judgment in the case of *Jagannath V. State of Rajasthan and others*, reported in the *Rajasthan Revenue Decisions 1985* (page 482) has stated there are no restrictions on a tribal, who himself has converted his land for urban residential or commercial purposes from selling it to a non-tribal. These two Rules have nullified the protection for tribal land from alienation, laid down in Rajasthan Tenancy Act, 1955. A lot of tribal lands have passed out of ST lands without adequate compensation received by them. The Commission recommends that the State Government must take, urgent steps to ensure that compulsory counselling of the tribal land seller by a reputed non-official organization should be started at the Registrars' office so that the tribals become aware of the implications of accepting money for the sale of land.

## **Irrigation**

**36.** Most of the Scheduled Areas have undulating topography with streams and rivers. Water plays a vital role in agricultural development and sustains human life. Rainfall is the only source of water and is confined as (i) soil moisture, (ii) stored water in surface, (iii) storage like ponds, (iv) open wells etc. and, (v) ground water in sub-surface. Most of the rainfall is received during the months of July-September as runoff and creates gullies that later merge with *nallas* and streams. The excessive harnessing of ground water resources for irrigation and drinking water purposes has lowered down the water level. Common lands are degraded and vegetation cover is reduced drastically. There is low productivity of arable and non-arable lands. Horticulture is insignificant. The quality of milch is poor. **Watershed development is the only answer to provide assured means of irrigation for the tribals.**

## **Watershed Development and Soil Conservation**

37. In the past, implementation of soil conservation works were done in a scattered manner and treated only on the arable lands. As a result, the non-arable lands in the upper reaches of the catchments were not treated, resulting in soil erosion and runoff. The Government of Rajasthan under the Government of India scheme of watershed development and soil erosion took up the work in the district of Banswara. A study of 37 micro watershed programmes undertaken by Progress Organization, Banswara, (NGO) has revealed encouraging results. Water availability span has increased from December-January to March-April in most of the watersheds due to increased number of water harvesting structures, about 20% rise in fodder availability has been registered in the first year itself from wastelands developed under watershed, number of water sources per micro watershed has increased from 3 to 37 on an average level, more farmers are shifting from cultivation of coarse grains to commercial crops, water levels in wells down-stream water harvesting structure has raised 2-3 feet, resulting in increased number of wells under irrigation, significant rise in livestock and productivity and the reduction of dependency over moneylenders in most of the watersheds and number of wells increased sharply in watersheds from 306 to 616 in the span of 4 years.

38. The main feature of the success of the watershed development was management of common property resources by an elected user committee. The works were executed through a committee of the beneficiaries who are elected in general meeting of the village community and responsible for finding solution of the problems through interaction with the Government officials. **The Commission recommends that additional funds should be provided to cover the remaining areas with watershed that needs further treatment. It is also necessary that a social mobilizer along with an agriculturist or forester should be attached to each watershed to guide the farmers in taking up improved methods of agricultural products and social forestry schemes.**

### **Lift Irrigation**

39. Lift Irrigation (LI) is another important method of utilizing surface water resources in undulating topography in Banswara district of Rajasthan. It was found that the success rate of all the schemes conducted by Satguru Water and Development Foundation, an NGO has almost been 100%, whereas out of 193 schemes financed by Government from various sources, 111 schemes were not functioning. A study conducted by an NGO in Banswara district of Govt. financed LI schemes has revealed that the main reasons were de-energisation of

pumpsets due to non-payment of electricity charges, technical problems such as burning of motors, and breaking down of pipelines, mismanagement, conflicts among water users, insensitivity of the officials of the "Rajasthan Vidyut Vitran Nigam Limited" to power-related problems and the lack of necessary monitoring and follow-up by the District Rural Development Agency (DRDA) for the closure of LI Schemes.

40. Pipalkhoont Panchayat Samiti in Banswara district has immense possibilities of construction of anicuts to provide irrigation through LI as well as raising the level of water in the wells. It was heartening to note that Rajasthan Vanvasi Kalyan Parishad had constructed two anicuts and installed diesel pumps alongwith provision for carrying the water through a pipe with distributory system at a much lesser cost than that sanctioned by the Government of India. In order to stop the migration of the tribals from the Pipalkhoont Panchayat Samiti during lean period, there is a scope of constructing at least five anicuts in a series to be constructed on *Arav* river in the Panchayat Samiti and deepening of wells so that the tribals can irrigate their lands, raise grass for their cattle, grow fruits and vegetables and undertake social forestry schemes. The Commission recommends that the State Government should entrust the construction of LI schemes to reputed voluntary organizations so that the tribals can get benefit of these programmes.

### **Diesel Pumps**

41. Earlier the tribal farmers in a group of 3-5 were provided a diesel pump free of cost w.e.f. 1986-87. Such a pump set would normally cost around Rs.18,000/-. The department has modified the scheme from March 2000 and the pump sets are now given to individual farmers who were given a subsidy of Rs.6,000/- provided they owned a well. A poor marginal tribal farmer cannot shell out money on his own to buy a pump set. In the earlier scheme, even those who had no well of their own could join a group of two or three tribals with a well and get the benefit of irrigation for their land. The subsidy amount of all the farmers in a group could cover the price of a pump set without compelling individual farmer to buy it. **The State Govt. should review their scheme with a view to help a group of tribals with marginal holdings to enable them to purchase a diesel pump jointly.**

### **Drip Irrigation**

42. In the wake of deficient rainfalls in the past several years and lowest reservoir levels in the tribal sub-Plan area of Rajasthan, there is need for using drip irrigation. In Banswara and Dungarpur districts, an NGO-Gram Vikas Trust has innovated an improvised mode of drip irrigation for tribal areas. The model is workable for 240 square meters in which 120-150 plants of any

vegetable with broader spacing viz. 45 x 45 cm. & 60 x 60 cm. can be grown using 150 drippers, 120 meter rubber pipe (16 mm diameter) and drum (200 liter capacity) and valve assembly. This model was supplied to 125 tribal households of Banswara project area in the last two years at the rate of Rs.1,500/- per unit with subsidy of Rs.500/- from 'Tribal Welfare Foundation' (An NGO based at Ahmedabad). In one season especially in summer, farmers are harvesting 5 - 10 quintals of vegetables and earning Rs.5,000 - 10,000 per season by selling the produce in the local market. Apart from this, irrigation has also been introduced in 10 orchards in different villages with some modifications ensuring the survival rates up to 80 per cent in the aforesaid district. **The Commission recommends that drip irrigation should be encouraged in other Scheduled Area districts also as it would go a long way in generation of incremental income of tribal marginal farmers and efficient utilization of scarce water resources.**

## **Forest**

43. The tribals living within forest as well as in the vicinity of forest for generations, have a symbiotic relationship with the forests as they have been dependent on minor forest produce for their subsistence as well as fuel and timber used by them. The enforcement of the National Forest (Conservation) Act, 1980 has caused hardship to the tribals as no development activity could be undertaken in the tribal areas without the concurrence of the Union Ministry of Environment and Forests. Even the tribals who have been living in the forests and cultivating land for agriculture for generations, do not have any formal title to land and therefore without regularization, they may be evicted. There have been agitations by the tribals as well as the voluntary organizations working in the tribal areas for giving titles to land to the tribals who have been cultivating land for generations. Therefore, the Govt. of India has requested the State Governments to ascertain the position of tribals who have been cultivating the forest land prior to July 1980, without land deeds before coming into effect of the National Forest (Conservation) Act.

44. The Rajasthan Govt. has like other State Governments taken the following decisions for regularization of encroachments of forest land prior to 1.7.1980:

1. The encroacher should be landless and native of tribal areas.
2. The encroachment is prior to 1.7.1980.
3. The encroacher should be in possession of land prior to the issuing of the State order, and his possession is continuous over the forest land.
4. Initiation of proceedings against encroacher, under Rajasthan Forest Act 1953, prior to 1.7.1980.



45. As a follow-up to the above decisions, the State Govt. has worked out a strategy for implementing the decisions which are given below:

(i) Encroachment prior to 1.7.1980, should be verified by First Offence Report (FOR) of forest department by studying different documents.

(ii) In the absence of latest records for possession, if encroacher files an application that encroachment is prior to 1.7.1980 in that case, his possession can be regularized by oral evidence on the land like - wells, houses, 'pucca dhore', medbani, and other land improvement works, which were done prior to 1980, or he has taken loan from cooperative society for such constructions, seeds and fertilizers.

46. The State Govt. has also constituted a Committee at a tehsil level to ensure that the case is prior to 1.7.1980. The composition of the Committee is (a) M.L.A of the area; (b) Pradhan of Panchayat Samiti; (c) Assistant Conservator of the Forest (Convenor); (d) Tehsildar/Nayab Tehsildar; (e) Regional Forest Officer; and (f) Sarpanch of concerned Gram Panchayat.

47. The above mentioned Committee consists of 6 Members and has among others the Pradhan of the Gram Samiti and the Sarpanch of the concerned Gram Panchayat. This Committee shall make a district-wise list of all the encroachments that are eligible for regularization and submit a report to the Divisional Forest Officer who will in turn send the cases further to the Principal Conservator of Forest through District Collector and Conservator of Forest for obtaining permission from the Govt. of India as required under the National Forest (Conservation) Act 1980. The State Govt. had also stipulated, vide their letter dt. 7.2.1996, addressed to the Convenor "*Jangle, Jamin, Jan Andolen*" that the regularization of encroachments would be based on the physical conditions and advice of the Gram Sabha.

48. Consequently, the State Govt. has identified 9,455 cases out of which 5,466 cases involving 3,699 hectares of land were forwarded to the Govt. of Rajasthan and the balance 3960 cases were rejected by the aforesaid committee. The district-wise details of the cases are given hereunder:-

Table

49. **REGULARISATION OF PRE-1980 ENCROACHMENTS ON FOREST LAND**

S. No	Names of Districts	Claims Received	Eligible Encroachers (ST)		Ineligible Encroachers (ST)	
			No.	Area (in Ha.)	No.	Area (in Ha.)
1	2	3	4	5	6	7
1	Chittorgarh	1581	868	764.2270	713	NA
2	Dungarpur	1344	766	422.8018	578	---
3	Udaipur	2921	1379	1396.8462	1513	---
4	Banswara	3254	2340	974.6700	914	---
5	Rajsamand	43	2	0.6171	41	---
6	Sirohi	201	0	----	201	---
7	Baran	107	107	133.4502	----	---
8	Pali	4	4	.2593	----	---
	<b>Total</b>	<b>9455</b>	<b>5466</b>	<b>3699.8716</b>	<b>3960</b>	<b>---</b>

50. 5,466 recommended cases were sent to Govt. of India for regularization. The Govt. of India sent a team of officers from the Regional Office, Lucknow for an "on the spot" verification. The Committee of Regional Office submitted the inspection note on 5.11.98. The State Govt. have submitted interim reply on 23.8.99 and the matter was also discussed with the officers of the Union Ministry of Environment and Forests, who desired information on the following three points:

1. Certificate from Chief Secretary to the effect that no more proposals of encroachment prior to 1.7.80 are pending for regularization.
2. The Division wise reconciliation of number of encroachments and area encroached as well as submission of comments on inspection note of Chief Conservator of Forests (Centre).
3. Regarding Pratapgarh and Chittorgarh division, a certificate to the effect that the encroachments are outside the forest area of Sanctuaries and National Parks.

51 (a). The State Govt. has since complied with the information required by the Govt. of India in so far as point No. 1 is concerned. As regards points 2 & 3 above, the information has not so far been furnished by the State Govt. to the Union Ministry of Environment and Forests for want of which the clearance from the Govt. of India is still awaited.

51 (b). The Astha Sansthan, Udaipur had conducted a study in all the Scheduled Areas districts and non-Scheduled Areas of Udaipur, Chittorgarh, Rajasmand, Sirohi and Pali covering 18 Tahsils. The study revealed that there were 17,756 encroachers out of which the claims of 15,763 had been clearly identified. The table indicating the details of pre-1980 tribal forest encroachers district-wise is placed at Appendix III. The Commission suggests that the State Govt. should examine each of these cases.

52. The Rajasthan Tribal Area Development Cooperative Federation is the sole agency of purchase and sale of Minor Forest Produce (MFP). The tribals are allowed to collect the MFP from forest areas and the royalty on collection of such MFP is also exempted since 1.4.1992. MFP has been extended since 1992. Tendu Patta is a nationalized commodity, its collection and trade is being done by State Govt. as per Rajasthan Tendu Patta Leaves (Regulation of Trade) Act, 1974. Under Rajasthan Panchayati Raj (Modification of provisions in their application to the Scheduled Areas) Act, 1999, the Govt. has still to frame rules to endow the Panchayat/Gram Sabha with the ownership of MFP. The Commission recommends that the rules under the Panchayati Raj Act, 1999 should be framed by the State Govt.

### **Fisheries Programme**

53. State Government has allotted Jaisamand, Mahi Bajaj Sagar and Kadana Backwater reservoirs to Rajasthan Tribal Areas Development Cooperative Federation (RTADCF) for upliftment of tribals on co-operative pattern through fishing. Tribals residing in the vicinity of these reservoirs are identified, grouped into cooperative societies, imparted training, provided nets and boats for fishing. Rajyasangh takes sole responsibility to market the fish produced by the cooperative societies. Tribal cooperative societies are paid catching charges as per the quality of fish. The catching rates paid to the societies are reported to be the highest rate paid any where in India. Fish production for the last 5 years and catching charges paid to the societies are given at Appendix IV (a) & (b).

54. Due to insufficient rains in the catchment areas of these reservoirs, the water level has been reducing during the last few years. This has adversely affected the natural recoupment and growth of fish. Kadana Dam water does not have adequate capacity to last for 2-3 years which adversely affects fishing. For integrated development of fishing programme, the Rajyasangh is engaged in infrastructure development, assistance for boats & nets, training, organization of fisheries co-operative societies, fish seeds and welfare of the members of fisheries cooperative societies.

55. The Commission met the members of the Fisheries Cooperative Society Rajsamand lake on 30<sup>th</sup> July 2003. This lake covers 7,400 hectares of land. This Society is one of the 33 such societies which was established in 1979 with membership of 110 belonging to Bhil & Mina (ST) communities. The members are able to supplement their income through sale of fish and therefore, it acts as a food security to them as well. During the last year the society was able to make a profit of Rs.5.90 lacs out of which 50% was distributed to members by cheque and the rest was utilized towards the common welfare of members. This could be possible despite water scarcity in the catchments area.

56. The women members have constituted themselves into a Self Help Group (SHG) consisting of 78 persons. They have taken loans from the society which they want to repay in easy instalments. They are sending their wards to the Rajiv Gandhi Pathshala, where each child is given mid-day meal in the form of *Ghugri*. The SHG, has been able to wean away their male counterparts from addiction to liquor and restored a semblance of sanity and peace in their families and so the money saved is utilized for the family. There is a provision for construction of 160 houses, 4 community centers and 4 hand-pumps covering the 3 societies out of a centrally sponsored fund of Rs.72.20 lacs. The members are given food grains at concessional rates. **The Commission recommends that the State Government should consider their request of rescheduling the period of repayment in order to mitigate their grievance.**

57. An NGO - Jagaran is working in the area with a view to creating awareness among the tribals. The Commission recommends that the tribal area development department should ensure that parents of the tribal children at the primary stage are encouraged to enroll their children at the middle level classes through incentives like timely supply of free stationary, text books, grant of pocket allowances to students and scholarships. This will contribute to retention of the tribal students at middle and secondary stages and, reduce the drop out percentage, which is presently as high as 80-85% in the Scheduled districts.

58. Recently the Union Ministry of Tribal Affairs has issued the revised guidelines for release of SCA for Sub-plan schemes. Unfortunately, there is no mention of fisheries development programme in the revised guidelines unlike in the past. The Union Ministry of Tribal Affairs should look into the matter for suitable remedial action as grant of SCA goes a long way in reviving the sagging economy of tribals.

## **Reservation for STs in services and employment opportunities**

59. Due to persistent neglect for centuries, the STs particularly living in the Scheduled Areas have practically no say in the administration due to their negligible presence in Government posts and services. This was well realized by the framers of the Constitution and accordingly suitable provisions were made for providing reservations in posts and services for the STs under Articles 16(4), 16(4A), 16(4B) & 335. Despite that, the position has not improved much. **The STs are still under represented in various posts and services in the State services in general and in the Scheduled Area districts. This is one of the main reasons why the Tribal sub-Plan strategy which commenced from the Fifth Five Year Plan period has not made the desirable impact on the lives of the tribals. The STs in the Scheduled Area are still under-represented in the senior posts, have very little say in the administration for a faster and qualitative socio-economic development of their community.**

60. The State Government had issued orders on 22<sup>nd</sup> March, 1995 for providing reservation within reservation for the STs by earmarking 45% of the posts in various grades in the Forest Deptt. for Forest Guards, Police Constables in the Police Deptt. Group-D Jobs, Drivers, LDCs and 5% for Assistant Teachers posted in the Scheduled Areas and rest 50% posts may be filled up from candidates belonging to other classes. Thus, it would be clear that almost 50% of the reservation quota out of the 12% earmarked for STs would be filled up by the ST candidates in the Scheduled and Tribal sub-Plan areas in respect of posts indicated above.

61 (i). Coverage of this order was further increased to direct recruitment of the posts of female Health Workers (ANM & MPW), Ward boy of Medical & Health Deptt., Veterinary Assistant of Veterinary Deptt., Compounder and Senior Grade Nurse of Ayurvedic Deptt and PTI Grade-III of Education Deptt. vide State Government Order dated 07.11.1996. The Government issued another Order on 11.03.1998 to reserve all the posts coming in the pay scale of 1-6 and Gram Sevak/Group Secretary (pay scale -7) of the Development and Panchayati Raj Deptt.

61 (ii) The State Government has issued instructions for 12% reservation in all posts and services under their control. The Tribes Advisory Council has recommended that out of the 12% posts 5% should be filled by Scheduled Tribes belonging to the Scheduled Areas and that in case of admission to educational institutions, the same policy should be extended. **The Commission recommends that this suggestion of the Tribes Advisory Council should be accepted by the State Government and put into practice.**

62. The representation of STs in the State services is quite heart rending even now. At the meeting of the Commission with the Chief Secretary and other Departmental Heads held at the Rajasthan Sachivalya on July 5, 2003, the Commission was informed that there was still a backlog of 58,000 vacancies out of total staff strength of 6 lakh State Government employees under various grades to be filled by SC and ST candidates. The Chief Secretary, Govt. of Rajasthan indicated that the State Government was actively considering a proposal to approach the Government of India to include orders on reservation for posts & services in the Scheduled Areas under Ninth Schedule of the Constitution to make their application non-juridical. The Commission recommends that all non-gazetted posts in the Scheduled Areas should be reserved for local ST persons by the State Govt. invoking the powers of the Governor under the Fifth Schedule.

63. **Employment of STs In Private Sector:** Due to financial crunch on the part of the State Government and its inability to raise financial resources to meet the demands from various development departments and law and order problems, the increase in Govt. posts is very small. Therefore, there is a demand that the private sector should provide reservation for weaker sections that includes STs also with a view to empowering them. The Commission strongly feels that this demand needs to be considered so that the interests of ST candidates are not adversely affected on account of the shrinkage of government jobs.

### **Working of Rashtriya Sam Vikas Yojana (RSVY) In Banswara and Dungarpur districts of Rajasthan**

64. RSVY is a new initiative in the 10<sup>th</sup> plan period envisaged by the Planning Commission to be taken up in 25 districts in India, of which Banswara and Dungarpur districts have also been short listed. Its primary objective is to address the problems of pockets of acute poverty, low growth and poor governance in the country by putting in motion programmes and policies to obviate barriers to growth and accelerate the developmental tempo. Rs. 15 crores each will be made available to each of the districts by the Planning Commission for the first three years of 10<sup>th</sup> Plan Period, annually. The tribals in Banswara and Dungarpur districts constitute more than 51 per cent of the population and BPL families comprise 71.32 per cent and 74 per cent respectively. The main focus of the programme is to improve the agricultural production and wage levels of tribals leading to reduction of poverty.

65. Agriculture is the mainstay in these two tribal districts. Small-scale structures of water harvesting have great potential in meeting the challenges of chronic famines which are like, check dams, lift irrigation schemes, percolation

tanks, renovation of ponds, wells and *bauris* built through voluntary organisations. These programmes, when implemented, will directly benefit BPL families by providing employment and ensuring assured irrigation facilities. Construction of minor irrigation networks will increase foodgrains and fodder for cattle, augment milk production for which the districts are presently heavily dependent on Gujarat State and can create additional employment opportunities and income to the BPL families.

66. **Administrative Arrangements:** The funds under the scheme are to be transferred to a separate account in the DRDA. The DRDA would identify Project Facilitation Team (PFT) consisting of an NGO, Expert, Civil/Agro Engineer, Social Scientist and Forestry Horticulturists. The State Government after detailed discussion with the Planning Commission and approval of the proposal by the Empowered Committee of the Planning Commission last year is still awaiting approval and transfer of resources for implementing the scheme. The Commission after going through the matter makes the following observations/recommendations :

67 (i) **Banswara and Dungarpur districts are the backbone of scheduled and tribal sub-plan area and the officer who is concerned with the implementation of strategy of Tribal Sub-Plan in that area i.e. the Commissioner, Tribal Area Development Department at Udaipur and his Project Officers of ITDPs do not seem to have been consulted in the formulation of the scheme.** (ii) This Commission welcomes the association of NGOs like N.M. Sadguru Foundation in the PFT, but there are several other Rajasthan based voluntary agencies engaged in tribal development working, particularly in the field of construction of anicuts, educational development and character building, etc. The Vanvasi Kalyan Parishad, Gram Vikas Trust and similar other Scheduled Area based motivated voluntary organisations should also be co-opted in the PFT to accelerate the pace of development and (iii) The resources made available by the Irrigation Department under the sub-Plan strategy and TAD Department under the SCA should be put together for maximization of economic benefits to the tribal-BPL families.

68. The Commission recommends that interface of Gram Sabha as per PESA Act and RSVY can take place only after the enforcement of the rules under the State PESA Act 1999 which should be expedited.

69. The Commission recommends that provision of safe drinking water in these two districts should form an integral part of the RSVY and not in a passing manner as envisaged in the scheme. In this connection, some tribal area based organisations like Tribal Development Council, Dungarpur and Vanvasi Kalyan Parishad, Kotra have also desired that the RSVY should provide adequate drinking water in these two districts. The Commission also

suggests that traditional water sources like wells and *bauris* built out of native wisdom should also be desilted for augmenting water supply.

70. Villages in the tribal belt not having access to safe drinking-water due to large fluoride content in the ground water should also be covered by the RSVY.

71. Many thrust area schemes like primary schools; primary health centres, sub-centres etc. are without proper buildings. The staff treats posting in these districts as punishment as no residential accommodation facility is available for them. There is also need to undertake repair of ramshackle school buildings and health centres and dispensaries out of these funds. The handpumps and bore wells, which have dried up, would also require deep boring through the RSVY funds.

### **Pradhan Mantri Gram Sarak Yojna**

72. Pradhan Mantri Gram Sadak Yojana (PMGSY), a 100% centrally sponsored scheme was launched on 25<sup>th</sup> December, 2000 to provide connectivity to all unconnected habitations (around 1.60 lakhs in India) with all weather roads. As per the guidelines all unconnected habitations with the population of 500 persons or more are to be taken up for providing connectivity under the Tenth Five Year Plan at a total cost of Rs. 60,000/- crores. A basic feature of the scheme is that the roads are to be built as per the rural roads manual published by the Indian Roads Congress, which provides for construction of quality roads under the District Monitoring and Vigilance Committees. The responsibility for maintenance of roads is of State Government. The scheme envisages performance guarantee for 5 years by the contractor; thereafter the roads may be transferred to the Panchayati Raj Institution for maintenance.

73. (a) The Commission during visit to Abu Road was informed that they had proposed to connect 10 villages with the main roads and that the work on 3 incomplete roads under the PMGSY was stopped. The reason for stopping the construction of roads is not known. Work for constructing link roads sanctioned before 1997-98 has not been taken up. It was reported that 39 villages did not have motorable roads. Work was reportedly under progress in Akal Rajat village while other roads under the scheme have been left incomplete by the contractor due to want of payment by the State Public Works Department. **The Commission recommends that the PWD should complete the construction of Pradhan Mantri Gram Sadak Yojna in the first instance.**



(b) It was stated that the roads in the Abu Road (Sirohi) area and Kotra Tehsil under PMGSY were being taken for the tribal villages with the minimum population of 1,000 persons. Dungarpur district has 348 villages with a population of 1,000 and above as per 2001 census- projected out of which 304 villages have been connected by BT road and 17 villages have BT metalled roads while the remaining 27 villages are proposed to be taken up under the PMGSY. The State Public Works Department has prepared a proposal costing Rs. 10.42 crores to connect these villages involving 86.82 kilometers for which sanction has since been received from the State Government. The work is likely to be completed by March, 2004.

(c) The Ministry of Rural Development has intimated that the number of rural habitations with population of 250-499 is nil in Rajasthan. The Commission observed that the tribals living in the scheduled areas are scattered over a large expanse in *dhanis* and the population may be even less than 250.

74. The guidelines issued by the Ministry of Rural Development provide that villages with upto 500 population should also be covered under PMGSY. **It is, therefore, desirable that the State Govt. should first cover the tribal areas by relaxed norms of 250-499 population, which will take care of tribal villages consisting of hamlets which should be taken up on a priority basis. This would provide much needed connectivity of community facilities like schools, health centres, hostels, post offices, police-stations etc. This would ensure faster socio-economic development of STs which is the basic aim of the tribal sub-Plan strategy.**

## **Rural Electrification**

75. Out of 4,360 villages of the tribal sub-plan area of Rajasthan 4,064 villages have been electrified till March 2003, giving electrification percentage of 91.59, leaving only 296 villages that nearly constitute 8.41%, which need to be electrified according to the Ajmer Vidyut Vitran Nigam Limited. This is against the state level electrification of 95.8%. Even though the percentage of achievement of the tribal sub-plan area at 91.59% against the state level achievement of 95.8% appears to be good, but the ground realities are quite different. According to the Electricity Board, a village is considered to be electrified if an electric pole reaches the central point of a village. The tribals live in hamlets (*Dhanis*), which are scattered, on a much larger expanse than a non-tribal village in the plains.

76(i). The Commission came across many complaints in Barmer and Jaisalmer districts inhabited by scattered tribals as well as in Abu Road (Sirohi), Kotra (Udaipur), Dungarpur and Banswara districts where the voluntary organizations

working amongst the tribals as well as tribal leaders complained that electrification of their houses was still a far cry. Only 207 out of 304 villages of Kotra Panchayat Samiti have been electrified by providing electric connection to nearly 1,600 tribal families. At the time of the Commission's visit to Kotra, the proposal for electrification of 97 tribal household was still pending with the Nigam. The Commission came across the case in Kotra Panchayat Samiti where due to cable theft the entire tribal village was left high & dry in darkness. But the Vidyut Nigam is still showing the village as electrified. Strangely, the *Sabha Ghar* of the Panchayat Samiti, Kotra, which is a part of the Scheduled Area is without an electric connection.

76(ii). The Commission was informed at Kotra on 28.05.2003 that upon the visit of the President of India to Bakaria village (Kotra Tehsil) on 22/12/2002 an electric pole was installed and a DP provided to give electricity to the village. But as soon as the function was over, the DP was removed and the poor tribal villagers again reverted to darkness and status quo still remained till the Commission left Kotra on 28/05/2003 for the tour to Udaipur. The fact of the matter is that the Vidyut Nigam norms lay down that the contribution of Rs.1500/- has to be made for providing a DP, which the tribals under the stress of famine and poverty are unable to pay.

77. Dungarpur district consists of 2 towns and 850 villages. All the villages have since been electrified. Under 20-Point programme, 142 tribals out of 339 persons were given agricultural connections so far while 667 tribals out of 880 persons given *Kutirjyoti* connections. The State Government has sanctioned Rs.122.85 lacs of electric connections to the Ajmer Vidyut Vitaran Nigam Limited for electrification of 93 hamlets in Dungarpur out of which 76 hamlets have since been electrified and work on 6 more is in progress. The Nigam has utilized Rs.83.05 lacs for the purpose. The Nigam has also provided electric connections to 47 wells and 18 more are still in the pipeline.

78. The Commission recommends that installation of an electric pole should not be construed as electrification of a hamlet. It is only when the tribal households have been provided electric connections that the electrification process would said to have been completed. Further, the data of rural electrification should really indicate that all the hamlets of a village have been electrified and only then it can be said that the tribal village has been electrified. The state Vidyut Nigam should revise their proforma is so far as tribal areas / villages on the lines indicated above.

## Health Care

79. On account of general neglect and lack of proper health services, the STs suffer from malnutrition, maternal mortality and infant mortality. The important health indicators among the general and ST population are given hereunder:

Category/State	Infant Mortality (per thousand live deaths)	Under-5 Infant Mortality (per thousand live deaths)	% of Children under weight	MMR	LEB
General (India)	70	94.99	47	408	64.6
ST (India)	84.2	126.6	55.9	NA	NA
General (Rajasthan)	86	114.9	51.0	677	59.3
ST (Rajasthan)	98	NA	NA	720	NA

80. The above figures are indicative of the fact that the access to public health system has been very much uneven between the better endowed and the most vulnerable sections of the society. In order to overcome such differentiation, the Govt. of India has laid down the policy to set up the health centers known as Community Health Centres at the apex level followed by primary health centers at the intermediate level and sub-centres at the lowest level. Since the tribal areas have suffered from centuries of neglect of suitable health care facilities, the Govt. of India has relaxed the norms for establishment of CHCs, PHCs and SCs, multipurpose workers etc. to bring health facilities and services to the reach of the tribals. The relaxed norms for tribals and achievements at the all India level are given at Appendix V.

81. The task is momentous because the tribals due to their traditional beliefs and hold of the tribal doctor (Ojha) are reluctant to avail of the modern allopathic health services. But of late, there has been a welcome trend in Rajasthan where the tribals of Scheduled Area districts despite faith in the folk medicines are coming forward to avail of the modern health facilities.

82. There are only 1,116 sub-centres against 1,141 required, and 30 CHCs against 34 required, which calls for review and 183 primary health centers as against relaxed norms of 171 PHCs in the tribal areas of the State. But the position of State health care is quite dismal on account of the lack of access to PHCs that offer safe maternal, gynecological and abortion services and reproductive health care, education for couples and adolescents in the tribal areas. The fact of the matter is that gynecologists cannot reach the remote and interior villages inhabited by tribals and the health system resists training the

traditional village *Dai* (TBA). The programme, therefore, is merely target driven, which unfortunately overlooks the quality of health services provided in the interior areas as observed by the Commission during its tour.

83. The findings and recommendations of the Commission are given below:

(a). CHCs, PHCs and SCs: The number of primary health centers and sub-centres have not been opened as per the relaxed norms (Appendix V) laid down by the Union Ministry of Health and Family Welfare in the various regions toured by the Commission. A number of sub-centres were found to be functioning in rented buildings. Urgent steps should be taken to construct buildings for the health centers and undertake suitable repairs. It was alleged that one Dr. Kohli of a PHC Centre in Banswara was found to be charging fees from tribal patients during duty hours. An enquiry was made and the allegation was found to be correct but no action has reportedly been taken against Dr. Kohli according to Dr. Vijay Kumar, MO.

(b). Posting of Doctors: Posts of doctors, particularly, senior specialists and junior specialists are lying vacant, for example, 14 senior specialists posts and 65 junior specialists posts out of 121 were lying vacant in the Dungarpur district. There is not a single lady doctor to attend to gynecological treatment of the tribal female patients. 10 out of 44 posts of medical officers in the PHCs at the district level were reported to be lying vacant. The same position was observed in Banswara district and Kotra Panchayat Samiti. It was understood during the meeting on 4<sup>th</sup> July, 2003 with the Chief Secretary, Rajasthan and his Officers at State Sachivalya at Jaipur that 400 posts of doctors were lying vacant in the tribal sub-Plan areas and the State Govt. would be filling up the posts by constituting sub-committees within three months. The Commission recommends that as the doctors who usually come from urban surroundings are not willing to stay in the tribal areas for a longer period due to inhospitable conditions, they should be posted on a contract basis and provided residential accommodation as well as monetary incentives so that they are able to provide health care facilities to the tribals.

(c). Posting of para-medical staff: The position with regard to the para-medical staff is also not very encouraging as many posts are lying vacant. Para-medical staff should be provided residential accommodation near the health centers, beginning with the female workers as the location of the centre is quite often away from the town or the village and it is difficult for the lady workers to make to and fro journeys to centers at odd hours. It would also be much easier to call them for duty at odd hours if they are staying within the premises of health centre. Similarly, they should also be given monetary incentives to make their posting in the tribal areas attractive. Those who have

undertaken the work for three years continuously at a centre, should be given extra incentives like support for professional education for children, medical reimbursement to families of para-medical staff suffering from serious ailments at the hospital of their choice and special leave encashment of 12-15 days a year after completion of 3 year tenure.

(d). Posting of *Dais* (TBA): **Hardly 30 per cent of the deliveries by tribal women were performed by *dais* (Trained Birth Attendants) in the districts of Banswara and Dungarpur. The position was still very poor in respect of Kotra and Aburoad Panchayat Samitis. A crash programme for training of tribal *Dais* should be undertaken by the State Govt. The trained *Dais* would be in a position to motivate the tribal women in their local dialect to approach the health center and avail of the health facilities both gynecological and otherwise.**

(e). Laboratory facilities: **Laboratories facilities are in name only as either the technicians are not available or basic equipment for conducting lab tests are also not available. X-ray machines at many places are not installed and whenever they are available, these are not working. The State Govt. should fix responsibility for the present state of affairs of the dysfunctional laboratories and X-ray machines and simultaneously ensure that these facilities are extended to the far-flung areas on par with the facilities obtaining in the urban areas.**

(f). Supply of medicines: **At Dungarpur distt. NGOs complained that spurious medicines were being supplied. At Banswara, the story also was the same where medicines were not available. The story is not much different in Kotra and Aburoad Panchayat Samitis.**

84(i) Special Diseases: The special diseases suffered by the tribals generally are TB, malaria, leprosy, malnutrition and flourosis. The Government identified 16,614 TB patients under T. B. Control Programme in the TSP area out of which 12,235 were treated and 2,255 were under treatment till Jan, 2003 in 806 villages out of 991 surveyed in the distt. of Udaipur, Banswara, Chittorgarh, Dungarpur and Rajsamand. Similarly, flourosis afflicted 2,430 tribal households in 304 villages of the TSP areas where the Control Programme was under operation through SWACH.

(ii) The State Govt. has taken initiative in controlling special diseases through SWACH which is receiving grants not only from Tribal Area Development and Health Deptts. but also from the international agencies. However, it was reported that TB was quite rampant in the tribal area. It was also reported that some of the TB patients were found to be having HIV Aids virus. This demands urgent remedial steps. The help of voluntary agencies should be availed in this regard also.

85. The Govt. of India has also provided that ANM workers may be trained by attending ANM schools at the district level. The District Administration of Banswara has taken steps to start an ANM Training School. The Commission recommend that such a centre may also be opened at Dungarpur to meet the shortage of trained ANM workers.

## Education

86. The progress of STs of Rajasthan is closely linked with the level of literacy among them. A literate community is more assertive in articulating its rightful demands/claims in matters like security of land tenure, restoration of alienated land, rehabilitation of displaced persons due to setting up of projects, supply of adequate medical and health services, safe drinking water, intake in posts and as prescribed by government, effective participation in Panchayati Raj institutions/local bodies and in other fields on an equal footing.

## Anganwadis

87. An important component of package of services envisaged under the ICDS scheme aims at providing non-formal pre-school education to the child, in the age range of 3-5 years, as a necessary preparation for primary schooling by organizing joyful play - way daily activities for 3 hours. This would create a desire in the child to attend the primary school. The Commission recommends that there should be improved co-ordination between the Anganwadis and primary schools in terms of times, locations and supportive linkages between the Anganwadi workers and primary teachers. The drop out-rates in the primary classes in the tribal areas is abnormally high. A desire has to be created among the tribal children to enter primary schools and for this purpose the norm of establishing Anganwadis for a population of 700 should be relaxed to 250 to cover tribal *Dhanis*. If this is done, the Commission is hopeful that the tribal children will willingly and with enthusiasm attend the primary schools. At present, in the tribal areas, Anganwadis do not cater to all the tribal children below the six years of age, with the result that there is no perceptible impact of this programme in preparing the students for entering into primary schools. The Commission also recommends that the expenditure towards supplementary feeding under Anganwadis Scheme should be borne by the Union Ministry of Human Resource Development in view of resource constraints of the states.

88. As per 1971, 1981 and 1991 censuses the literacy rates in Rajasthan for total male and female for general and ST population, the positions is given in the table below: -

**Table**

Census Years (*)	General			Tribals		
	Persons	Male	Female	Persons	Male	Female
1971	19.07%	28.74%	8.45%	6.47%	12.03%	0.49%
1981	24.38%	36.30%	11.42%	10.27%	18.85%	1.20%
1991	38.55%	54.99%	20.44%	19.44%	33.29%	4.42%

89. The above table clearly indicates the wide disparity in literacy level of the general population and the tribal population. **The poor female literacy achieved by Rajasthan in the several decadal censuses indicated above calls for a special drive for opening of primary schools, hostels and provision of incentives in the form of free supply of books, stationery, mid-day meals and pre matric stipends to the needy girls for arresting drop outs which are as high as 80-90% from primary to secondary level in the tribal sub-Plan areas.**

90. In order to have a ground level picture of the state of educational development in the scheduled and tribal areas, the Commission during its tour of Abu Road Sirohi, Dungarpur, Banswara and Kotra and non scheduled area tehsil of Bali (Pali) had wide range of discussions with the officials and non-officials as well as with the representatives of the voluntary agencies and the individual tribal leaders.

91(a) It was noticed during the tour of Dungarpur district that as against 1,77,072 total students in primary schools, the ST enrolment of 1,36,443 was 77 per cent but at middle school stage the enrolment nose-dived to 12% of 5139 out of 43,326 students. Similarly, the position became very bleak if we examine the enrolment at the secondary stage. Thus it would be seen that despite mammoth investment, the drop out rate from primary stage to secondary stage would be as high as 90 per cent. In this connection, it would be relevant to support Commission's findings with the official figures published in the Annual Report of the National Commission for SC & ST for the period 12<sup>th</sup> March, 1992 to 31<sup>st</sup> March, 1993, which reveals that **the percentage of drop out for tribal boys and girls at secondary stage is as high as 84.93 per cent for boys and 94.30 per cent for girls respectively.**

(\*) Source PP 114 of "Portrait of Population published by the Directorate of Census Operations Rajasthan, Jaipur (1991 census).

The Commission is convinced that there has been no improvement in the retention of tribal students from classes 1 to 10 of the school stage in the past decade. The reasons are manifold. Large number of posts of teachers at primary, middle and secondary stages of education are lying vacant. For instance, out 39 posts of Head Masters as many as 22 (54%) were vacant in the Kotra Panchayat Samitti of Udaipur district. In these schools, 126 posts of teachers were also lying vacant. It was understood from the Education Department during the meeting that 1,000 posts of Grade-III teachers and 1,000 posts of para teachers were lying vacant in the tribal areas of Rajasthan. There is need for revamping the educational infrastructure. Out of the filled up posts, the teachers do not like to be posted in the villages due to lack of residential accommodation which should be provided on a priority basis starting by covering the lady teachers first. Another fall out of poor results of tribal students was reported to be shortage of local teachers who could have better communication facilitation with the tribal students. One of the basic reasons of drop out of boys and more particularly girls at 12-13 year age group (class VI) was the need for their contribution to family income and domestic chores respectively. The TAD Department has opened six hostels for ST students in the district of Dungarpur but unfortunately these are without wardens for the last 10 years. The absence of wardens in the hostels obviously leads to decline in educational standards and indifference on the part of the students to continue education. It was reported by a non-official that a hostel building had been built at the Dungarpur district Headquarter about 4 years back and was lying unused due to lack of budgetary support. Resultantly, the tribal male and female students were forced to make up and down journey from far off places to attend classes. The Commission recommends that the TAD Department should look into the matter and provide funds so that the hostel becomes functional. One other reason for high drop out rate is the mid-term transfer of teachers, which is not immediately followed by replacement of teachers resulting in mismanagement and little attention being paid to the quality of teaching. The transfers should be done at the commencement of the educational session so that the interests of tribal students are protected. In the primary schools, tribal students are given mid-day meals, which are quite often cooked by the teachers. The teachers are also given other work by the Education Government like frequent educational surveys, census enumeration work, etc., which tells upon the quality of education and must be avoided. As far as possible, mid day meals may be cooked by tribal women on payment of small honorarium. The rates of pre-matric scholarships are very low, fixed long time back and paid at the fag end of the year and there is need for upward revision immediately.

(b) There is need for proper security for tribal students and lady teachers in the schools which are quite often located in the outskirts of towns and villages. The teachers are not willing to work in rural tribal areas, which tells upon the enrolment and retention of tribal students. There is need for opening of hostels



in the periphery of Udaipur city where there can be better supervision of Education and TAD Departments and this can contribute a great deal in arresting drop outs. Rajiv Gandhi Pathshalas which cater to class I and class II are single-teacher school. The teacher gets a salary of Rs. 1200/- per month and the number of students per school ranges between 100-200 and the teacher can hardly do justice to such a large number of children.

(c) There are other primary education schemes like Shiksha Karmi, Lok Jumbish and Sarva Shiksha Abhiyan in addition to Rajiv Gandhi Pathshalas. There is need for integration of all the schemes for cutting overheads and giving focused attention to the education of children. Education is not given to the students in the tribal dialect in classes I and II. There is need for giving education in tribal dialect, as the children can grasp easily if taught in their own dialect. This will also enable them to pick up Hindi, which is the medium of instruction as they enter class III.

(d) There are only nine Government colleges and two private colleges out of which two colleges are meant for girls. There is no girls' college in the Scheduled Areas. A large number of girls who pass Senior Secondary Examination, are desirous of seeking higher education but due to non-availability of educational facilities in the Scheduled Areas, are forced to discontinue studies. A demand was made by the tribal representatives that a girls college may be opened at Kotra which lies in the heart of the Scheduled Areas and tribal girls from the neighbouring areas will be able to pursue higher education. The Commission recommends that a Girls college should be started at a suitable place in the Scheduled Areas. A hostel should be attached to it.

92. It was observed that the Rural Education Department and TAD Department are together spending millions of rupees on primary education in the Scheduled and tribal sub-plan area but their efforts need to be focused. The State Govt. should insist on fixed tenure of 3 years for teachers and those who have completed 3 years tenure, should be given fringe benefits like, (a) leave encashment for 12-15 days for the tenure period, (b) advance increment (c) suitable entry in the ACT to enable them to get quick promotion to a higher post. Special steps should be taken to train tribal teachers so that the posts as per the schools quota prescribed for them are filled up.

#### **Grant of PTG Status to Kathodi Scheduled Tribe, Udaipur district**

93. Kathodi is a ST living in 23 villages of Kotra and Jhadhol Tehsils of Udaipur district bordering Gujarat State with a population of 2600 (as per 1991 Census) consisting of about 760 families. According to a survey conducted in the year 2000-01 by the MLV Tribal Research Institute, Udaipur in five villages of Jhadol Panchayat Samiti and three villages of Kotra Panchayat Samiti of the

district, it was reported that 68 per cent of the Kathodis were engaged in forest related activities, 14 per cent as agricultural labourers and 18 per cent as daily labourers. Economically, 31 per cent had less than Rs.500 annual income while 37.7 per cent and 31.3 per cent had annual income between Rs.500-1000 and Rs.1000 respectively. 91 per cent of the 300 sample respondents were illiterate and the remaining literate persons who had gone to school had dropped out and were not able to put their signature or even read a Hindi newspaper. No voluntary organization has motivated Kathodis to send their children to schools and the State Government has also not taken any steps for their retention in schools. A number of voluntary organizations who met the Commission during the tour desired that Kathodis should be declared a Primitive Tribal Group (PTG) like their counterparts in Gujarat.

94. It is believed that some Kathodi families who are adept in making *Katha* were brought by some *Katha* traders to the jungles of Aravali Hill ranges and settled there from Khandesh, Maharashtra long time back. In the original abode, they were not used to agriculture and animal husbandry. Their economy and lifestyle was based on forest produce. Some of them have now started to engage themselves in agriculture and also work as daily labourers and in forest related works. Most of them have uneconomic agricultural holdings or are landless. Due to extreme educational backwardness, the community is submerged in superstitions. The language spoken by them is a mixture of Marathi, Gujarati and Marwari. They have been acculturated due to preponderance of Bhils in the new surroundings, particularly in respect of language and culture. They have now started conversing in Hindi. **As far as Commission could ascertain Kathodis suffer from extremes of educational and economic backwardness and follow their age-old tribal customs and traditions.**

95. The Commission had therefore, asked the State Government to undertake a rapid survey of the Kathodi community and to submit a proposal to the Government of India for their inclusion in the list of primitive tribes. The State Government while agreeing with the Commission's suggestion has issued instructions to the MLV Tribal Research Institute to undertake a rapid survey.

### **Working of the Tribes Advisory Council**

96. In fulfillment of the provisions contained in **Paragraph 4 of Part 13 of the Fifth Schedule of the Constitution**, the Govt. of Rajasthan notified Rules on 1-10-1981 entitled Rajasthan Tribes Advisory Council Rules, 1980. The TAC consists of 19 members, including Chairman and Deputy Chairman, 13 ST members who are MLAs while 3 officials and 1 non-tribal NGO working for the development of STs. The Minister in-charge of Tribal Area Development (TAD) is the Chairman of the TAC.

**97. Functions of Tribes Advisory Council (TAC)**

**Para 4 of the Fifth Schedule** states that the TAC would advise on matters pertaining to the welfare and advancement of the STs as may be referred to it by the Governor. No Regulations shall be made by the Governor unless he has consulted the TAC. But it appears that the State Govt. have not implemented this before enacting legislations affecting tribal interests. It is recommended that in order to make the TAC effective, it should be made obligatory on the part of the Govt. to refer all matters relating to welfare and development of STs for prior approval of the TAC. The State Govt. should also obtain prior approval of the TAC for enacting any legislation etc., policy making, planning and supervision of development schemes and effective administration of the Scheduled Areas.

98. The Commission had interaction with the tribal representatives at Udaipur, Dungarpur and Banswara during tour of these districts in July, 2003 regarding the working of TAC. The Commission recommends that the meetings of the TAC should be presided over by the Chief Minister of Rajasthan and the Minister in-charge of TAD Deptt. should be appointed as Deputy Chairman. This recommendation has been made in view of the fact that the Governor has special responsibility to watch the implementation of protective safeguards and developmental schemes and more importantly establishment of peace and good Government in the Scheduled Areas of the State and submit a report to the President. The Commission recommended that ST MLAs should elect  $\frac{3}{4}$ th of the Members of the TAC. The Commission also recommends that in view of the enactment of the Rajasthan PESA Act 1999, it would be appropriate to induct at least 2 Heads of Panchayat Samiti/Zilla Parishad with a view to give greater chance to the grass-root tribal members to ventilate their grievances and present problems of tribals before the TAC. Such a course would also enrich the quality of participation in the TAC.

The Commission welcomes the decision of the State Govt. to agree to the suggestion of the Commission to nominate Chief Secretary and Secretary to Governor as members of the TAC so that the Governor is kept informed of the feelings of the tribal people and enforcement of protective safeguards.

**99. Annual Reports of the Governor on the Admin. of scheduled areas**

The Commission after study of the Annual Reports of the Governor on the administration of Scheduled Areas for the last two years has come to the conclusion that these Reports are not in any way different from the Annual Administrative Reports of the Department of Tribal Area Development. The Report merely recounts the utilization of outlays and expenditure and gives a narrative of the schemes under the Tribal Sub-Plan. **The Commission, therefore, recommends that the Governor's Report should give a qualitative narrative of**

the working of the protective safeguards like laws against land alienation, status of conversion of tribal land from agriculture to commercial and residential purposes in a subterfuge manner, implementation of the laws against indebtedness, working of excise policy and the implementation of the Tribal Sub-Plan strategy. The Commission also recommends that in the altered situation brought about by the enforcement of PESA Act, the views and aspirations of the ST members of the TAC should find a prominent place in the Annual Report of the Governor. The Commission further suggests that a special cell should be set up in the Chief Secretary's office to draft the Annual Report based on the information furnished not only by the TAD but also other concerned departments. Commission also recommends that the Council of Ministers should be consulted by the Governor before the Annual Report is released by the State Govt.

### **Excise Policy**

100. The tribals of south Rajasthan, particularly were used to heavy drinking. This has resulted in avoidable affrays among themselves. @The colonial rulers hardly paid any attention to counteract the adverse effect of the extremely popular drinking habit among Bhils and went to the extent of describing Bhils, Warlies and other tribal communities as a whole, as a race of drunkards. The excise policy introduced by them was to earn revenue in disregard to the long term devastating effect, the excessive drinking had on the social and economic fabric of the tribals. The present excise policy permits the tribals of the State to brew home brewed liquor made of *mahua* flower for domestic consumption and social functions. Alongside, the Govt. of Rajasthan has opened liquor vends for sale of country liquor and IMFL by giving licenses to non-tribals in towns located within the Scheduled Areas on a commercial scale. This has given impetus to increase in consumption of liquor and liquor trafficking by involving innocent tribals. The liquor is now available in carry home pouches for the asking.

101. However, there is a silver lining when we look at the Bhagat movement which had a significant impact in promoting temperance. Bhagats abstain from all sorts of crimes including drinking liquor. There was a flurry of reform movement which was led by \*Suramal Das, a reformer preaching temperance among Bhils who spread his movement from Mewar in Rajasthan to Shamla Ji in Gujarat. His movement was followed by Govind Giri of Dungarpur district which led to a movement of socio-religious reform among the Bhils.

102. The State Govt. should introduce a selective excise policy by not opening liquor vends in the towns located in the Scheduled Areas only for the sake of earning money due to auctions of vends and excise revenue. Voluntary

@ Annual Administrative Report of 1874-75 - TE Gurain, Political Superintendent of Hilly Tracts of Mewar.

agencies, Gram Panchayats, local religious social leaders should be engaged by the Government to sustain the reform movement so as to keep the demon of liquor at bay from the Scheduled Areas of Rajasthan.

### **Botanical Garden at Jhadol**

103 (a) On 21<sup>st</sup> February, 2003, the Commission had a quick visit to the botanical garden and a green house attached to it at Jhadol, which lies 45 Kms. away from Udaipur. The herbal botanical garden Nal Sandol in Jhamori Reserved Forest, Tahsil Jhadol was originally established in 1993. The garden confined to 50 hectares of degraded land with a few pockets of dense growth of grass is under the control of the Forest Deptt. It is financed by the State Tribal Areas Development Deptt. The management of the garden is done by a Samiti of 153 persons mostly women as S.L.G which also protects the flora and fauna of the garden from poachers. The lush green grass found in certain pockets of the garden is a great attraction for the poachers for stealing. The Samiti keeps a watch on the activities of poachers and those found stealing grass from the garden are imposed a hefty fine which adds to the coffers of the Garden Samiti. The herbal garden has a green house for conservation and propagation of rare medicinal plants.

(b) The Commission after a visit to the herbal garden, had a feeling that the local tribals have not derived benefit from the activities of the garden. It is, therefore, suggested that they should be made partners in the activities of the garden by compensating them for the watch and ward activities. Another suggestion is that the members of the Samiti should be encouraged to grow herbal plants in their backyards to enable them to develop interest in the scheme and add to their paltry income.

In view of the drought-like conditions in the State, the members of the Samiti should be educated in rain-water harvesting scheme with a view to meeting water requirements of the backyard plantation.

(c) A beginning can be made by the State Forest and Tribal Area Development Deptt. by manufacturing herbal medicines as well as their value addition through utilizing the services of dedicated *vaidyas* of Udaipur and association of reputed voluntary agencies. The Biodiversity Conservation Act, 2002 provides for payment of royalty to locals in exchange for their intellectual and biological property. Under the Act, the outsiders, individuals and organisations will have to seek the prior consent of the local tribals who have deep knowledge of folklore medicine. The outsiders will also have to pay to the villagers even for the information connected with the biodiversity.

## Implementation of the provisions of the Central PESA ACT (1996) in Rajasthan State

104 The Rajasthan Govt. has amended the State Panchayat Raj Act (1994) in the year 1999 in its application to the Scheduled Areas of Rajasthan so that it falls in line with the Central Act as prescribed.

105 Mandatory provisions of the Central Act and their status in the Rajasthan Act are given below.

**Table**

S.No	Mandatory Provisions	Status in Rajasthan
1	<b>Acquisition of land</b> Prior consultation with Gram Sabha or Panchayats at appropriate level. 4 (i)	Many powers provided to Gram Sabha
2	<b>Planning &amp; Management of Minor water bodies</b> To be entrusted to Panchayats at the appropriate level. 4 (j)	
3	<b>Grant of prospecting license for mining minerals</b> Prior recommendations of Gram or Panchayats at the appropriate level. 4 (k)	Prior permission of Gram Sabha or PRI made compulsory.
4	<b>Grant of concession for exploitation of minor minerals</b> Prior recommendations of Gram or Panchayats at the appropriate level. 4 (l)	Recommendation of Gram Sabha or the PRI made compulsory for the concession.
5	<b>Enforce prohibition, regulate or restrict sale &amp; consumption of any intoxicant</b> Panchayats at the appropriate level and the Gram Sabha to be endowed with powers. 4 (m) (i)	PRI at the appropriate level is empowered to enforce prohibition.
6	<b>Ownership of MFP</b> Panchayats at the appropriate level and the Gram Sabha to be endowed with powers. 4 (m) (ii)	PRI at the appropriate level is endowed with the ownership to control and manage the minor forest produce.
7	<b>Prevention and restoration of Tribal Alienated Land</b> Panchayats at the appropriate level and the Gram Sabha to be endowed	PRI at the appropriate level is empowered to prevent alienation of land in Scheduled Areas and to restore unlawful alienation of STs.

	with powers. 4 (m) (iii)	restore unlawful alienation of STs.
8	<b>Managing village Markets</b> Panchayats at the appropriate level and the Gram Sabha to endowed with powers. 4 (m) (iv)	PRI at the appropriate level is empowered to manage village market.
9	<b>Money lending to STs</b> Panchayats at the appropriate level and the Gram Sabha to endowed with powers. 4 (m) (v)	PRI at the appropriate level is empowered to exercise control over money lending to the members of ST.

106. A comparative position of the provisions made in the PESA Act and the Rajasthan PESA Act gives the present position of the enforcement/deviations etc. of the latter Act compared with the former Act

(a) Provisions made as per Central Act

Sections 4 (c), 4 (d), 4 (e) (i), 4 (e) (ii), 4 (f), 4 (g), 4 (h), 4 (i) and 4 (m) (v) of the Central Act has been taken care of by making similar provision in the Rajasthan Act.

(b) Deviations from Central Act

- (i) As regards Section 4 (j) relating to planning and management of minor water-bodies of Central Government, the State Govt. has made a similar provision too but has added the word " as may be prescribed" which has not been done so far.
- (ii) The Rajasthan Act is silent about the provisions made under Sections 4 (a), 4 (b), 4 (o) and Section 5 of the Central Act.
- (iii) The power to exercise control over institutions and functionaries in all social sectors to the extent and in the manner to be specified by the State Govt. from time to time the unqualified control of the PRIs envisaged in the Central Act under Section 4 (m) (vi) and the power to control over local plan and resources of such plan, including tribal sub-Plan under Section 4 (m) (vii) to the extent and in the manner to be prescribed by the State Govt. from time to time detracts from the unqualified control of PRIs as envisaged in the Central Act. No rules have been prescribed so far.
- (iv) The Central Act [Section 4 (n)] provides for checks and balances so that the Panchayats at the higher level do not assume the authority of any Panchayat at the lower level or at the Gram Sabha by Panchayats at the higher level. However, the State Act is silent about this provision.
- (v) The State Govt. has not so far issued rules under Sections 4 (j) and 4 (k) of the PESA Act relating to grant of minor mineral concessions. The

Commission is aware that 80 per cent of the minor minerals are located in the vicinity of tribal habitats and most of them live below the poverty line.

107 The Commission, therefore, recommends that Scheduled Castes and Scheduled Tribes State Finance and Development Corporation should provide financial assistance to such budding Scheduled Tribes who are willing to take licences for prospecting minor minerals. This recommendation was also brought to the notice of the Chief Secretary, Govt. of Rajasthan at the time of the meeting of the Commission in the Sachivalaya at Jaipur on 5.7.2003. The Commission further recommends that the question of notification of rules for implementing various provisions of the State PESA Act have been over-delayed and a notification may be issued without any further delay as it might otherwise cause unrest among the tribals.

### **Additional Charge of TAD Commissioner**

108 The Tribal Area Development Commissioner is holding the heavy additional charge as Commissioner, Udaipur Division. The Commission recommends that the tribal area requires full time attention of the TAD Commissioner and, therefore, he should not be saddled with the additional responsibilities so that he can give his whole time attention to the problems of Scheduled Tribes.



**DISTRIBUTION OF SCHEDULED TRIBE POPULATION BY SEX**

State/District	Total/Rural/ Urban	Population		
		Total	Males	Females
1	2	3	4	5
<b>RAJASTHAN</b>				
<b>All Scheduled Tribes</b>				
	Total	54,74,881	28,37,014	26,37,867
	Rural	52,20,549	26,96,437	25,24,112
	Urban	2,54,332	1,40,577	1,13,755
<b>1. *Bhil, Bhil Garasia, Dholi Bhil, Dungri Bhil, Dungri Garasia,.....</b>				
	Total	23,05,982	11,77,865	11,28,117
	Rural	22,28,487	11,36,860	10,91,627
	Urban	77,495	41,005	36,490
<b>2. Bhil Mina</b>				
	Total	32,592	16,678	15,914
	Rural	28,733	14,562	14,171
	Urban	3,859	2,116	1,743
<b>3. Damor, Damaria</b>				
	Total	43,612	21,801	21,811
	Rural	42,525	21,189	21,336
	Urban	1,087	612	475
<b>4. Dhanka, Tadvi, Tetaria, Valvi</b>				
	Total	33,844	17,990	15,854
	Rural	14,493	7,742	6,751
	Urban	19,351	10,248	9,103
<b>5. Garasia (excluding Rajput Garasia)</b>				
	Total	1,48,197	75,899	72,298
	Rural	1,47,303	75,332	71,971
	Urban	894	567	327
<b>6. *Kathodi, Katkari, Dhor Kathodi, Dhor Katkari,.....</b>				
	Total	2,984	1,498	1,486
	Rural	2,893	1,444	1,449
	Urban	91	54	37

765

<b>7. Kokna, Kokni, Kukna</b>			
Total	710	378	332
Rural	609	322	287
Urban	101	56	45
<b>8. Koli Dhor, Tokre Koli, Kolcha, Kolgha</b>			
Total	2,973	1,576	1,397
Rural	2,549	1,339	1,210
Urban	424	237	187
<b>9. Mina</b>			
Total	27,99,167	14,69,158	13,30,009
Rural	26,58,344	13,89,085	12,69,259
Urban	1,40,823	80,073	60,750
<b>10. *Naikda, Nayaka, Cholivala Nayaka, Kapadia Nayaka,.....</b>			
Total	11,627	6,272	5,355
Rural	7,859	4,177	3,682
Urban	3,768	2,095	1,673
<b>11. Patelia</b>			
Total	2,554	1,074	1,480
Rural	1,977	763	1,214
Urban	577	311	266
<b>12. Seharia, Sehria, Sahariya</b>			
Total	59,810	30,555	29,255
Rural	58,749	30,011	28,738
Urban	1,061	544	517
<b>13. Unclassified</b>			
Total	30,829	16,270	14,559
Rural	26,028	13,611	12,417
Urban	4,801	2,659	2,142

Note: 1. All Scheduled Tribes includes figures for 'unclassified'.

2. Tribes having nil return are not shown.

**Provisions in protected laws against land legislation and related matters****Rajasthan Tenancy Act, 1955****Section 42**

General restrictions on sale, gift and bequest

The sale, gift or bequest by a Khatedar tenant of his interest in the whole or part of his holding shall be void if –

- (b) such sale, gift or bequest is by a member of Scheduled Caste in favour of a person who is not a member of the Scheduled Caste, or by a member of a Scheduled Tribe in favour of a person who is not a member of the Scheduled Tribe.

**Section 42-bb**

Prohibits sale, gift of bequest by a member of Sahariya Scheduled Tribe in favour of a person who is not a member of the above said tribe.

**Section 43****Mortgage**

- (1) A Khatedar tenant, or with the general or special permission of the State Government or any officer authorized by it in his behalf, a Ghair Khatedar tenant, may hypothecate or mortgage his interest in the whole or part of his holding for the purpose of obtaining loan from the State Government or Land Development Bank as defined in the Rajasthan Cooperative Societies Act, 1965 or a Cooperative Society registered or deemed to be registered as such under the said Act or any Scheduled Bank or any other institution notified by the State Government in that behalf.
- (2) A Khatedar tenant may transfer his interest in the whole or part of his holding in the form of usufructuary mortgage to any person but such mortgage must provide that the mortgage amount shall be deemed to be paid off by the usufruct of the property within a specified time not exceeding five years, and in the absence of such period being specified, such mortgage shall be deemed to be for five years.

Provided that on or after the publication of the Rajasthan Tenancy (Amendment) Act 1970 in the official Gazette, no Khatedar tenant being a member of a scheduled caste or scheduled tribe shall so transfer his rights in the whole or a part of his holding to any person who is not a member of a scheduled caste or a scheduled tribe.

- (3) A usufructuary mortgage under sub-section (2) shall, upon the expiry of the period mentioned herein before be deemed to have been satisfied in full without any payment whatsoever by the mortgager, and the mortgage debt shall be deemed to have been extinguished and the mortgaged land redeemed and the possession thereof shall be delivered by the mortgagee to the mortgager free from all encumbrances.....

(4E) Any mortgagee who, without sufficient cause, fails to put the mortgager in possession of the property within a period of three months as specified in sub-section (4C) shall on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to Rs.1,000 or both, the offence shall be cognizable and bailable and may be compounded by the mortgager.

(4) Without prejudice to the provisions contained in sub-section (4E), if the mortgagee does not so re-deliver the possession of the land mortgaged, he shall liable to ejection in accordance with Section 183-A.

### **Section 46-A**

#### **Special provision for letting or sub-letting by members of scheduled castes and scheduled tribes –**

Notwithstanding anything contained in sections 44, 45 and 46, no person who is a member of a scheduled caste or a scheduled tribe shall let or sub-let the whole or any part of his holding under the said sections to any person who is not a member of a scheduled caste or a scheduled tribe.

### **Section 49A**

#### **Special provision for exchange by members of scheduled castes or scheduled tribes –**

Notwithstanding anything contained in section 48 and 49, no tenant who is a member of a scheduled caste or scheduled tribe shall have the right to exchange his holding under any of those sections for land which is included in the holding of a person who is not a member of a scheduled caste or scheduled tribe and an application under section 49 shall be rejected if it contravenes the provisions of this section.

### **Section 175**

#### **Ejection for illegal transfer or sub-letting**

- (1) If a tenant transfers or sub-lets or executes an Instrument purporting to transfer or sublet, the whole or any part of his holding, otherwise than in accordance with the provisions of this Act and the transferee or sub-lessee or the purported such part in pursuance of such transfer or sub lease, both the tenant and any person who may have thus obtained or may thus be in possession of the holding or any part of the holding, shall on the application of the land holder, be liable to ejection from the area so transferred or sub-let or purported to be the transferred or sub-let.
- (4A) Notwithstanding anything to the contrary contained in sub-section (4) if the application is in respect of contravention of the provisions contained in section 42 or the proviso to sub-section (2) of section 43 or section 49A, the court shall, after giving a reasonable opportunity to the parties of being heard, conclude the enquiry in a summary manner and pass order, as far as may be practicable, within a period of three months from the date of the appearance of the non-applicants before it, directing ejection of the tenant and his transferee or sub-lessee from the area transferred or sub-let in contravention of the said provisions.

To ensure disposal of the cases within 3 months of admission in the Court.

## **Section 183B**

### **Summary ejection of trespassers of the land held by members of scheduled castes and scheduled tribes –**

In 1978, Section 183B was inserted into the Rajasthan Tenancy Act, giving clear provision to tenants of Scheduled Castes and Scheduled Tribes to get trespassers ejected from his land holding.

- (1) Notwithstanding to the contrary contained in any provision of this Act, a trespasser who has taken or retained possession, without lawful authority of land held by a tenant belonging to scheduled caste or scheduled tribe, shall be liable to ejection on an application of the person or persons entitled to evict him, or on the application in the prescribed manner, of a public servant authorized by the State Government in his behalf, and shall be further liable to pay as penalty for each agricultural year during the whole or any part whereof he has been in such possession, a sum which may extend to fifty times the annual rent.
- (2) The inquiry on an application under sub-section (1) shall be made in a summary manner and shall be concluded as far as practicable, within the prescribed period and after affording a reasonable opportunity of being heard to the person alleged to be a trespasser.

### **Section 183(C)**

On issuing one notice, if the trespasser doesn't hand over/surrender possession, after summary trial he shall be liable to pay as penalty a sum of Twenty Seven thousand rupees or face imprisonment of one month to three years or both.

The tribal landowner can make an application to the S.D.O if someone has illegally occupied his land.

## **II. THE RAJASTHAN LAND REVENUE ALLOTMENT, CONVERSION AND REGULARIZATION OF AGRICULTURE LAND FOR RESIDENTIAL AND COMMERCIAL PURPOSES IN URBAN AREAS RULES, 1981.**

The Sections in the Act regarding limitations over sale of such converted land are as follows:

1. Lease of Land - On conversion or regularization, as the case may be, the land shall be held on the basis of a lease in perpetuity. The terms and conditions of the lease shall be revisable by the Government after every 99 years. The lease agreement shall be in Form "C".
2. Transferability of Land – The land leased out under these Rules shall be transferable subject to the conditions and restrictions provided in these rules, or by any other law or rules relating to such leases.
3. There are certain provisions, that the land to be converted should be in a certain proximity to an urban area. For Jaipur, Ajmer, Bikaner, Jodhpur and Kota, it is all agriculture lands falling within the urban agglomeration. For large cities, Udaipur, Alwar

and Sri Ganganagar, it is within 3 km, of the city, and for smaller cities and towns, it is within 1 km. of the municipal limits of the city/town.

### **III. RAJASTHAN LAND REVENUE CONVERSION OF AGRICULTURE LAND FOR NON-AGRICULTURAL PURPOSES IN RURAL AREAS RULES, 1992.**

Agriculture land in rural areas may be converted for the following purposes:

- |                                  |                       |
|----------------------------------|-----------------------|
| a. Residential                   | d. Salt manufacturing |
| b. Commercial                    | e. Public Utility.    |
| c. Industrial or Industrial Area |                       |

The section of the Rules which deal with alienation, if the person converting the land is a member of a scheduled tribe, are as follows:

“Transfer of land converted for Non-Agricultural purposes – Any land, duly converted for any non-agricultural purpose under these rules, may be transferred without payment of premium or obtaining permission from the prescribed authority.”

### **IV. THE LAND ACQUISITION ACT, 1984**

The Act was amended in 1984 by the Central Government, and the changes were beneficial in that they tried to:

- Minimize the undue delays that characterize acquisition proceedings, and
- Provide for payment of compensation on a realistic scale.

However, it has given the government greater discretionary powers to acquiring land under Section 17. (Special powers in case of urgency).

Under the provisions of the revised 1984 Act, land can be acquired when it is needed for:

- a public purpose, or
- a company (the Government has to consent, to the Act being used for the Company, and the Company has to enter into specified agreements with the Government (Sections 39-41)

A “company” has been defined by the Companies Act, 1956, as one that is formed and registered under the Act or one formed and registered under any of the previous specified company laws. For the purpose of this Act, the term “Company” includes:

- companies in the strict sense of the term as defined above.
- Societies registered under the Societies Registration Act, 1860
- Co-operative societies defined according to state laws
- Industrial concerns owned by an individual or an association of individuals (partnership firm). Also, an Industrial concern which employs at least 100 workers and is owned by an individual or an association of individuals is also considered to be a “company” for the purposes of the Act. Land can be acquired for such a concern if it is needed for two purposes:
  - a) erecting dwelling houses or residences for workmen employed by it, or
  - b) providing amenities directly concerned with the above purpose.  
e.g. sewage, sanitation.

This is the only instance in which land can be acquired under the Act for an individual or a firm.

According to the original 1894 Act (and Rajasthan it seems has made no state amendment), the expression of "public purpose" includes-

- i) The provision of village-sites, or the extension, planned development or improvement of existing village-sites;
- ii) The provision of land for town or rural planning;
- iii) The provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;
- iv) The provision of land for a corporation owned or controlled by the State;
- v) The provision of land for residential purposes to the poor and landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;
- vi) The provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act 1860, or under any corresponding law for the time being in force in a State, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;
- vii) The provision of land for any other scheme of development sponsored by Government, or with the prior approval of the appropriate Government, by a local authority;
- viii) The provision of any premises or building for locating a public office.

**V. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Rajasthan Panchayati Raj (Modification of provisions in their Application to the Scheduled Areas) Act, 1999:**

Section 4(m)(iii) of the PESA, 1996 desires that the Panchayats at the appropriate level and the Gram Sabha should be endowed with "the power to prevent alienating of the land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe". The Rajasthan Panchayati Raj Act, 1999 provides u/s 3(k)(iii) that the Panchayati Raj Institution at the appropriate level and the Gram Sabha as may be, prescribed, shall have "the power to prevent alienation of land in the Scheduled Areas and to take appropriate action in accordance with laws in force in the State, to restore any unlawfully alienated land of a Scheduled Tribe in the Scheduled Areas.

The Revenue Department through its Circular dated 17/04/2002 has directed the powers of Tahasildar u/s 183 of Rajasthan Tenancy Act, 1955 (for summary ejection of trespass from the land of Scheduled Tribe) should be exercised by the Panchayat Samities in the Scheduled Areas.

**VI The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**

**Section 3 – Offences of Atrocities.**

- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe -
  - (iv) Wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
  - (v) Wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
  - (vi) Forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may be extended to five years and with fine.
- (2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe
  - (vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence."

#### **VII The Rajasthan Revenue Department Notification Governing the Auction of Tribal Land Mortgaged to the Bank, 1998.**

Prior to 1998 the rules of the Banks were that if a tribal borrower did not repay his loan, then the Bank would auction the land in its attempt to try to recover the outstanding loan amount. They could auction it and sell it to a non-tribal. This then, was a kind of tribal land alienation in which the Banks and government policy were involved.

However, in a Circular from the Revenue Department, Government of Rajasthan, Number P.5(3) Rajasthan-4/86 dated January 9, 1998 (09.01.98) the Rajasthan Revenue Department changed the rule, and now, if auctioned, tribal land can only be sold to another tribal.

#### **VIII Land Registry Rules Regarding Photograph, 1998.**

Under this rule, a photo of both the buyers and the seller is needed.

#### **IX LEGAL AID**

##### **THE RAJASTHAN LEGAL AID BOARD**

"It is the primary duty of all Legal Aid Committees to provide free legal aid to the poor. The Chairman, District Legal Aid Committee shall therefore ensure:

- i) All legal Aid Committees in his judgeship have sufficient funds to provide free legal aid to the poor. He should also supervise that applications for free legal aid are disposed of by the concerned Legal Aid Committees without delay and application forms to obtain free legal aid available in their offices;
- ii) Meetings are held regularly and periodically by Legal Aid Committees. Efforts are made that such a meeting is held at least once a month so that the pending application for free legal aid may be disposed of and stock of the performance of the work may also be taken;
- iii) Wide publicity through notice boards, at conspicuous places in court premises and other places, leaflets, etc. is given to free legal aid programmes. The public should be made aware how free legal aid can be obtained and by whom.
- iv) Interaction with the members of the Bar is made from time to time as to how free legal aid can be provided to the poor and needy persons. Senior members of



the Bar should be motivated to conduct at least 1 or 2 cases of the poor, free of charge, and junior members of the Bar and women advocates should be encouraged to be associated with this programme".

**Particulars of pre-1980 Tribal Forest encroachers in the scheduled areas of Rajasthan**

<b>Name of the Districts/Tahasils</b>			<b><u>No. of pre80's Forest settlers</u></b>		
<b>Sl.No.</b>	<b>Districts</b>	<b>Tahasils</b>	<b><u>Purpose indicated</u></b>	<b>Not indicated</b>	<b>GT</b>
1.	Sirohi	Sburoad and Pindiwara	910 139 <b>1049</b>	3 4 <b>7</b>	913 143 <b>1056</b>
	<b><u>Total 1</u></b>				
2.	Baswara	Bagidara Garhi Kushagarh	241 638 362 <b>1241</b>	0 0 0 <b>0</b>	241 638 362 <b>1241</b>
	<b><u>Total 2</u></b>				
3.	Dangarpur	-----	1947	8	1955
	<b><u>Total 3</u></b>		<b>1947</b>	<b>8</b>	<b>1955</b>
4.	Udaipur I	Gairwa Gogunda Jhadol	1010 1405 1903 <b>4318</b>	734 23 129 <b>886</b>	1744 1428 2032 <b>5204</b>
	<b><u>Total 4</u></b>				
5.	Rajsamand	Kumbalgarh	881	10	891
	<b><u>Total 5</u></b>		<b>881</b>	<b>10</b>	<b>891</b>
6.	Pali	Bali	291	9	300
	<b><u>Total 6</u></b>		<b>291</b>	<b>9</b>	<b>300</b>
7.	Chittogarh	Pratapgarh	1898	1	1898
	<b><u>Total 7</u></b>		<b>1898</b>	<b>1</b>	<b>1898</b>
8.	Udaipur II	Kerwada Kotra Salumbar Sarada Vallabnagar Dariyavad	1384 1693 0 221 00 840 <b>4138</b>	1 3 134 300 154 480 <b>1072</b>	1385 1696 134 521 154 1320 <b>5210</b>
	<b><u>Total 8</u></b>				
	<b>Grand Total (1-8)</b>		<b>15763</b>	<b>1993</b>	<b>17756</b>

Based on a survey conducted by the Astha Sansthan, Udaipur

**APPENDIX IV (a)****FISH PRODUCTION INFORMATION FOR THE LAST FIVE FISHING YEARS**

S.No.	<u>Particulars</u>	1998-1999	1999-2000	2000-2001	2001-2001	2002-03 Upto March
1.	Total number of societies	33	33	34	35	35
2.	Fish Production (in Tons)	243.54	456.24	378.32	369.27	177.00
3.	Catching charges (Rs. in lacs)	32.57	47.89	29.47	27.23	16.00
4.	Sale Value (Rs. in lacs)	51.41	71.93	47.93	39.50	41.35

**APPENDIX IV (b)****CATEGORY-WISE CATCHING RATES PAID TO THE SOCIETIES**

(Rs. Per K.g.)

SL.No.	Category	Jaisamand	Mahi Bajaj Sagar	Kadana Back Water
1.	I	21.00	21.00	21.00
2.	II	18.00	18.00	18.00
3.	II	9.50	8.50	8.50
4.	IV	28.00	24.00	24.00
5.	V	7.00	7.00	7.00
6.	VI	4.00	----	----

## Health Care Centres – Rajasthan

Indicator	National Norms		Achievements
	General	Total	
<b>1. Rural population (2001) covered by a:</b>			
➤ Sub Centre	5000	3000	5401
➤ Primary Health Centre (PHC)	30000	20000	32469
➤ Community Health Centre (CHC)	120000	80000	2.44 Lakhs
<b>2. Number of Sub Centres per PHC</b>	6		6.01
<b>3. Number of PHCs per CHC</b>	4		7.51
<b>4. Rural Population (1991) covered by a:</b>			
➤ MPW (F)	5000	3000	5398
➤ MPW (M)	5000	3000	10438

**PART - II**  
**SEHARIA PRIMITIVE TRIBAL GROUP**

Basic data about the area, villages and demographic profile of Seharia PTG are as under:

Name of Panchayat Samiti	Area in Sq. Kms.	No. of villages	Population of Seharia PTG as per		Percentage of total population	
			1991 Census	2001 Census	1991 Census	2001 Census
Kishanganj	1451	275	19,190	38,515	17.71%	27%
Shahbad	1468	439	28,632	37,477	34.48%	37%
<b>Total</b>	<b>2919</b>	<b>714</b>	<b>47,822</b>	<b>75,992</b>		

2. **Land Alienation:** Rajasthan Tenancy Act 1955 inter alia provides for certain prohibitory, penal and pecuniary provisions against land alienation. Section 42-bb prohibits sale, gift or bequest by the members of Seharia PTG in favour of a person who is not a Seharia. The Act also provides in Section 183 (c) stipulating that if the trespasser does not hand over/surrender possession of alienated land to a Seharia even after summary trial, he shall be liable to pay a penalty of Rs. 20,000 or face imprisonment of one month to three years. In view of the educational and economic backwardness of Seharis as also the remoteness of the areas inhabited by them, there are chances of fraud by the meticulous non-Seharias, goading them to transfer their-agricultural land.

3. The Seharis living in the interior forests of Shahbad and Kishanganj Tahsils of Baran district of the State fully depended on forest and forest produce. They manufactured *Katha*, collected honey and dealt in other forest produce. As mentioned earlier in Part I, in 1961, Shri U.N. Dhebar persuaded the Seharis to give up shifting cultivation and the then Chief Minister sanctioned 15 bighas of land for each family who decided to settle in the villages. The land allotment by the government was based on Land Settlement Act of 1955, which was updated in 1964. According to new settlement, land allotted to the Seharis was shown as forest land in the record of the forest department and the Seharis were uprooted from the land they had occupied. In 1972, another effort was made for allotment of land to the Seharis in 21 villages of Kishanganj Tehsil so that the Seharis who were earlier evicted could be settled on land. The Forest Department declared the tribals as trespassers under the Tenancy Act and allotted them land in Shahbad tehsil "in such a way that there was clandestine deal in the whole affair and much of the transfer came out to be *Benami*. The Seharis thus remained loser also". Another attempt was made in the Gandhi Centenary Year in 1969 when it was declared that about 1500 Seharis would be given possession, on the spot of 15,000 bighas of land. This also failed because of the dispute between the Revenue and the Forest Departments. Under the 20-point programme again efforts were made to allot lands to the Seharis but the tribals got

uncultivable land and thus the Seharias were rendered agricultural labourers to big land-holders.\*

4. The Commission observed that the District Collector does not have *suo-motu* power to take cognizance of land alienation cases without waiting for the Seharia to lodge a formal complaint against his land trespassed by a non-tribal. In this connection, the Commission noted during its visit to Sitabari village in Kishanganj Tehsil on 3<sup>rd</sup> July, 2003 that one of the Seharias from whom enquiries were made for the status of agricultural land available with him, he muttered "Zamin Hai (he has land)", but when further pressed to say as to how much land he had, he replied "Patwari Ne Zamin Atter Batter Kar Dee Hai" (Patwari has transferred his land through manipulation of land records)". There can be no greater chilling account of the Seharia plight and helplessness than this case. This to the Commission represents the general view of the Seharias and it is felt that the existing land legislation needs to be drastically amended to provide for security of land tenure to the tribals and award of drastic punishment to the non-tribals and even the revenue officials also colluding with the non-tribals in facilitating alienation of Seharia land to the non-tribals. The Commission at the same time strongly favours the enforcement of the provisions of the Legal Services Act and a proper awareness campaign by motivated voluntary agencies to help in restoration of their alienated land.

5. **Education:** The percentage of female literacy among Seharias was 3.96% and 4.06% in Shahbad and Kishanganj Tehsils respectively as per 2001 census. The education department is running in Baran district a number of primary, upper primary and secondary schools imparting education to 42,764 primary students, 5,519 middle stage students, 500 secondary stage students and 1621 senior secondary stage students. The number of primary schools without buildings is 50 and requiring repairs is as large as 563. Drinking water facility is not available in all the primary schools. Information separately of schools run by education department in Kishanganj and Shahbad Panchayat Samitis has not been furnished. It was found that Seharia students who have passed primary class could hardly write their names not to talk of writing a single sentence in Hindi. **They could not even sign in Hindi and that the drop out rate of Seharias in the two Panchayat Samitis was as high as 90 per cent.**

Out of 231 Rajiv Gandhi Pathshalas and 155 Shikshakarmi Schools, 107 (46.30%) and 37 (24%) respectively were without buildings. The reported enrolment was only 14,120 in the former and 13,776 in the latter category of schools. In 107 Rajiv Gandhi Pathshalas which are one-teacher schools with mostly middle/high school pass teachers are imparting education upto class -II. There are 420 teachers under Shikshakarmi Scheme. 124 Rajiv Gandhi Pathshalas were without teachers. The mid-day meal was reportedly being provided in the schools in the form of *ghugri* (boiled

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\* Study on Alienation of Tribal land conducted by the MLV Tribal Research Institute and Training Centre, Udaipur.

wheat mixed with jaggery) by women cooks, out of which only 20% belonged to Seharia community.

6. It was informed that the teachers working in Seharia area are mostly drawn from outside Baran district as local tribal teachers with requisite qualifications are not available. These outside teachers, mostly absent themselves from schools and they also manage to get themselves transferred to the place of their choice. We have made recommendations for giving financial incentives to staff working in the Scheduled Areas and these are also applicable for the employees working in these two Tehsils.

7. The Commission found that there was no proper focus in the educational development and, therefore, strongly feels that the main thrust for educational development should come from the education department which should set apart a higher percentage of outlay for the educational programmes at the primary and middle level so as to arrest drop out and ensure a higher retention rate of students up to senior secondary level in order to enable them to get admission in undergraduate colleges. The TAD Department should ensure that stipends are regularly given and continue the scheme of free supply of books, stationary and uniforms to all Seharia boys and girls from primary classes and the Education and TAD Department should start Ashram schools (residential schools) without which there will be no advancement of education among Seharias. The education should be job-oriented unlike the present system which has failed to deliver the goods. ITIs should be set up to provide job-oriented training to Seharias like electrician, welder, technician, fitter, computer operator, typing and shorthand etc. so that after passing out they can get jobs.

8. **Reservation in Services:** The Commission found to its dismay that despite educational programmes, not a single Seharia male or female person has been able to graduate from any college in the district even after 55 years of Independence. The Government of Rajasthan had failed to give any weightage to Seharias for accelerated entry into the Government Service till 1998. It was only in 1999 that orders were issued that for pay scales of 1 to 6 and scale of 9 to Physical Training Instructors of Education, teachers of Panchayati Raj and compounders and nurses of Ayurveda Department, 25% of the appointments are to be reserved for the local Seharias of the two aforesaid Panchayat Samitis of Baran District. However, these Orders issued 10 years back do not appear to have brought any mentionable improvement in their representation in these posts. The Commission suggests that the State Government in TAD Department should evaluate the situation and take corrective action. These orders of 25% reservation in services should also be extended to sub-centres,

**primary health centers and CHCs in the medical department and the lower level posts in the police, revenue and forest departments.**

**9. Settlement of pre-1980 Tribal Forest Encroachers:** The District Collector, Baran informed the Commission that till 1996-97, out of 80 and 27 ST forest encroachers from *Kishanganj* and *Shahbad* tehsils, 69 (81%) and 27 (82%) respectively were Seharias. The District Collector had forwarded a proposal containing such cases to the State Government in 1996-97 itself but the outcome is not known.

**10. Forest Villages & Minor Forest Produce:** There is no forest village in Kishanganj and Shahbad tehsils. DFO informed the Commission that 200 revenue villages were taken over in 1965 by the Forest Department. The district authorities have not informed under what circumstances these villages were taken over and what is the fate of the oustees? It is not known whether the tribals affected by this move were given land and financial assistance for their rehabilitation. The present practice of permitting the contractors from the bordering State of Madhya Pradesh alongwith hordes of labour for collection of *Tendu Patta* in Kishanganj and Shahabad Panchayat Samitis on behalf of the Rajasthan Tribal Area Development Cooperative Federation (RTADCF) is against the interests of Seharias who should have been allowed to collect *Tendu Patta* and remunerated suitably. One of the objectives of RTADCF is to procure forest produce and they must discharge their responsibility by putting a stop to the practice of hiring labour from M.P. for collection of MFP.

**11. Excise Policy:** The District Collector informed that the Seharias are not allowed to brew liquor for domestic consumption as well as for festive occasions, but strangely the State Govt. has permitted the opening of 14 Indian made foreign liquor shops (IMFL) plus 6 shops operated by the Ganga Nagar Sugar Mills in the heart of the tribal area. It was understood that pouches of IMFL are easily available in all the Seharia *dhanis* (hamlets). The Commission recommends that there is need for a temperance movement among the Seharias by reputed voluntary agencies like in the Scheduled Areas of Rajasthan so that they are weaned away from addiction.

**12. Health Care:** Kishanganj and Shahabad Panchayat Samitis have got 1 and 5 CHCs, 5 and 3 PHCs and 31 and 29 Sub-Centres respectively which are reported to have been opened as per relaxed norms fixed by Government of India for opening of health-centres. According to information furnished by the District Collector, 32%, 18% and 22% posts of doctors, para-medical staff and nurses respectively are lying vacant in these centres and 26 buildings of health care centres needed repairs and maintenance. The position regarding posting of *dais* belonging to the local Seharia community has not been indicated. The Commission was informed by the District Collector that the buildings needing repairs would be attended to urgently.



13. Seharia belt is a difficult region and no monetary incentive is being given to the medical and para-medical staff, which is one of the reasons for vacant posts. Apart from the above health facilities, State Government has also opened a good number of ayurvedic dispensaries. Information regarding the vacancy position of staff in allopathic hospitals, PHCs and SCs is given in Appendix - I. **Its examination reveals that the posts of 80% Senior Specialists, 50% Dental Surgeons, cent per cent AMOs, Medical Inspectors and BHS (female), 31% Lab Technician and 62% Health Inspectors are lying vacant which is adversely affecting the availability of health services in the Seharia belt.**

14. **The level of infant mortality and maternal mortality is very high. Reason for this is that the primary health centres, sub-centres and dispensaries are hampered by staff absenteeism, vacant posts, non-availability of medicines, lack of clinical services and x-ray machine.**

15. A survey was conducted by the "ORG Centre for Social Research" in Rajasthan on the state of accessibility and utilization of health services in the Seharia belt and it was found that 78 per cent of pregnant women were availing of medical assistance from the traditional *dais* for antenatal service, only one-third of the Seharia children received BCG and DPT immunization and only 66 per cent children received Polio drops and 25 per cent children received measles drops. Whooping cough, measles and chicken pox were more rampant among Seharia children than among other caste children for which the present existing health care facilities were to blame. **We have made recommendation in Part-I of the report for providing residential accommodation to all medical and para-medical staff close to the health centres and dispensaries, monetary incentive to them and other fringe benefits which are also applicable to Seharia belt. In addition, State Health Department in collaboration with the Tribal Areas Development Department should formulate a suitable policy for training of Seharis for appointment as para-medical personnel.**

16. **TB Control Programme:** SWACH is implementing tuberculosis control programme since 1996-97 covering 267 villages in Shahabad (120) and Kishanganj (147). It has so far treated 2066 patients out of 2765 identified and 175 were under treatment in the two Panchayat Samitis referred to above. However, there are reports of occurrence of TB in many more villages. **The Commission recommends that all the remaining Seharia villages in the two Panchayat Samitis should be surveyed and the number of TB patients treated after identification.**

17. **Migration / Relief Works:** Migration of Seharis for seeking employment opportunities generally occurs during the lean periods of the year or under famine conditions witnessed by the Commission at the time of their visit. It was understood that migration of Seharia adults was confined to areas within the district where employment opportunities in the form of relief works were in progress. **The State Government was giving employment for 10 days in a month to only one member of family of five and**

two members if the family size is 6-10. It is felt that this belt where the relief works are likely to benefit the Seharria families only, there is strong case for designing special employment generation programme where more than one or two members of Seharria families could be employed for at least 15-20 days in a month, as a departure from the general rule.

**18. Pradhan Mantri Gram Sadak Yojana (PMGSY):** Density of roads per 100 sq. kms. for tribal areas in Baran district is 11.63 kms. as against 17.04 kms. at the district level. Many Seharria villages are still not connected with main roads and growth centres. Information made available shows that six tribal villages with population exceeding 1,000 have benefited under PMGSY scheme at a total cost of Rs. 310 lakhs and 12 more such villages are to be taken up for coverage by March 2004 at a total cost of Rs. 640 lakhs. But the coverage of PMGSY scheme so far is reportedly confined to only villages predominantly inhabited by non-tribals. The norms laid down by the Union Ministry of Rural Development provide for covering villages with 500 population and villages with even 250 population. The Commission was informed that fresh proposals for providing additional road length of 215 kms. in 56 Seharria villages with a population of 500-1000 per village each not yet covered under PMGSY scheme were to be submitted to the Government of India for approval. **It is felt that employment to be generated on account of construction of these roads in the Seharria villages may be provided exclusively to able-bodied Seharria adults and while doing so care should be taken to link the villages/hamlets with primary schools, health centres, rural hats and other important main roads with a view to improving connectivity among Seharria villages having a population of even 250 as Seharria Bastis (hamlets) are scattered and need relaxed dispensation.**

**19. Seharria Vikas Samiti:** The Tribal Area Development Department is implementing programmes for economic and educational development of Seharrias through Seharria Vikas Samiti (SVS) with the head quarters at Shahbad, of which District Collector is the Chairman. The financial targets and achievements are reported as Rs. 49.20 lakhs and Rs. 28.926 lakhs for the year 2002-03 against physical targets and achievements of 987 and 557 beneficiaries respectively. SVS has taken up a number of programmes like share capital contribution to the co-operative societies; subsidy for fertilizers; deepening and energization of agricultural wells; diesel and electric pump set subsidy; sprinkler irrigation; drip irrigation and lift irrigation; solar lights; incentives to girls for higher education; scholarship to talented students and hand-pumps.

**20. The Commission recommends that in order to give a focus to the programmes for economic development like construction of anicuts, diesel pump-sets, energization of agricultural wells, drip irrigation and lift irrigation, a techno-economic survey should be undertaken for saturating the Seharria belt by these programmes in an integrated manner. The Commission also recommends that the existing rate of Rs. 3500/- p.a. as incentive to Seharria girls to pursue higher education in an outlying town may be increased from Rs. 3,500/- to Rs. 10,000/- per annum in view of escalation of prices. The children studying in primary and secondary classes should be distributed free books and stationary at the**

**commencement of the academic session. To overcome the problem of disinclination of teachers to serve whole-heartedly in the schools, they may be recruited on a contract basis along with incentives like grant of special pay, residential accommodation and leave travel concession.**

**21. Quiet a good number of hand pumps provided in the villages for drinking water have dried up due to excessive withdrawal of ground level water. The Commission recommends that apart from, deep boring of dried up hand-pumps, alternative source of water like provision of *tankas* for storing water for the lean period and installation of rain water harvesting structures may be provided to augment the water supply.**

**22. Unlike in Andhra Pradesh, Orissa, Madhya Pradesh, Chhattisgarh, Gujarat, etc. where voluntary agencies are actively involved in educational and economic development of PTGs, they have no presence in Rajasthan. The Commission recommends that motivated voluntary agencies may be given financial assistance for implementing programmes of economic development for income generation and educational activities on the lines of the work being done by Vanvasi Kalyan Parishad, Astha Sansthan, Satguru Foundatin, Gramin Vikas Trust, etc. in the Scheduled Area of Rajasthan.**

**23. BPL families and Fair Price Shops: The District Collector, Baran informed the Commission that there were only 7147 Seharia families below the poverty line in Kishanganj (3507) and Shahbad (3640) Panchayat Samities. The Commission however feels, after seeing the conditions of Seharias in villages and meeting the tribal leaders that this estimation is on the lower side. Out of 490 fair price shops in the district, 146 are in the Seharia belts out of which 9 only are managed by Seharias. The Commission recommends that preference must be given to Seharias in allotment of fair price shops for which RTADCF should give them loans.**

**24. Housing: Available information shows that only 468 housing units have been constructed for Seharias of Kishanganj (229) and Shahbad (239) under Indira Awas Yojana and another 37 under SGRY in Kishanganj (12) and Shahbad (25). In addition, the Seharia Vikas Samiti has provided 314 dwelling units in Kishanganj (149) and Shahbad (165). The effort made under various programmes of providing housing units to the Seharias is not sufficient. During visit to Kushalपुरa village, the Commission found that all 200 *hats* made of thatched walls and the roofs were covered with *Flash* leaves. Commission was informed that a proposal has been submitted for providing housing units to 6,000 such families. A crash programme of providing dwelling units to all the Seharias should be provided in a time-bound manner during the 10<sup>th</sup> Five Year Plan period. The State Government has informed that as per the Seharia tradition, a cattle-shed is kept adjoining to the dwelling unit, separately. The Commission feels that the cattle-shed should constitute a separate block for the households so that the tribals do not suffer from unhygienic conditions.**

**25. Electrification of Seharia *dhanis* (hamlets): According to the data supplied by the District Collector, only 203 villages out of 275 in Kishanganj and 166 out of 439 in**

Shahbad respectively have been electrified. In other words, 369 villages have so far not been electrified out of 714 Seharias villages in the two Panchayat Samitis. The budget per village for providing electricity is Rs. 2 ½ lakhs. The Commission found that not a single family out of 200 Seharia families of Kushalpura village have been provided domestic electric connection. **The Commission feels that the very fact that an electric pole has been erected in a village does not mean that the benefit of electrification has reached all the Seharias living in the village. We have made recommendation in this regard in part-I of this Report which are applicable to Seharia belt also.**

**26. Indebtedness:** A sample survey of indebtedness conducted in 1994 by TRI, Udaipur mentions that “.....more than three-fourth of Seharia households are indebted. The quantum of debt being as high as Rs. 6,000 per household (interest part excluded)”. Further, 72 per cent of the debts were incurred for unproductive purposes like marriages and social ceremonies. Another major finding of the study was that Seharias despite poverty, over-spent on social customs and marriages, thereby making themselves permanently bonded to the moneylenders. **The Commission recommends that the Seharia Vikas Samiti should ensure that relief in indebtedness admissible under the provisions of the Rajasthan Relief of Agricultural Indebtedness Act is provided to the Seharias. In addition, alternative concessional loans may be arranged for such Seharias who are neck-deep in debt. The Commission also recommends that a repeat survey of indebtedness may be done to ascertain the impact of poverty alleviation programme implemented so far by the Tribal Area Development Commissioner through the Seharia Vikas Samiti and a strategy chalked out to rid the Seharias of indebtedness.**

**27. Constitution 73<sup>rd</sup> Amendment:** Programmes of certain departments which are complimentary in nature such as allotment of diesel pumpset by the Project Officer, ITDP and deepening of borewell should run hand in hand otherwise a diesel pumpset without deepening of borewell has no meaning. Such examples can be multiplied. **Seharias elected to Gram Panchayats as per Constitution 73<sup>rd</sup> Amendment should also be actively involved in formulation and implementation level committees set up at Gram Panchayat and Panchayat Samiti levels for the purpose.**

**28. Bench Mark Survey:** The Ministry of Tribal affairs have asked the State Government to undertake a base line survey of Seharias with a view to have authentic data on population, literacy and other related information. The State Government informed the Commission that the base line survey was commenced in June 2003 to ascertain the socio-economic level of the Seharias. **The State Government should expedite the survey within the time frame of six months allotted for the purpose so that special schemes are designed for the Seharias with a focus on their overall educational and economic development and protection from land alienation. The strategy should be to bring them up as viable cultivators.**

**29. Conclusion:** The Chief Secretary, Govt. of Rajasthan told the Commission at the time of the State level meeting held in the State Secretariat on 05.07.2003 very candidly that the present programme for Seharia development are not “properly focused”. This in brief also sums up the Commission’s anxiety that in spite of the

fact that the development programmes for Seharias are under implementation since 1977-78, there has been no substantial impact. The Commissioner, Tribal Area Development, Udaipur who is overall in charge of Seharia areas has no presence worth the name with a view to formulation, implementation, monitoring and evaluation of the programmes. There is need for appointment of a senior officer in the Seharia Vikas Samiti to take care of the Seharias who are the most under privileged group among the Scheduled Tribes of the State.

30. All said and done, the Commission is convinced that Seharias still remain outside the pale of developmental programmes initiated laudably by the Governments of India and Rajasthan. Many of the Seharias are not aware of their land titles. According to one former District Collector of Baran who had done good work for the development of Seharias for a few years before this transfer to bring the Seharias from the *Patwari - Sahukar* nexus, has mentioned sorrowfully in one of his publications how outsiders are making tribals mortgage their land for availing bank loans through forged documents. This according to him explains that the bank officials are also a part of this nexus and the Seharias lose their land. Secondly, according to him, and rightly so, the punishment for the encroaching tribal land by non-tribals is six months jail and or a fine of Rs. 20,000 under Section 183(C) of the Rajasthan Tenancy Act, 1955 but the fact of the matter is that there has been no conviction so far under this Act. The Commission recommends for the rigorous implementation of RTA, 1955 with suitable amendment in the legislation to give the Collector suo-motu power to ensure that non-tribals who have managed to take control of tribal land are punished and lands restored to the Seharias.

**APPENDIX I****Vacancy Position of Hospitals/PHCs/SCs**

Sl.No.	Name of Post	Sanctioned strength	Vacancy Position
1.	Senior Specialist	30	24(80%)
2.	Medical Officer	61	0
3.	Dental Surgeon	2	1 (50%)
4.	Male Nurse	23	32 (79.05)
5.	Staff Nurse	20	2(79.05%)
6.	Sector Supervision	23	23(cent%)
7.	Lady Heath Visitor	31	3(9.68%)
8.	AMO	2	2 (centT%)
9.	MI	7	7(cent%)
10.	BHS Male	6	1(16.67%)
11.	BHS Female	6	6 (cent%)
12.	Senior Lab Technician	1	0
13.	Lab Technician	42	13 (31%)
14.	Health Inspector	8	5 (62.5%)
15.	Food Inspector	1	0
16.	Radiographer	2	1 (50%)
17.	Asst. Radiographer	6	2 (33%)
18.	Social Worker	2	1 (50%)
19.	Dental Technician	2	1 (50%)
20.	Vehicle Driver	22	2 (9%)
21.	Sr. MPW & FHW	80*	0
22.	Multi-Purpose Worker	56	0
23.	Ward Boy	89	9 (10.11%)
24.	Sweeper	43	7 (16.28%)

Male-56 and Female-24

## PART – III

### DISPERSED TRIBAL GROUPS

Western Rajasthan can be divided into Arid, semi-Arid and non-Arid districts for the purpose of implementation of economic development programme. The total population of the dispersed tribal population consists of 17.31 lakhs which constitutes 31.62 per cent of the tribal population in the State. Jaisalmar, Barmer, Jodhpur, Bikaner, Jhunjhuna etc. are in the **Arid zones** and the main occupation of the tribal is animal husbandry. Agriculture is the main occupation and animal husbandry is secondary occupation in the **semi-Arid** districts of Jalore, Nagour, Pali, Ajmer, Churu, Sikar etc. In the **non-Arid zone**, which covers the districts like Kota, Bundi, Jhalawar, Bharatpur, Dholpur, Tonk, Bhilwara, Baran, Sirohi, Chittorgarh etc. the tribals are primarily engaged in agriculture with animal husbandry and household industry are their secondary occupation.

2. The tour in the districts of Barmer, Jaisalmar and Jodhpur was undertaken to study the social, educational and economic development of dispersed tribal communities of the border areas of the State. There is no separate machinery at the regional level for the dispersed tribal population. The District Rural Development Officers who are managing the DRDAs are also implementing the funds released by the TAD Department for the development of dispersed tribal population. Due to lack of any co-ordinating agency and grievance redressal machinery in the far-flung Western Rajasthan at regional level, the impact of the tribal development programmes on the dispersed tribal population did not appear to be tangible and perceptible. Therefore, the Commission would suggest that a co-ordinating agency of the TAD Deptt. should be set up in Jodhpur town for the Western Region.

3. The STs (Bhils) had a population of 60,819 (2.82%), 16,097 (4.45%) and 84,232 (5.87%) in Jodhpur, Jaisalmer and Barmer districts respectively out of the total ST dispersed population of 17.31 lakhs in the State in 1991. These being border districts are very sensitive due to the fact that most of the Bhil population lives close to the Indo-Pakistan border, where the Muslims constitute a majority apart from SCs whose population is quite sizeable in that area.

4. **District Rural Development Agency:** All the programmes of the Tribal Area Development are implemented through the DRDA, whose hands are full and our assessment of the ground situation is that the Project Officers, DRDA in these districts are enthusiastic to undertake tribal development work. Under the given circumstances, the DRDA machinery should be regularly oriented towards tribal sub-plan strategy. The District Collector should assess the

**ACRs of the development officers of the DRDA in terms of their dedication to the development of tribals. Such a policy is bound to quicken the pace of tribal development in these districts.**

5. Some other special problems which came to the notice of the Commission are given below:

(a) **Rajasthan SC & ST Finance & Development Corporation:** The Commission came across several cases of STs (Bhil) allottees of land in command areas of Rajasthan canal at the tail end which requires large investment before making it cultivable. The STs did not have sufficient resources to level the land at the tail end of Rajasthan canal and therefore gave away their lands at throw away prices since the aforesaid Corporation office bearers would not entertain the applications for grant of loan on the plea that the Corporation was meant to cater to SCs only. This calls for immediate enquiry. **The settlement of Bhils on land in the command area of Rajasthan canal should be encouraged and a scheme should be chalked out for providing loans/subsidy to the beneficiaries through the aforesaid Corporation.**

(b) **Mining and Quarries:** There are many quarries in Jodhpur district, which are operated by non-tribals even though the tribals live in the vicinity of these mines. The tribals of the district being landless are working as labourers in these mines. Their associations wanted that the State Govt. should set apart a quota of mining licences for quarries for tribals so that with suitable financial assistance from the existing financial institutions they can do mining and assure their upward mobility. **The State Govt. should take necessary steps to earmark a reasonable quota of mining licences for tribals to run them on cooperative basis so that a large number of tribals are economically assisted.**

(c) **The Commission feels that wherever the land of the tribal is suitable for commercial crops like *Moong, Bajri, cumming seed (zeera), easabagole, horticulture, etc.,* they should be given assistance to have irrigation facility by boring of wells. CAZRI, Jodhpur may also be consulted to help tribals in improving the agricultural practices to increase the yield.**

6. **Hostels:** The State Govt. has issued instructions that 5 to 10 per cent of seats in general hostels should be reserved for SCs and STs. The Commission was informed that there is not a single Scheduled Tribe student admitted in the general hostels. The STs due to their poor economic position are forced to give up their studies at the higher secondary and college level. **It is therefore necessary that wherever there is a middle or high school, the management and opening of such hostels should be entrusted to the voluntary agencies for the admission of ST students. It was noticed by the Commission that the benefits of these educational schemes like the reimbursement of boarding fees for tribal students, scholarships to talented students at the college level, economic**



help to tribal girls for higher education, etc. are being derived by the students belonging to Mina community. In all the educational programmes, it is necessary to lay down the principle that the first priority should be given to the Bhils who are the most backward tribal community in the border districts. Even though, there is reservation of seats for tribals in professional institutions, it was found that the tribal girls/women in the aforesaid districts have not been able to get admission to these educational institutions which are located quite far away from Barmer and Jaisalmer districts and the seats earmarked for tribals are cornered by the more forward tribal communities. In a particular case, it has been found that 33 out of 34 ST girl students admitted in polytechnic and engineering college hostels during 2002-03 at Jodhpur belonged to Mina community and only 1 hosteller belonged to Bhil community.

7. **Female Literacy:** The Commission toured several villages in urban Bhil bastis in the aforesaid three districts and found that the level of tribal female literacy of Barmer of Bhils in the 8 Panchayat Samitis ranges from 0.20 per cent, being the lowest in Chowhtan Panchayat Samiti to 07.4 per cent being the highest in Bayut Panchayat Samiti as per 1991 census. The Commission visited the Sheo Panchayat Samiti of Barmer district, which has female literacy rate of 0.60 per cent.

8. **Low Literacy Education Complexes for Scheduled Tribe Girls:** There is a provision in the Tribal sub-Plan for setting up of 19 low literacy educational complexes for tribal girls up to primary stage in the pockets where their enrolment is quite low and there is need to step-up their enrolment through State intervention with 100% grant. At present, there are 7 complexes in the Scheduled Areas of the State. These are located at Kota, Jhadol, Ambavi, Manpura and Phalasia in Udaipur district and Banswara, Bhandaria in Banswara district. The Commission feels that in such pockets where the Bhils have predominant population, the State Govt. should immediately assess the possibilities for locating some educational complexes on the above lines in the aforesaid border districts.

9. **Rajiv Gandhi Prathmic Patshala:** The Govt. of Rajasthan has opened several institutions imparting primary education to the rural community under the scheme of Rajiv Gandhi Mission. There are about 2,300 such schools in Barmer District alone. It was understood during the course of meetings that all the schools were closed due to prolonged agitation by the school teachers who were demanding better service conditions and further the selection of teachers was not done in a fool-proof manner. Gram Pramukh had been delegated powers to appoint teachers in the schools without regard to minimum educational qualifications. There are a number of cases where even middle class passed candidates had been selected for appointment. The Commission feels that the scheme needs to be restructured. The teachers should not be

appointed on an ad hoc basis by the Gram Prañukh. The Selection Committee with representation from the Education Department and retired educationists etc. should appoint teachers.

10 **Timely payment of stipends:** It was brought to the notice of the Commission during the tour of these districts as well as to some schools that not all tribal school going children in classes VI - VIII were getting stipends for full 10 months, as per instant rules. **The State Govt. should ensure timely payment of stipends to the tribal students for full 10 months and revise the rates upwards periodically depending on the increase in cost of living.**

11. **Self Employment for Middle School Passed Out Girls:** TAD Deptt. should draw a scheme for admission of tribal girls in industrial training centres to get self employment in desert districts as the prospects of qualified Bhil girls getting self employment exist.

12 (a) **Cooperativisation of Bhil carpenters:** Bhils and SCs of Barmer district are talented carpenters but they have not been brought under the cooperative fold to enable them to get fair price for the manufacture of intricate furniture. DRDA being the implementing agency for the schemes should look into the matter and do the needful.

(b) **Organisation of tribal women cooperatives:** The tribal leaders who met the Commission at Barmer, complained that their women are talented in embroidery work but due to exploitation by the middle-men, are not given adequate compensation for their intricate embroidery work. **The Commission suggests that the rural tribal women should be organized into cooperatives to enable them to sell their embroidered output to Khadi Gramodhyog Board for getting adequate remuneration.**

13. **Antodya Programme:** The Commission observed that the Antodya families are getting assistance like subsidized ration, famine relief etc. in the districts of Barmer, Jaisalmer and Jodhpur. The ration is given once in two months instead of on monthly basis. Deserving tribals were deprived of the timely benefit due to them. The Gram Sabhas are not involved in the process of selection of BPL families. **The Commission suggests that the selection of Antodya families from the tribal group in the border districts under the Antodya Programme should be more transparent, fool-proof and the leaders of tribal members of Gram Panchayat should also be involved in the selection process.**

14 (a). **Allotment of Urban Land to STs:** The State Govt. had issued Order on 15.9.83 to allot *pattas* of land in municipal areas at a nominal rate of Rs. 5 to persons who have been in continuous possession of the land for 40 years or

more. However, in the case of STs, the Govt. has relaxed the norms vide Order, dated 24<sup>th</sup> April, 2002 to the effect that they should be in continuous possession of land for 20 years only with effect from 1.1.1980. The progress of allotment of house sites in urban areas to STs should be evaluated periodically.

(b) **Housing Complexes for tribals on urban land:** It was represented by Saira Devi, a tribal and a Corporator of Jodhpur Municipal Corporation that many Bhils living in urban areas of Jodhpur town, were houseless. The Commission found during the tour to Pokhran, Barmer and Jaisalmer towns that the Bhils there were mostly living in bastis on municipal land and they were under constant threat from the people with political clout to evict them from such land and occupy the same for ulterior motives. The Commission is aware that the tribals are a marginalized section of the society. As *abadi* land in urban areas has become a precious commodity and without State support, the tribals cannot have housing units. Therefore, the Commission suggests that decent dwelling units with all modern urban amenities should be constructed at such places where there is demand and the same allotted to the houseless Bhils. At the same time, it is necessary that the State Govt. should also arrange credit at easy rate of interest for them and provide for a subsidy component so as to mitigate their financial hardship.

15. **Medical and Health Services:** Detailed proformae were faxed to the Health Officers of Jodhpur, Barmer and Jaisalmer districts at the time of the meeting on February 20, 2003 to supply district-wise details of medical and health services provided, manpower and machinery, list of medicines being provided to the tribals for special diseases like T.B., Leprosy and Malaria, list of medical centres and facilities for alternative medicines district-wise and availability of drinking-water facility in each and every village but the information was not furnished.

16. **Issue of Health Card to BPL families:** All BPL families in rural areas have been issued health cards to enable them to have access to free medical assistance. Enquiries in Barmer, Jaisalmer and Jodhpur districts revealed that not a single tribal holder of health card had received any medicine when in need, as the same were reportedly not available. One of the guidelines mentioned on the reverse of the Health Card indicates that the beneficiary can approach the District Vigilance Officer for redressal of grievances like non-availability of medicines. Obviously, the illiterate sick tribal patients were not able to take advantage of the cumbersome and time-consuming procedure. Even one tribal T.B. patient of Bhilon Kar Par village in Barmer district could not get any medical assistance despite his having a health card. The Commission brought this to the notice of the Project Director DRDA, Barmer for remedial action.

17. **Reservation in Services:** There was great resentment among the Bhils that their educationally qualified candidates were not inducted into services for which they were qualified. The Minas of plain districts of Swaimadhapur, Jaipur, Alwar, Bharatpur, Kota, Bundi, Tonk and Sikar who constitute more than 49 per cent of the tribal population are more vocal, educated and articulate and have allegedly secured a major chunk of the jobs. Suggestions made in part I of the Report also hold good for dispersed tribal population.

18. **Border Area Development Programme:** The Border Area Development Programme with an allocation of 9.40 crores was taken up in the aforesaid districts with effect from 1994-95. The border area funds are allocated by the governing council which consists of Zilla Pramukh as Chairman, Project Director of DRDA as Member Secretary and Collector, MP/MLAs and Superintending Engineer Public Works as Members. The sector-wise allocation mostly relates to expenditure on laying of roads, drinking-water, education, SCs and BSF Chowkis. Priorities have been given to four border blocks, namely, Barmer, Sheo, Chowtan and Dhori in Barmer district. It was brought to the notice of the Commission at various places, during the course of the meetings with the scheduled tribe associations and tribal leaders at the district level at Jaisalmer, Barmer and Jodhpur that the funds available under the programme, are being cornered by a dominant community reportedly on account of their better political clout. **The Commission feels that it has no objection to the extension of benefits to the deserving members of the dominant community, but the interests of the Bhils who also constitute sizeable population in the border blocks and are economically and educationally backward should not be overlooked. The BADP should pay attention to the Bhils by connecting Bhil bastis with main roads, conversion of *Katccha Tankas* to *pakka Tankas* in these *bastis* and construction of hostel buildings for Bhil girls, in the vicinity of secondary, senior secondary schools so as to facilitate their entry into professional educational college/institutes. We were also informed that there has been mis-utilization of funds and at the same time, a large number of border villages inhabited by Bhil population, have not been covered under BADP. Further, in many cases assistance has been given to those villages, which do not lie on the international border.**

19. **Central Arid Zone Research Institute (CAZRI)** established in 1952 by the Govt. of India has 284 hectares of land and 8 divisions devoted to scientific research. The Western Rajasthan is an arid region. Hard-pressed, due to scanty rainfall, the marginalized and small farmers (with negligible State intervention) had no other course but to migrate to neighbouring States like Gujarat and Maharashtra to work as farm labourers and industrial workers in the industries which had come up in these States. The CAZRI conducts socio-economic feasibility studies on agri-horti-silvi and the pastoral development to offset this trend. **The Bhils who live in the sensitive border districts are a neglected lot and on the bottom line of economy. CAZRI should organize short-term training programmes on a regular basis for them with a view to**

transferring scientific knowledge available with the Institute so as to optimize the income generation of small and marginal Bhil farmers. The Union Ministry of Tribal Affairs and the TAD Department of Rajasthan should place adequate funds for meeting boarding and lodging expenses at the disposal of the Institute to enable them to organize these training courses on a regular basis. The Institute has the faculty and infrastructure like hostel accommodation for the tribal trainees.

20. **Pradhan Mantri Gram Sadak Yojna (PMGSY):**The Commission inspected a 0.750 Kms. of a Gram Sadak (rural road) constructed under the scheme which has connected a tribal habitation, namely Bhilon ka Par inhabiting 100 Bhil families with Gagaria Dastan Road in Sheo Tahsil of Barmer district at a cost of Rs. 11.2 lakhs. The construction was started on the 25<sup>th</sup> of January, 2002 and completed on 24<sup>th</sup> of July, 2002 in a record time lying in a remote rural area. The contractor has given five years guarantee to repair the road in case it is damaged during that period. The local Bhils were happy for the provision of this amenity. **The Commission recommends that all such Bhil habitations in the desert districts of Rajasthan should be connected with main roads under PMGSY Scheme, on a priority basis. Such roads should as far as possible link the educational institutions, primary health centres and sub-centres adjacent to the tribal habitations so that apart from other economic advantages, these community facilities are accessible to the Bhils round the year.**

21. **Plight of Hindu Migrant Tribals from Pakistan:** A large number of Hindu Bhils, (ST in Rajasthan) from Pakistan crossed over the international boundary and migrated to Rajasthan due to harassment and lurking fear of forcible conversion after 1971 Indo-Pak war. The migrants possessing valid passports and visas issued by the Govt. of Pakistan are living in various bordering districts of Rajasthan for the last three decades. Their economic condition is pitiable, as they are not recognized as citizens of India. They face great hardship in getting their visas renewed annually from the Pakistan High Commission at Delhi. The State Govt. has not issued ration cards and denied their entry into the State Govt. services. They work only as labourers. **The Commission recommends that the Bhil tribals who have been living in India for over three decades should be given citizenship rights.**

# Sikkim

Sikkim became the 22<sup>nd</sup> State of the Indian Union on 26<sup>th</sup> April, 1975. The State has International land borders with Tibet (PR-China) on the North, Nepal on the West and Bhutan on the East. There are 4 Districts in the State namely - North District, East District, South District and West District with 9 Sub-Divisions comprised of Revenue Blocks and Gram Panchayats. Under Article 371F of the Constitution, special provisions have been made with respect to the State of Sikkim.

Vital statistics in respect of the State are as under:-

Geographical Area	7096 Sq. Km.
Population	
1991 Census	4,06,457 i.e. 4.06 Lakhs
2001 Census	5,40,493 i.e. 5.40 Lakhs
Population of Scheduled Tribes	
1991 Census	22.36% 90901
2001 Census	20.61% 1,11,405
District-wise break-up of ST population as percentage of total population	1991 Census
East-Distt	32.04%
West-Distt.	19.66%
North-Distt.	55.38%
South Distt.	16.90%
Density of population	76 per Sq. Km. (General)
Sex Ratio	980 (STs)

## **Scheduled Tribes**

As per the Constitution (Sikkim) Scheduled Tribes Order, 1978, the following tribal communities were notified as Scheduled Tribes:-

1. **Bhutia** (including Chumbipa, Dophapa, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa, Yolmo)
2. **Lepcha**

Under the Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Act, 2002, the following communities have been added to the list of Scheduled Tribes ad seriatim:-

3. **Limboo**
4. **Tamang**

A brief about major ethnic tribes is as under:-

1. **Lepcha** Lepcha tribal community is believed to be one of the indigenous tribes of Sikkim having a distinct language with their own script, costume and food habit etc. They refer to a long string of research work to establish that the Lepcha community is the only indigenous primitive tribe of Sikkim. A mention is also made of the comments of the Col. G.B. Mainawaring in his work – Grammer of Lepcha Language – 1897 which reads “to allow the Lepcha race and language to die would indeed be most barbarous and inexpressibly sad”.

The Lepchas call themselves the Rong-pa (ravine-folk) and claim to be the autoch-thones of Sikkim proper. With the ecological degradation and environmental changes threatening the fragile eco-system of the Sikkim Himalayas, the forests, which the native Sikkimese believe it to be their original home and its resources are fast depleting. Lepcha community has demanded a priority to be accorded for the protection of their social and economic interests and that they should be categorized as Primitive Tribal Group.

The Commission on a quick on the spot analysis concluded that their demand for categorizing as PTG appears justified.

2. **Bhutia** Bhutia is another major tribal community in the State. The Sikkimese Bhutia tribals claim to be distinct from Bhutia tribes elsewhere. The Bhutias also claim that the 8 tribal communities listed as Bhutia under 1978 order is wrong. Only the Bhutias of Sikkimese origin should have been listed as Scheduled Tribe. Their plea is that these 8 tribal communities should not have been clubbed as Bhutias under the 1978 Order. Some comparative studies done show that there are some variations in the observance of the custom and rituals, fairs and festivals, and in respect of costumes, ornaments etc. among these 8 communities grouped as Bhutia. Yet, almost all of them have the Lamastic Buddhism as their religion with some of them still practicing the animistic and Bon rituals.

3. **Limboo** Limboo community is said to be an aboriginal tribe of Sikkim. Traditionally known as 'Tsong' it has claimed to have been a party to Tripartite Treaty in 1642 known as 'Lho-Men-Tsong-Sum' as an instance to prove their place in the ancient history of Sikkim.

The nativity and of being a traditional community with an historical place is recognized to some extent. All these have perhaps provided a justification for the inclusion of Limboo as a scheduled tribe as notified under Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Act 2002. As per 1991 census, population of the Limboo was 26985 i.e. 6.64% of the total population. Population of Nepali i.e. 256418 also included some Limboos and entire Tamang as claimed by the Limboos.

4. **Tamang** Tamang community is believed to be one of the Tibeto-



Burman speaking communities which were originally called 'Bhote'. The horse-riders of the 'Bhote' tribe were called Tamang i.e. 'Ta' means 'horse', 'Mang' means 'rider' or 'trader'. The population of Tamang community is stated to be 35000 as per 1991 census. Tamang dialect shares with the Tibetan language for around 50% of the words. Their costume and ornaments differ a little from that of Tibetan and the group of tribes bracketed with Bhutia. Since long time in the past Tamangs have accepted the Lamaistic Buddhism with the spread of Buddhism in Tibet and Sikkim.

### **Conflicting claims**

Sikkimese Bhutia & Lepcha tribes have formed an organization which has an Apex Committee. They have their own view points about nativity of the tribes of Sikkim. They claim that these two tribes are the original tribes and are the natives of Sikkim. The Sikkimese Bhutias claim that the 8 communities listed as Bhutia under 1978 Order is wrong. In their memorandum submitted to the team of the Commission during its visit they have stated that the movement for the preservation of the distinct identity of the indigenous Sikkimese Bhutia – Lepcha and restoration of their political rights as per Article 371 F of the Constitution led to the formation of Sikkimese Bhutia – Lepcha Apex Committee (SIBLAC) in 1999, as an umbrella organization of the Bhutia – Lepcha communities of Sikkimese origin.

They have demanded that the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 has ignored the demand of the Sikkimese Bhutia – Lepcha for the preservation of their distinct identity particularly that of Sikkimese Bhutia and the said Act should be further amended by removing the eight communities from the definition of the "Sikkimese Bhutia". They further contend that instead of doing that the Schedule Caste and Schedule Tribe Order (Amendment) Act 2002 has included two more communities, Limboos and Tamangs in the Schedule Tribe list of the State. A quite serious debate has been generated among these tribes on the addition of Limboo and Tamang as Scheduled Tribes. Their apprehension perhaps has been that

with the addition of these two communities as scheduled tribes they would also become eligible to contest seats under the reserved Territorial Assembly Constituencies. Going by the wording of the Representation of People (Amendment) Act 1980, the fear seems unfounded.

## **Special Areas**

**Dzumsa** – This is a traditional institution known as Dzumsa in the Panchayat Areas of Lachen and Lachung in the North District of Sikkim. The Panchayat Areas of Lachen and Lachung have individual Dzumsa the literal meaning of which is – Dzum (meeting) Sa (place) i.e. meeting place which is often named as Tribal Council which actually appears to be a Panchayat since there is now a provision in Panchayati Raj Act in Sikkim for this traditional institution of Dzumsa.

Lachen Dzumsa consists of Lachen Revenue Block and has population of 1640 (1991 census) and are inhabited by Lachenpas tribe who fall under the Bhutia community/tribe.

Lachung Dzumsa consists of Lachung Revenue Block and has a population of 2086 (1991 census) and are inhabited by Lachungpa tribe who also fall under the Bhutia community/tribe.

These Panchayat Areas are located in different valleys leading upto Lachen – La (pass) + chen (big) and Lachung – La (pass) + chung (small) along the International border in the North District of Sikkim.

These areas have been, under this traditional institution of Dzumsa in the form of a Local Self-Government headed by an elected Pi-Pon (People's Ruler) and a Gya-Pon (a Deputy). The Pi-Pon of Dzumsa have been delegated powers of Gram Panchayat by the Sikkim Panchayat Act 1993 in addition they also exercised powers as traditional institution which however is not codified.

The economy of the Bhutia is basically animal husbandry, forestry and too a lesser extent horticulture.

**The Commission discussed with the cross-section of tribals and some officers to assess the feasibility of declaring the Lachen and Lachung Revenue Blocks as Scheduled Area under the provisions of the Fifth Schedule of the Constitution. The Commission recommends that the Lachen and Lachung Revenue Blocks having preponderance of tribal population, which are presently governed under Dzumsa, together as a compact area can be notified as Scheduled Area. The combined Revenue Blocks when brought under the Scheduled Area can have one ITDP for comprehensive development in place of each Revenue Block having ITDP.**

**Dzongu** – It is a geographical area in the North District of Sikkim inhabited by Lepcha tribe which is a reserved area for the indigenous Lepcha tribe. Ever since the time of Chogyals (Kings of Sikkim) Dzongu has always been the reserve of the Lepcha where the tribals including Lepcha who are not indigenous to the Dzongu are not allowed to settle in the area and even a visit from an outsider is regulated under a permit system. It is an Assembly Constituency consisting of 13 Revenue Blocks of which 3 are in the South District and 10 are in the North District. It consists of 8 Gram Panchayats of which one is in the South District and 7 in the North District. The population of this constituency was 9086 (1991 census) of which 2262 are in the South District.

**It is recommended that Dzongu comprised of 13 Revenue Blocks – 3 in the South District and 10 in North District – with 8 Gram Panchayats – 1 in the South District and 7 in North District may be notified as Scheduled Area under the provisions of the Fifth Schedule of the Constitution and should have an ITDP on the pattern proposed for Dzumsa being a compact and contiguous area with a sizable number of Revenue Blocks and Gram Panchayats instead of having the ITDP in each of these Revenue Blocks.**

SIBLAC pointed out that the De-limitation Commission has proposed to scrap Dzongu Constituency from the list of Assembly Constituencies reserved for the Sikkimese Bhutia – Lepcha which they say is against the provisions of the Article 371 F of the

Constitution and the Supreme Court's ruling in RC Poudyal Paul versus Union of India.

**The Commission is of the view that the Government of India in consultation with the State Government may go into the rationale of such a proposal of the De-limitation Commission with respect to the Dzongu Assembly Constituency.**

### **Tribal Sub-Plan (TSP)**

The State of Sikkim has adopted the Tribal Sub-Plan (TSP) strategy since 1979-80. The main thrust of the TSP strategy in all these years have been on the Human Resource Development: creation of infrastructural facilities and on the programmes for the employment and income generation. The 10<sup>th</sup> Five-Year-Plan and Annual Plans have specifically laid-down the pattern of funds flow from the State Plan to Tribal Sub-Plan. Funds are earmarked to the Sectoral Departments for planning and development of schemes as well as for the implementation in the Departments of Agriculture, Horticulture, Animal Husbandry, Irrigation, Education, Social Welfare, Medical and Public Health etc. Out of the State Plan the funds flow to the TSP, during the Annual Plan 2002-03 has been at 23.5%. In absolute terms the funds earmarked for these sectors under the TSP was to the tune of Rs. 31.39 crores which is close to the ST population percentage of 22.36% in the State. The Department of Social Welfare looking after the tribal development and tribal welfare has the responsibility only to implement the TSP schemes in the social welfare sector. In respect of TSP funds with the other major Sectoral Departments which actually implement the schemes and projects for Tribal Development, the duty of the Social Welfare Department is confined to monitoring alone without having powers to make initial earmarking of the Plan funds to the TSP. The Department of Social Welfare during the meetings with the Commission had proposed that the State may have to adopt Maharashtra model of TSP for the effective implementation of schemes/projects for the tribal development. They also mentioned that the said proposal is under consideration of the Government. However, the Chief Secretary was of the opinion that considering the territorial size as well as population of the State and there being no Development Blocks in the State and that except for the North-District all the other

3 Districts do not have the sizable tribal population, the sectoral TSP plan schemes/projects should be implemented by the Sectoral Departments. There is no need to have a role assigned to the Social Welfare Department in respect of TSP funds allocated to the Sectoral Departments, he added.

It appears that the concept of ITDP in the Revenue Blocks under Tribal Sub-Plan has been found feasible and is being successfully implemented. However, the State has not done any evaluation studies in respect of these ITDPs.

**It appears from the discussion the Commission had with Secretaries, Heads of Departments and some of the public representatives, NGOs and the farmers that it is feasible to have the TSP schemes/projects implemented by these 8 Sectoral Departments mentioned as above covered under TSP. It would not be feasible to have the Sectoral Departments like PWD, Forest, Power and multi-purpose projects under Tribal Sub-Plan with divisible outlays as the schemes and projects with these Sectoral Departments require larger compact areas to be covered extending over many Revenue Blocks and Panchayats. It would be difficult to quantify the flow of funds to TSP from the State Plan in respect of these Sectoral Departments, the Commission observed. About the role of monitoring assigned to the Social Welfare/Tribal Welfare Department, the Commission recommends that the Department should be associated at the level of State Plan preparation by Sectoral Departments both in the economic-services sector and infrastructural development sector in the absence of which the Social/tribal Welfare Departments will have nothing to monitor. The ITDPs in the Revenue Blocks having the tribal preponderance can serve as bench-mark for planning, development and implementation of schemes and projects by the Sectoral Departments for the overall development of Scheduled Tribes, the Commission observed.**

Social Welfare/Tribal Welfare Department also proposed that there should be higher allocation of funds flow under the Special Central Assistance and Centrally Sponsored Schemes for the economic development and welfare of the Scheduled Tribes.

**The Commission observed that there are infact no dearth of funds flow that can be made under SCA, CSS and the grants under Article 275 (1) of the Constitution provided the State has well planned schemes and projects prepared and submitted to the Government of India.**

The Department of Social Welfare under the sectoral allocation for Tribal Welfare had a budget of 52 Lakhs during the Annual Plan 2002-03. The schemes and projects taken up by the Department for the economic development of the tribals are to supplement the efforts of the Sectoral Departments; These schemes include the Human Resource Development; pre-matric and post-matric scholarships etc; pre-examination coaching scheme; vocational training and the measures taken for the prevention of atrocities on Scheduled Tribes etc. The Social Welfare Department is also implementing the old age pension schemes, social defence schemes, tribal hostels and residential schools involving NGOs/voluntary organizations etc.

#### **Agriculture/Horticulture**

In this Sector, the schemes under Tribal Sub-Plan pertain to land development programmes, distribution of vegetable seeds, floriculture etc. The State economy is basically agrarian. It is heartening to highlight the fact that Sikkim has the largest area under cardamom and the highest production of large size cardamom in India as per the report of the State Government. There are other crops grown such as maize, paddy, barley, potatos etc. The citrus fruits - oranges are being grown commercially. The State is covered under Technology Mission on Integrated Development of Horticulture for the North-Eastern States.

#### **Animal Husbandry**

High-lander tribes like Lachungpas, Lachenpas, Gurungs and Sherpas even today heavily depend on traditional pastoral economy. The live-stock raised are – Yaks, sheep, mountain goats, pigs and poultry etc. Almost over 50% of the total geographical area of Sikkim is available for live-stocks farming and as per the modern practices being followed live-stock farming requires minimum land, and labour which goes well with the concept of the sustainable development in such a difficult mountainous terrain of this Himalayan State. Over 70% of the farmers rear the live-

stocks under stall-fed condition and that has helped drastically reduce pressure on land due to over grazing. Apart from providing supplementary source of income, live-stock farming here in Sikkim provides high protein rich food items and also the organic manure for agricultural crops production. Agro-climatic conditions in the State of Sikkim are highly favourable for exotic high yielding live-stocks.

**The Commission recommends that Animal Husbandry should receive impetus for the development of tribal economy in the State of Sikkim. There should be a National Policy for the development of Alpine and high-altitude pastures for summer grazing all over the Himalayan belt including Sikkim. At present there is no such policy notified. It is important to mention here that the alpine and high-altitude areas along the International land border in the Himalayas are inhabited by the tribals and that the animal husbandry has a crucial place in the tribal economy.**

### **Industry**

Considering the territorial size of State and agro-climatic conditions, there is not much scope for industrial development particularly when State has decided a well-set policy for Tourism Development. However, traditionally Sikkim has been famous for certain alcoholic beverages. There are a number of distilleries and breweries set-up in the State. There are also a couple of units for food processing and preservation etc. The Tourism Industry has tremendous potentiality particularly in the mountainous tribal belts, which will have a multiplier-effect on the economy of the State resulting in employment and income generation.

### **Forest**

Forests of Sikkim were first surveyed between 1900 and 1910. No surveys were done after that. The recorded forest with tree cover is 2650 Sq. Km. i.e. 37.36% of the total geographical area of the State. And that 31.86% of the total geographical area is stated to be under Reserve forest.

The types of Forests are – Khasmehal Forest; Garucharan forest and Reserve forest. Alpine pastures and scrubs covered 1024 Sq. Km. i.e. 14.44% of the total

geographical area. Grazing is banned in the Reserve forest. However alpine pastures and scrubs are open for summer grazing.

The Commission was told that the tribals did not have any problem associated with forest. There is only one village located at Chokha in West District which is inside the National Park. Head of the Department of the Forest reported in the meeting that now there are no disputes about the re-settlement/rehabilitation of this village which has since been sorted out.

### **Education**

The State Government has given priority to the educational sector among all Public Service Sector. As against 56.94% general literacy rate of the State, that of Scheduled Tribe is 59%. For the tribal belts, there are over 81 Schools at different levels/categories being run by the State Government of which 6 are Ashram Schools. The Department of Education maintains that in order to ensure delivery of quality education and exercise control over functioning of Schools, the Education Department should run the Schools in tribal belts. The usual general school curriculum are being followed in the Ashram Schools and that these Ashram Schools have not received any donation. The medium of instruction in the Schools right from the primary level is English in the State of Sikkim. However, some regional languages on community basis are being taught. The Department is of the view that it would not be feasible to make different tribal dialects/languages as medium of instructions. There is not much contribution made by the NGOs/Voluntary Organisations in the educational sector in the State. During the Annual Plan, 2002-03 out of the total outlay of Rs. 31.20 crores for the sector the flow to TSP was Rs. 7.48 crores.

### **Health**

The State Government reported that it has followed the norms fixed by the Government of India for setting up of PHSC and PHC in the hilly/tribal areas. During the Annual Plan 2002-03, out of total State Plan outlay of Rs. 16 crores for the sector flow to the TSP was Rs. 3.50 crores. The State Government reported that all facilities, medicines are being provided in adequate measure in the tribal belts, but the Department is not having specialists due to the shortage of specialized man-power in



Health Sector. The State continues to have Tibetan System of Medicine. However, Allopathic System has been generally accepted by the ST population.

### **Socio-economic Survey – Report for the Year 1997**

The State of Sikkim has conducted a house to house survey of the scheduled tribes families in all the Revenue Blocks and towns of the State except those few houses which were found locked and vacant and that the survey is based on 80% enumeration of households. It was reported that the survey was done in a systematic manner and it is expected to provide fairly useful socio-economic indicators required for planning and development of schemes and projects particularly for the tribal development and tribal welfare. Survey revealed as follows:-

- 1. Literacy** - 39.78% of the tribal population are illiterate while 60.22% of the population are reported to be literate\*. The East District has the highest literacy rate of 69.58% amongst 4 Districts.
- 2. Employment** – Agricultural cultivation predominates other types of occupation in the State with 64% of the total tribal households depending upon the crop cultivation. 22.24% of the total households are in the Government services. The West-District showed the least number of tribals in the Government services and highest in the agriculture cultivation among 4 Districts. Only 2.53% of the ST households were found to be unemployed.
- 3. Health** – Survey revealed that under the programme “Health for all by 2000 AD” Sikkim claims to be the only State which has achieved national norm for establishment of PHCs and sub-centres – the basic infrastructure for health and family welfare. The State is up-beat with the fact of having 95.67% of the population with good health and that North District was found to have 98.08% of ST population with good health.

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\* HRD – Literacy Mission of India adopted a method by which for the enumeration of literacy the age group 1 to 9 and above 45 years is not covered Literacy perhaps therefore is for age group 9 to 45. Today it may be 6 to 55 years of age. It is not known whether in this survey the age group 1 to 5 who just can't be apart and but literate has been kept out or not for enumeration.

However, since the results of the survey done are based on the statistics collected by enumerators and not by the Doctors/Medical Specialists or under any special Health Survey, the statistics cannot be taken as accurate, the Commission observed. These have to be corroborated by health statistics figures collected at the State and National level by the Specialized Institutions in the health sector.

4. **Housing** - The survey revealed that 84.34% of the tribal households live in their own dwellings and only 15.66% do not own a house. 37.08% live in the katcha house/shelters. It appears that the State is not faced with any housing problem.
5. **Drinking water** – Out of the total 16101 tribal households in the State, 9512 i.e. about 60% have the tap water supply, 4676 household depend upon local spring water. A sizeable number i.e. 1913 do not have a specified sources. They may be drawing drinking water from the streams, irrigation channels or rivers who can be listed as household without potable water.
6. **Land Tenure** – The survey shows only the figures about total accerage under ownership/on lease etc. It does not indicate the number of households falling in the categories such as – landless, marginal farmers and farmers having more than 5 acres considered as big farmers etc. It only shows that total tribal holdings in the State is around 37731 acres, when divided by 16101 households average holding is of 2 acres.
7. **Indebtedness** – Of the total tribal households which have taken loans – 29% have taken from the SBI and commercial banks, and 22% have taken from the money-lenders and that the rest have taken from other sources like cooperatives, HUDCO, friends and relatives etc. for the activities like house construction, purchase of cattle, seeds, fertilizers and death ceremony etc. Sikkim witnessed expansion of banking and financial institutions. Financial assistance/soft loans have also been provided by the Sikkim Scheduled Casts, Tribes and Other Backward Classes Development Corporation Limited (SABCCO). Yet the survey revealed that Mangan Sub-Division in

the North District has 39.74% tribal households indebted to the money-lenders whereas for the State as a whole indebtedness to money-lenders is 22% of the tribal households which have taken loan. The institution of private money-lender is still popular as it is available any time, day/night at any rate.

As per the Annual Report 2002 of the SABCCO, which in red, provided financial assistance/loan to the Scheduled Tribes to the tune of Rs. 1.65 crores which covered 90 beneficiaries.

**The Commission recommends that SABCCO should cover a larger number of beneficiaries under their soft-loan scheme and that they should expand their activities in the States so that the tribals do not have to go to money-lenders for quick loan which usually is on much higher rate of interest. Further SABCCO can contribute a lot towards uplifting the tribals below the poverty line by providing them soft finances for self-employment and income generation activities/schemes. The first thing they should do is to publicize and educate the needy tribals about the availability of soft-loan from SABCCO particularly for gainful investments which the Commission has found lacking in almost all the States it has visited.**

8. **Economic Assistance** – Economic Assistance such as financial assistance, pre-matric, post-matric scholarship, Cardamom cultivation, distribution of cows in agriculture, animal husbandry and education sectors survey figures showed that out of 16,101 households only 3939 households representing 24.43% were benefited as on date of survey.

**The Commission observed that special measures need be taken to augment economic assistance programmes, financial assistance as well as technical assistance/extension services in the economic services sectors for the Scheduled Tribes. Since the State does not have the network of the Development Blocks, the Sectoral Departments need to have developed infrastructure for extension**

services essential for the faster economic development, the Commission recommends.

### **Tribal Land Regulations**

There are laws relating to the transfer of land by Bhutias and Lepchas dating back to the year 1897. A notice dated 2<sup>nd</sup> January, 1897 was served to all the Kâzis and Mondals of Sikkim, that no Bhutia and Lepcha would be allowed to sell or sub-let any of their lands without the express sanction of the Council. Anyone disobeying this order would be punished severely.

By another Revenue Order-I of 17<sup>th</sup> May, 1917 no Bhutia and Lepcha were allowed to sell, mortgage or sub-let any of their land to any person other than a Bhutia or a Lepcha without the express sanction of the Sikkim Darbar. That means their land could not be mortgaged to a money-lender who is not a Bhutia or Lepcha.

This was followed by yet another order dated 21<sup>st</sup> May, 1931, that no Nepali could purchase Bhutia or Lepcha's land without the permission granted by His-Highness the Maharaja of Sikkim.

These protective laws continue to be in force even today. Non-Sikkimese cannot purchase the land in the State. Transfer of land from Sikkimese Bhutia and Lepcha tribals to the non-tribals can be allowed only with the permission of the State Government. The State Government reported that there has been considerable laxity in the implementation of the laws to curb land-alienation during the last two decades. In these anti-alienation laws some forms of land transfer like gifts, hire-purchase etc. have not been specifically mentioned resulting in varied interpretation of these laws before the Courts. An attempt was made in 1989 by the Sikkim Legislative Assembly to strengthen these anti-alienation laws and it unanimously passed the Sikkim Alienation of Land Regulation Bill 1989 which provides for the prohibition of alienation of land from Sikkimese to non-Sikkimese, another Bill i.e. Sikkim Transfer of Land Regulation Bill which prohibits transfer of land from Bhutia and Lepcha tribals to others and these Bills were forwarded to the President of India for his assent. It was submitted that these Bills were returned to the State Government as the President had been advised to withhold assent by the Ministry of Law, Government of India.

There are very few cases of land alienation filed in the regular Courts and that there have been no instances of land being returned to the tribals under the Court orders. The Sikkim High Court in its order dated 24.05.1989 in a Writ Petition N.B. Khatiwada vs. State of Sikkim held that gift made by the Bhutia and Lepcha tribals did not come under the category of alienation under Revenue Order of 1917. The State Government has gone on appeal to the Supreme Court against this Order and the case is still pending there and it has now taken 14 years for its resolution.

## **Political Reservation**

The total number of seats in the Legislative Assembly of the State of Sikkim constituted after the commencement of the Representation of People (Amendment) Act 1980 is 32 out of which:-

- (a) 12 seats are reserved for Sikkimese of Bhutia and Lepcha origin,
- (b) 2 seats for Scheduled Castes of the State,
- (c) 1 seat is reserved for Sangha belonging to monasteries recognized for the purpose of elections and,
- (d) rest are open seats.

The reservation policy has its genesis from Sikkim Darbar Gazette Order dated 28<sup>th</sup> December, 1952, under which the Maharaja of the Sikkim fixed the strength of the State Council at 12 elected members from 4 constituencies. Reservations were made in all 6 seats for the Bhutia and Lepcha tribes and 6 seats for the Nepalese distributed over these 4 constituencies.

Years later under the Sikkim Darbar Gazette Order dated **16<sup>th</sup> March, 1958**, the following distribution of seats were made:-

- (i) Seats reserved for Bhutia & Lepcha tribes = 6
- (ii) Seats reserved for Nepalese = 6
- (iii) General seat = 1
- (iv) Seat reserved for Sangha = 1
- (v) Nominations by His Highness = 6

The general seat was made open to all persons including Bhutias, Lepchas and Nepalese having fixed habitation in Sikkim, with a view to remove the impression that

the general seat was to be filled by a person other than a Bhutia, Lepcha and Nepali, which was not so.

As mentioned above, under 1980 amendment of the Representation of People Act, the provision for the reservation for Nepali was removed.

The Sikkim Bhutia – Lepcha Apex Committee (SIBLAC) have in their memorandum referred to Apex Court's Constitutional Bench majority judgement on RC Poudyal vs. Union of India case which upheld the validity of Article 371 F of the Constitution and the amendment to the Representation of People Act 1950 done in 1980 which provided political reservation of 12 Assembly Constituencies for Bhutia – Lepcha tribes and one for Sanghas. Mention was particularly made of the extracts of the judgement which said “reservation of seats of Bhutias – Lepchas is necessary because they constitute a minority and in the absence of a reservation they may not have any representation in the Legislative Assembly. Sikkimese of Bhutia – Lepcha origin have a distinct culture and tradition which is different from that of Sikkimese of Nepali origin. Keeping this distinction in mind Bhutias – Lepchas have been declared as Scheduled Tribes under Article 342 of the Constitution. “Historical consideration and compulsion do justify inequality and special treatment. We are of the view that the impugned provisions have been found in the wisdom of Parliament necessary in the admission of strategic border State into the Union. The departures are not such as to negate fundamental principles of democracy”.

SIBLAC has also opposed the provisions of the Constitution (Sikkim) Scheduled Tribes order 1978 and Representation of People (Amendment) Act 1980 on the ground that these not only diluted the distinct identity of Bhutia – Lepcha tribes by providing the new definition to Bhutia community i.e. by including 8 communities in the category of Bhutia tribes – it also violated the provisions of May, 1973 Agreement, Government of Sikkim Act 1974, Article 371 F of the Constitution and the observations of the Apex Court in the RC Poudyal vs. Union of India case which deals with the political reservation for the 12 Assembly seats. That means they are opposed to the inclusion of “Chumbipa, Dophaba, Dukpa, Kagatey, Sherpa, Tibetan, Tromopa, Yolmo in the Constitution (Sikkim) Scheduled Tribe Order, 1978. SIBLAC perhaps wants to plead that these 8 communities included in the list of Bhutia tribes are in fact

not of Sikkimese origin. That means they want to plead that only the Bhutia of Sikkimese origin alone should have been listed as Scheduled Tribe under the order of 1978. They also state that the candidates belonging to 8 Bhutia communities have also contested as the candidates for these reserved assembly seats. However, inspite of their pleadings, their concerns remain, as for all these years, these 8 communities as listed therein in the order had the political reservation benefits and these communities continued to be listed as Bhutia under the Scheduled Castes and Scheduled Tribes (Second Amendment) Act, 2002.

SIBLAC's major concern now is about the inclusion of Limboo and Tamang who have been serialized as tribe number 3 & 4 respectively. SIBLAC contention that these two new tribes may claim for these 12 reserved seats is unfounded and their apprehension is misplaced, since the provisions under the Representation of People (Amendment) Act 1980 in no uncertain terms allow political reservation to the Bhutia & Lepcha tribes of Sikkimese origin as listed therein in respect of these 12 Assembly Constituencies.

Apparently, their apprehension is misplaced as the fact of the matter is that these two communities Limboo and Tamang have been separately listed as tribes at Sl. No. 3 & 4. As per the provisions of the Article 371 F read with Representation of the People (Amendment) Act 1980, only the Sikkimese Bhutia and Lepcha can contest for the seats reserved for the 12 Territorial Assembly Constituencies. Limboo and Tamang have not been shown as part of either Lepcha or Bhutia and therefore, they do not obviously have any claim for these 12 reserved Assembly seats unless there is a specific provision made under the Representation of the People (Amendment) Act, 1980 for their representation to the State Legislative Assembly under reserved Territorial Constituencies, the Commission observed.

**The Commission recommends that there should be a clarification given to all concerned as to the legal position of these provisions with regard to the reserved Assembly Constituencies so as to put an end to the debate.**

## **Border Trade**

The commercial trade between Sikkim and Tibet had existed from the ancient time long before the Government of India (British) intervention in 1817. By the year 1861,

the Government of India's suzerainty over Sikkim was well recognized. The British developed an interest in having an official trade with Tibet.

Government of India (British) sent a number of Missions from time to time to China in their attempt to promote commercial intercourse with Tibet. The British commercial interest was based on the assessment that Tibet had the potentiality of providing a great market for certain articles of English manufacture such as broadcloth, piece goods, cutlery, hardware and many other items including Indian tea etc. In return, Tibet would offer in trade wool, musk, ponies, yak tails, borax etc. It was viewed that Tibet would provide many more things to the scientific world. The Tibetans had an apprehension about the possible threat to its Lamastic Buddhism particularly in view of the establishment of Roman Catholic Mission at Bathang on this side which in fact had been the main reason why, Tibet opposed the British trade Missions to Tibet and China.

The Jelap Pass was used by Indian and Tibetan traders for ages as trade route which was considered a branch of ancient silk route. This route and many other routes were closed following the 1962 India-China war. This particular route via Jelep Pass was then a mule track and it is now over 575 Km. motorable road running from Kalimpong to Lhasa. The trade route via the Nathu La is also motorable from Indian side upto the 14000 ft. Nathu-La and the road on the Tibetan side is also built upto the border at Nathu-La. In fact, the motorable road upto the Nathu-La was opened up in Sept., 1958 by the Prime Minister of India Pandit Jawaharlal Nehru before the flight of His Holiness, the Dalai Lama in 1959, which was followed by the Chinese aggression in 1962.

The people inhabiting the International land border with PR China had been pressing for reopening of the various trade routes from India to Tibet which were the branches of the famous ancient silk route. To begin with, trade route from Pithoragarh via Taklakot in Uttaranchal was reopened in July, 1992 and another route running from Joshimath in Uttaranchal to Tibet was also reopened in 1993. Yet, another traditional trade route via Shipki-La in Himachal Pradesh also was reopened in 1994 and trade through all these routes have been regulated fulfilling the wishes of the people inhabiting the border land. It has also been a long standing demand of the people of



Sikkim to reopen the trade route via Nathu-La and other routes along the Chola Range. During the visit of the Commission's team to Sikkim, the tribals particularly Bhutias and Lepchas mentioned about their long standing demand to reopen the trade route via Nathu La. The team in fact visited Nathu-La on 18<sup>th</sup> of June, 2003 and discussed the feasibility of the demand with a cross-section of people on the border land. The Hon'ble Chief Minister of Sikkim, Shri Pawan Kumar Chamling discussed with the team about the traditional trade with Tibet via Nathu-La and other trade routes.

**The team of the Commission was of the opinion that like in respect of trade routes reopened in Uttaranchal and Himachal Pradesh, the route via Nathu La should also be reopened which would have a multiplier effect on the economy of Sikkim resulting in employment and income generation particularly for the people on the border land. It is heartening to note that the wishes of the people of the Sikkim for reopening of these famous trade routes have been adequately fulfilled by signing a memorandum in this regard by India and PR China during the visit of Hon'ble Prime Minister, Shri Atal Behari Vajpayee to China in June, 2003. Apart from the development of International trade via this route, it appears that there has been a major diplomatic break-through at harmonizing India-China relationship.**

**The Commission further recommends that trade interest of the tribals settled along the International land borders should be protected as the border trade traditionally have been the backbone of the economy of the tribals inhabiting the International land borders.**

# STATE REPORT ON TAMILNADU

## INTRODUCTION

1.1 Tamilnadu State is known all over the world for its ancient temple architecture, art forms and culture. Anthropologists have always shown keen interest on knowing more and more about some of its tribal communities, such as Kadars, Paniyans and Irulars. Todas have always been a picturesque group of people for social scientists.

1.2 According to 2001 census, there were 6.51 lakhs persons belonging to 36 communities listed as Scheduled Tribes (STs) in the state. Six tribal communities have been specified as Primitive Tribal Groups (PTGs). No area has been notified as Scheduled Area under the Fifth Schedule of the Constitution of India. General information in brief is given below:

### 1.3 General Information:

1. Geographical area of Tamilnadu - 1,30,056 sq. km

<u>2. Population</u>	<u>1991 Census</u>	<u>2001 Census</u>
State	558.59 lakhs	621.10 lakhs
S.Ts.	5.75 lakhs (1.03%)	6.5 lakhs (1.05%)

3. Sex Ratio  
(2001) Census

State	986	ST	956
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4. (a) Population of ST covered by 9 ITDPs in Tribal sub-Plan (TSP) Area – 2.07 lakhs  
(36%) 1991 Census.

(b) Population of STs outside TSP area 3.20 lakhs (64%) as per 1991 Census.

5. Percentage of population Below Poverty Line (BPL)

1993-94	Rural State	32.48	ST	44.37
1999-2000	Rural State	20.55	ST	43.20

6. (a) Total no. of Scheduled Tribes - 36 (Appendix- I)

(b) Major STs –

1. Malayali	2. Irular	3. Kuruman
4. Sholaga	5. Paniyan	

(c) Primitive Tribal Groups - 1.59 lakhs (as per 1991 Census)

1. Kattunayakan	2. Kota	3. Kurumba
4. Irular	5. Paniyan	6. Toda

7. Peoples representatives –

Lok Sabha - ST Nil

Assembly - ST 3

8. Cultivators (1991 Census) Total 24.8%, ST 37.4%

9. Agricultural Labourers (1991 Census) Total 34.6%, ST 37.4%

10. Dropout rate in classes I to VIII (1993-94 )

State 36.3 ST 71.6

11. Literacy rate (1991) in %

State 63 ST 27.89

Male 73.75 Male 35.24

Female 51.33 Female 20.23

2001 State 73.47 ST Not Available

**Places Visited**

1.4 The Commission visited under mentioned districts in Tamilnadu:-

1. Chennai (17&18- 02- 2003) - Discussions with Chief Secretary, Govt. of Tamilnadu and other officers.
2. Villupuram (19.02.2003) Discussions with officials and non-officials of Kalarayan Hills
3. Tiruchirapalli (20.02.2003) - (a) Toppingattu Patti, (b) Visit Pachaimalai Hills PHC, Tribal Residential H.S. School (c)Uppalipuram
4. Madurai (21.02.2003) Discussions with officers of Madurai, Namakkal, Salem and Dharmapuri districts and other non-officials
5. Kanyakumari (23.02.2003) - Discussions with officials and non-officials.
6. Coimbatore, Salem (29.8.2003) - Visit to Yercaud, Nagalur village, Residential Tribal School etc.
7. Dharma puri (30.08.2003)
8. Chennai (1.09.2003)

1.5 The Commission held discussions with the Governor of Tamilnadu, Chief Secretary, other Secretaries to the Government, Heads of Departments and District Collectors concerned, besides other officers, political leaders, NGOs, and social workers.

### **Major Issues concerning tribal development**

1.6 During the visit of the Commission to various tribal areas of the State, major problems brought to their notice were as under:

<b>Area Visited</b>	<b>Problems</b>
1. Kalrayan Hills - (Villupuram)	(i) 79% of land with the Panchayat Union is being treated as forest lands, (though not notified as Reserved Forests) and tribals have not been given pattas for lands under their occupation. (ii) Electric lines could not be laid in 70 villages due to forest conservation Act. (iii) A taluk office may be set up at Kalrayan Malai by bifurcating Sankarapuram taluk of Villupuram district.
2. Pachaimalai Hills (Tiruchirapalli district)	(i) Settlement operations have not been carried out in three villages, namely, Vannadu in Uppalipuram Block, Peranadu and Kombai in Thuraiyyar Block. (ii) Hill top villages lacked marketing facilities on one hand and faced tough attitude of forest officials in getting transit passes.
3. Madurai	(i) Kadar tribe is most backward and it may be notified as a P.T.G. as has been done in Kerala. (ii) Health disorders are very common among the tribals living around Kodaikanal and Dindigul areas. (iii) Procedure of issuance of tribal certificate is cumbersome. Those applying for obtaining

certificates of Kattunaicken and Malai Vedan tribes are put to stricter enquiries.

(iv) An exclusive forest reserve may be set up near each tribal settlement so that cattle could graze.

4. Salem and Dharmapuri –  
districts

(i) Irular tribe requires special package of development. Bonded labour system is still prevalent among them and female literacy rate is only 3%.

(ii) School teachers and Medical doctors do not stay in tribal areas.

5. The Nilgiris district-

(i) Non-availability of burial ground at Gudalur is a matter of concern among tribals.

(ii) Lease of Toda patta lands have not been renewed and their lands have been taken over by the Forest department for afforestation.

(iii) In many areas land assigned to tribals has been taken control of by the non-tribals.

6. State as a whole -

(i) Problem of fake and false tribal certificates is on increase in the State.

(ii) Tribals demanded that procedure of issuance of tribal certificate be simplified.

(iii) Vanvasi Seva Kendram, Tamil Nadu in a memorandum presented to the Commission at Coimbatore brought to their notice issue of change of faith by coercive and alluring methods in Puliangudy, Tenkasi taluka of Tirunelveli district.

(iv) Tamilnadu has S.T. population of 6.51 lakhs but it does not have a single reserved seat in the Lok Sabha for STs.

(v) Tribals who migrate to cities and towns in search of employment faced hardships. They live in

most unhygienic conditions deprived of civic amenities.

### **Spurt in tribal population**

1.7 Secretary, Adi Dravidar and Tribal Welfare, stated that tendency among non-tribals returning as tribals was on the increase in the State. In respect of following tribes there has been spurt in their population.

**Table I**

Name of the Tribe	Population			
	1961	1971	1981	1991
1. Kuruman	112	11,269	14,932	17,458
2. Kattunayakan	6459	5,042	26,383	42,761
3. Malai Aryan	58	194	470	689
4. Kammara	26	194	524	763
5. Konda Kapu	3	255	1,624	2247
6. Kondareddi	8	855	31,525	30,391
7. Koraga	6	173	421	714
8. Kurichan	5	1,169	7,160	7621
9. Malai Pandaram	3	113	1,026	1930
10. Malai Vedan	2	85	7,098	8910
11. Malak Kuruvan	2	130	7,079	18,969

1.8 The Commission recommends that the State Tribal Research Centre should carry out a detailed study finding out the reasons for spurt in the population of selected tribes, such as, Kattunayakan, Kondareddi and Malak Kuruvan. The Registrar General of India may also like to get a separate study conducted through their social studies division.

### **Tribes Advisory Council (TAC)**

1.9 TAC formed in 1961 to look after the welfare of STs is composed of Chairman (Minister of Adi Dravidar and Tribal Welfare ADTW), 3 official members (Secretary, ADTW, Director, Tribal Welfare and Special Officer, T.D. Salem), 17 non-official members inclusive of 3 S.T. MLAs (Yercaud, Senthamangalam and Uppillapuram

Constituencies) and 14 other members from 12 districts. As per rules of the T.A.C. it meets twice a year. The TAC reconstituted in 1998-99 met once in 1998, twice in 1999 and once in 2000. Generally, the TAC deliberated upon basic issues concerning tribals, such as drinking water, electricity, link roads, consumer shops, transport facilities to school going children and other such issues. **The Commission recommends that the composition of the TAC should be restricted to 20 only on the pattern of TAC suggested under the Fifth Schedule, however, others could be included in the TAC as special invitees.**

### **Administrative Setup**

**1.10** Adi Dravidar Welfare Department was formed in 1949 and later it was renamed as Adi Dravidar and Tribal Welfare Department headed by a Minister. At the Secretariat level, Adi Dravidar and Tribal Welfare Department is the nodal department looked after by an officer of the rank of Secretary to the Government. In April 2000, a separate Directorate for Tribal Welfare was created to look after exclusively the tribal population of the state. Tamilnadu Adi Dravidar Housing and Development Corporation (TAHDCO) formed in 1974 was entrusted with the task of economic development activities for both SCs and STs. The Corporation also gives assistance to self help groups, organizes vocational training courses, construction of houses and basic infrastructure programmes. TAHDCO has decentralized the planning process at district level and all the schemes are implemented through the District Collectors. From the year 2002-03 a separate Empowered Committee has been set up for implementation of TSP. The State Government has also issued orders for implementing the welfare programmes for the STs through self-help groups. Sectoral departments have their own field level machinery for executing the schemes. The Tribal Research Centre assists the Department in assessing the impact of schemes. At the district level, District Collectors are assisted by District Adi Dravidar and Tribal Welfare Officers, Special Officer, T.D. Salem, and special Tahsildars, Tribal Welfare.

## **2. PROTECTIVE MEASURES**

### **Land**

**2.1** A survey of tribal settlements in the State (Rao & Das) in 1987 showed that tribal land holdings were small in size and 18% of their holdings were forest *paramboke*. In

1977 cultivable lands were classified as forest during settlement operations. In this process tribals lost more than 10,000 ha. of their land.

**2.2** The Commission was informed that non-tribals had encroached the land of tribals in Gudalur, Pandalur and Kotagiri talukas of Nilgiris district. In Kallampalayam and Hallinagar in Kotagiri talukas of Nilgiri district, Irulas (PTGs) were given 100 acres of land by the Government on lease which they were managing well. However, the non-tribals encroached these lands and constructed their houses and shops unauthorizedly on the lands of the tribals. Similarly, the members of Irulas residing at Kanvai village in Thiruvallur district were given 40 acres of land by the forest department but after some time deprived them of their holdings. In Mullangadu village in Coimbatore district, Irulas were assigned 80 acres of land for cultivation but the forest department took back the land. In the process of transition from Jagirdari to Ryotwari system in Kalryan hills of Salem district, the STs lost hundreds of hectares of cultivable land. Paniyan tribe included in PTG were working as bonded labourers and after their release from bondage, they were allotted land at Kayunni of Erumud Village in the Nilgiris district but their lands were encroached by the non-tribals. Similarly, the landless tribals of Gudalur taluka need allotment of land for agriculture purposes, failing which we are afraid they may again start working as bonded labourers. The conditions of the tribals in the tribal hamlets is pathetic, they are malnourished and suffer from various diseases. They hardly get work for 2-3 days in a week from Forest Department. **The Commission recommends that STs, who were cultivating their lands or assigned lands that come in the category of pre-1980 settlers, land Pattas should be given to them, as required under Ministry of Environment and Forest Circular No. 1.3 – 1/90/-FP (i) dated 18.9.1990.**

**2.3** State Government has informed that acquisition of tribal lands takes place only very rarely and in valuing tribal lands, guidelines prescribed by the State Registration Department are followed, which ensure a fair compensation to the tribals. However, the general complaint was that the quantum of compensation fixed is very low in most of the cases. As regards settlement operations, the work had been completed in the entire state long back. Records of land have also been computerized. In regard to allotment of surplus land, priority is given to the tiller and where there is no tenant, SCs and STs get



priority. As there are no Scheduled Areas in the state, the Panchayats (Extension to Scheduled Areas) Act, 1996 is not applicable.

**2.4** Under the Revenue Board's standing orders, (R.S.O. 15(40) land assigned to specified Hill Tribes cannot be transferred to persons not belonging to the same class without permission of Divisional Officer. However, there is no legislation in the State for this purpose. **The Commission recommends that the State Government should enact a legislation to check alienation of tribal land and its restoration to them.**

#### **Toda Patta lands**

**2.5** Land measuring 2776.41 acres in 13 villages of the Nilgiris district was set apart during British period as Toda patta lands. District Collector was authorized to issue permits for periods not exceeding 10 years at a time for the cultivation of grass lands by Todas only. This provision also finds place at pages 245 to 258 in the Tamil Nadu Forest Manual. Permits under these provisions were not renewed after 01-07-1982. In the absence of any formal orders in regard to 204 cases covering 803.11 acres, the Toda patta lands have been either encroached by non-Todas or have been used by the Forest Department for raising plantations (400 acres). The case still remains undecided.

The State Govt. was seized of the problem and in their letter of 1.8.2002 to Nilgiris Adivasi Welfare Association, the Adi Dravidar and Tribal Welfare Department informed that "action is being taken by the Tahsildar concerned to evict the encroachment on the land in question under Land Encroachment Act". The Commission hopes tribals would have got relief by now.

**2.6** During the discussions with officials and non-officials at Madurai on 21.2.2003, the Commission was informed that alienation of tribal land by non-tribals was rampant in Satyamangalam area of Erode district and in the Nilgiris district. A representative stated that non-tribals have been encroaching upon the lands allotted to Todas in the Pagulimund of Udagamandalam in the Nilgiris district.

**2.7 The Commission recommends that Toda Patta lands encroached by non-tribals should be restored to the Todas and lease of grass lands should be issued to them because Todas have been enjoying these traditional rights prior to 1980. The Commission reiterates their recommendation that the State Govt. should enact a legislation against alienation of ST lands and its restoration as done by many State Governments as Board of Revenue circular has failed to protect the interests of STs.**

### **Money Lending**

**2.8** In order to regulate money lending practices, undermentioned legislations are in force in the state:

- (i) The Madras Money Lenders Act, 1937, (ii) The Madras Pawn Brokers Act, 1943, (iii) The Madras Debt Reconciliation Act, 1936, (iv) The Madras Indebted Agriculturalists (Repayment of Debt) Act, 1955 and (v) Tamilnadu Debt Relief Act, 1976, 1980 and 1982

**2.9** The State Government has informed that moneylenders have not been eliminated completely because LAMPS have been facing difficulties in obtaining re-finances from the District Central Cooperative Banks, non-receipts of entire subsidy from the Government and absence of linkage of marketing at apex level institutions. **The Commission recommends that the working of various legislations against money lending should be evaluated with special reference to the STs and steps taken to put a stop to nefarious activities of money lenders by amendment to the laws. At the same time, LAMPS should be strengthened to provide remunerative price for MFP collected by the STs and extend consumption loans quickly to them.**

### **Community Certificates**

**2.10** In order to protect the interests of tribals, community certificates to tribals are issued by Revenue Divisional Officers. The State Government has also constituted a state level committee for verification of bogus community certificates issued to SCs and STs, which are referred by various appointing authorities, universities and colleges to district level Vigilance Committees with District Collectors as Chairman. Out of 4, 670 cases of verification of SCs/STs pending before district Vigilance Committees upto 2002, claims in 1,968 cases were accepted, 392 rejected, 37 withdrawn and 2,273 cases were pending. Upto Feb., 2003, 328 were received by the State Scrutiny Committee out of which only 5

cases were accepted, 36 rejected, 4 withdrawn and the remaining were pending. The Commission recommends that separate break up of SCs & STs should be maintained and suitable instructions issued to the district authorities for proper investigations before issue of ST certificates.

### 3 TRIBAL SUB-PLAN (TSP)

3.1 Tamilnadu does not have any 'Scheduled Area' under the Fifth Schedule of the Constitution. However, the Tribal Sub-Plan covers 9 ITDPs in the areas as given below:

**Table II**

(1991 Census)

S.No.	Name of the District	Name of the ITDP	Area (Sq. km.)	Total Population	Tribal Population
1.	Namakkal	Kolli Hills	224.85	38,449	30,665
2.	Salem	Yercaud Hills	147.50	33,353	21,676
3.	Salem	Kalrayan Hills	319.21	21,395	20,665
4.	Salem	Aranuthumalai	29.02	11,879	6,604
5.	Salem	Pachamalai	109.92	24,161	6,583
6.	Tiruvannamalai	Jawadhu Hills	310.35	59,448	49,962
7.	Villupuram	Kalrayan Hills	600.00	32,756	29,991
8.	Dharmapuri	Sitheri Hills	188.00	29,890	14,353
9.	Trichy	Pachamalai	128.83	13,397	7,894
		<b>Total</b>		<b>2,64,728</b>	<b>1,88,393</b>

3.2 As the proportion of ST population to total state population is 1.03%, according to 1991 census, the state government has decided to allocate 1% of their budget to implement schemes for the welfare of STs under TSP. State Government has decided that TSP would be finalized from 2003-04 by an Empowered Committee comprising Member, State Planning Commission (incharge of SC and ST) as Chairman, 3 Secretaries and one Member-Secretary (Secretary, AD&TW Deptt.). The TSP is first prepared by sectoral heads of departments and reviewed by the Director, Tribal Welfare and thereafter it is scrutinized by the AD&TW Deptt. before sending it to the Government of India.

Each sectoral department has its own budget sub-head for TSP. AD&TW Department is the nodal department for TSP.

### **Bench Mark Survey**

**3.3** According to a Bench Mark Survey undertaken by the statistical department of the state government (and data made available to the Commission on 17.2.2003) undermentioned salient features were noticed among the tribals of TSP area and those in the non-TSP area:

	<b>TSP area</b>	<b>Non-TSP area</b>
(i) Household size of tribal population	4.4	4
(ii) Sex ratio	935	952
(iii) Literacy rate	16%	26%
(iv) No of graduates	19	34
(v) Dropout rate from Middle Schools	65%	65%
(vi) Houses owned	98%	87%
(vii) Possession of Kutch House	63%	58%
(viii) Electricity in houses	28%	43%
(ix) Infant deaths per 1000	160	120
(x) Percentage of agriculturists	61%	24% to 27%
(xi) Annual Income slab of Rs. 5000 or less	49%	39%
(xii) Assets owned worth Rs. 25,000 and more	45%	32%
(xiii) Primary Schools within hamlets	41%	48%
(xiv) Road connectivity of hamlets	65%	86%

It may thus be seen that tribals in TSP area are more backward than those in non TSP area and infrastructure in TSP area is less developed as compared to non-TSP area in the State.

The Commission observed that sex ratio was 972 females (per 1000 males) as compared to 927 of total population, but in case of STs of Tamil Nadu it was a little disappointing as shown below:

<b>Sex Ratio</b>			
<b>Census / Survey</b>		<b>Total</b>	<b>ST</b>
1991	India	927	972
	Tamil Nadu	974	960
2001	Tamil Nadu	986	956
2003	As per Bench mark	TSP area	935
	Survey of State	Non TSP area	952
	Government		

The Commission expresses their concern over unfavourable sex ratio among tribals in the TSP area of the state despite implementation of development programmes since Fifth Five Year Plan. Studies may be sponsored by the State Government to find out the reasons and to ascertain the extent to which female infanticide is prevalent among STs and give package of services to improve the situation.

Another noticeable issue of STs of the state is their persistent low economic profile. Whereas percentage of these below poverty line among the total state rural population declined by 11.93% (From 32.48% in 1993-94 to 20.55% in 1999-2000), the progress in respect of STs was only 1.17% in the corresponding period (44.37 in 1993-94 to 43.20% in 1999-2000). These data indicate the tardy progress in the implementation of various poverty alleviation programmes and family beneficiary oriented schemes among the STs.

#### **Flow of Funds**

3.4 In addition to funds under TSP, other funds from Special Central Assistance (SCA) to TSP, grants under Article 275 (1) of the Constitution of India, grants under Central Sector Schemes, Centre State shared schemes and annual budget allocation under plan schemes by the Government of Tamilnadu are also received and utilized for the development of tribal people. The details of the funds utilization in 9<sup>th</sup> and 10<sup>th</sup> Five Year Plan under these schemes are furnished below:

**Table III**

**Funds utilization for Tribals in Tamilnadu in Ninth Five Year Plan & two years of  
Tenth Five Year Plan**

Year	State Plan	Allocation under					Rs. In Lakhs	
		Flow to TSP	SCA to TSP (GOI)	100% Central Grant	Shared schemes (GOI & State)	Plan Scheme (State)	Grand Total	Expenditure
1	2	3	4	5	6	7	8	9
1997-1998	N.A.	2228.10	243.71	123.15	91.37	193.35	2879.68	2879.78
1998-1999	450009	2116.73 (0.47%)	295.91	44.39	42.70	411.98	2911.71	2911.71
1999-2000	525112	1757.06 (0.33%)	258.27	87.87	176.18	446.60	2725.98	2727.16
2000-2001	570026.24	1754.80 (0.30%)	258.27	67.34	176.08	636.40	2892.89	2746.69
2001-2002	520000	1615.80 (0.31%)	323.32	412.69	20.70	391.09	2763.60	2755.91
2002-2003	575152	2163.78 (0.38%)	323.32	255	20.97	316.94	3080.01	3080.01
2003-2004	700013	3157.92 (0.45%)	323.32	260.7	112.14	344.49	4198.57	-

**3.5 It will be seen from the above table that the State Government did not allocate one percent out of the State Plan for TSP areas and therefore Commission taking into consideration the precarious conditions of STs in the State, a majority of whom are dispersed recommends that, at least two percent of State Plan outlay should be earmarked for TSP and non-TSP areas.**

**3.6 The grants received from the Ministry of Tribal Affairs under Article 275(1) of the Constitution are shown in the table below:**

**Table IV**

**100% Grant Under Article 275 (I) of the Constitution of India  
(Rs. In Lakhs)**

Sl. No.	Year	Amount Received	Expenditure
1.	1997-98	121.00	121.00
2.	1998-99	42.00	42.00
3.	1999-2000	83.93	83.93
4.	2000-01	63.00	63.00
5.	2001-02	210.00	Not available

3.7 Director, Tribal Welfare in their proposal for seeking grant of Rs. 213.48 lakhs under Article 275(1) during 2003-04 stressed the requirements for (a) drinking water facilities (Rs.203.05 lakhs) and (b) street lights to the tribal colonies (Rs. 10.43 lakhs)

3.8 Dharmapuri district administration considered that road works required priority attention followed by water supply and streetlights in 107 tribal habitations in the district.

**Table V**

**Funds received under Special Central Assistance**

**(Rs. In Lakhs)**

Sl. No.	Year	Amount Received	Expenditure
1.	1997-98	243.71	243.71
2.	1998-99	295.91	295.91
3.	1999-2000	258.27	258.27
4.	2000-01	258.27	258.27
5.	2001-02	323.32	Not available
6.	2002-03	323.32	Not available

3.9 It will be seen from tables IV and V above that cent percent utilization of central grants is made but the State Government is not even providing one per cent from their state plan outlay for the TSP areas.

### **PRIMITIVE TRIBAL GROUPS (PTGs)**

**3.10** There are 6 PTGs, whose population according to 1991 census was 1.95 lakh which constitute about 34% of the total ST population in the State. These communities include *Toda, Kota, Kurumbas, Kattunayakan, Irular and Paniyan*. PTGs are distributed mainly in Nilgiris and Dharamapuri districts. Irular constitute a major group distributed in many districts of the State with concentration in Dharamapuri district. The other 5 PTGs are mostly inhabited in Nilgiris district. PTGs live in hilly areas having poor infrastructure development but with abundant natural resources. In spite of the measures taken by the various departments, the socio-economic conditions of the PTGs continue to be unsatisfactory. The Tribal Development Department has mainly focused on individual beneficiary oriented development programmes, but majority of the PTGs are victims of exploitation by the outsiders, land alienation, indebtedness, displacement and non-availability of need based development measures. A brief description of the PTGs is given below:

#### **Irular**

**3.11** Irular were hunter-gatherers and the state government has granted land without ownership rights for cultivation purpose. They cultivate for their own consumption *ragi, samai, red gram and plantains*. They collect honey and also catch snakes. They are also good soothsayers. Instead of cultivating their land, they lease out their land to other communities. Some of them weave baskets from the locally available bamboo, collect wild grass for broomsticks and MFP. Commission received a representation from tribals living in hamlets of Nalloorpathi, Chadivayal, Poretti, Mullangadu, Seengampathy, Kolkothy, Pottapathi who have lost about 1500 acres of lands at the hands of a Christian mission which has set up an Engineering College. Major quantity of drinking water allotted to the village of Nalloorpathi has been diverted to the College and even the name of the village has been changed to Karunya Nagar and the Institute is also interfering in construction of temples and houses on the property of the tribals. **The Commission recommends that grievances of Irula tribals should be looked into by the district authorities.**



## **Toda**

**3.12** The Todas are confined to Nilgiris Hills. Their population indicates a marginal growth rate in every decennial census ranging from 714 in 1961 census to 1100 in 1991 through 930 in 1971 and 875 in 1981 censuses. They live in hamlets called 'Munds'. Traditionally the Todas domesticate buffaloes. Selling of milk and milk products is their primary occupation and they are not isolated from other tribal communities viz. Kota, Kurumba, Irula and Badagas. The latter one are agriculturists. In the past, Todas leased out their lands to Kotas and Badagas. Due to cultivation of tea, coffee and potato in the Nilgiris from the time the Britishers occupied the area, large number of people from the plains migrated to the hills. The Toda men take care of the buffaloes such as grazing and milking them etc., while their women take care of the household and do embroidery at home. The Todas are now also engaged in cultivation and grow vegetables such as potato, cauliflower and cabbage and slowly their subsistence pattern of living is changing. Now time has come when Todas could be motivated to shift from pastoral way of living to agriculture and other vocations. **The Todas have a special conical shape temples as a place of worship, which are in a dilapidated condition. The Commission recommends that the State Government should sanction one-time grant for repairs.**

## **Kurumba**

**3.13** The Kurumbas live in Nilgiris as well as in the state of Kerala in Waynad, Nilambur and Attapaddy districts. They cultivate ragi and collect MFP. They are engaged in cattle rearing and weaving. They are good musicians and are slowly trying to adapt the life style of the neighbouring areas.

## **Kota**

**3.14** The Kotas inhabit Niligiri district. They are traditionally blacksmiths, carpenters and good musicians. The Kota women make mud pots and exchange them for food items. Some of the Kota families cultivate a variety of vegetables. They borrowed loans from moneylenders and most of them have lost their lands.

## **Kattunayakan**

**3.15** Kattunayakan live in Gudalur Taluk of Nilgiris district. They build houses with bamboo, wild grass and wood available from forests and walls of these houses are made of mud. They are primarily food gatherers and collect MFP and are experts in taming elephants. Some of them have taken little forest adjacent to their habitations for cultivating ragi and pulses for their own consumption. They are mostly working as agricultural and plantation labourers.

## **Paniyan**

**3.16** The Paniyan is the most backward group among the PTGs. Their primary occupation is cultivation. They work as agricultural and plantation labourers and collect MFP. Some of them grow paddy and ragi for their own consumption on land assigned to them by the Government. They inhabit the areas around the Nilgiris.

**3.17** State Government had formulated a proposal during 2002-03 costing Rs. 439.37 lakhs for the development of PTGs. House construction has been accorded prominence, as may be seen from the undermentioned table:

**Table VI**

<b>Sl. No.</b>	<b>Development Programmes</b>	<b>(Rs. In lakhs)</b>
1.	Construction of 564 houses	192.10
2.	Provision of streetlights, construction of check-Dams, agricultural godown, community hall, T.V. room and provision of solar power colour television, irrigation facilities, supply of sheep units etc.	107.50
3.	Model Paniyan Tribal Village Project in Nilgiris District.	91.47
4.	Provision of drinking water facilities, formation of roads, construction of R.C.C. slab bridge.	48.30
	<b>Total</b>	<b>439.37</b>

During 2001-02, State Government had received Rs. 49.54 lakhs for implementing various programmes for the PTGs. The amount was utilized for providing solar powered pump system, fencing and power tiller in three hamlets of Coimbatore district, and for providing streetlights and electrification works in PTG villages in the Nilgiris district. **The Commission recommends that economic development schemes should be given priority over social services in so far as PTGs are concerned.**

### **Administration and Development of the PTGs**

**3.18** The nodal department of Adi-Dravidar and tribal affairs department implements various schemes for PTGs through the district Adi-Dravidar Welfare Officers. These officers are entrusted with the task of development of STs (PTGs and Non-PTGs) and also for implementing schemes for the development of SCs. Except the Nilgiris district, the pressure by dominant SCs dilutes the developmental schemes for PTGs. The Welfare Officers are, therefore, not able to give their full-time attention. **The Commission, therefore, recommends that a high level officer should be stationed at Ooty to look after the PTGs, who live in the Nilgiris district as well as those living outside the district.**

### **3.19 The Commission further make following recommendations for all-round development of PTGs**

- (a) Infrastructural facilities should receive priority for the villages inhabited by PTGs.
- (b) As most of the schools in PTG inhabitations do not run regularly, it would be useful if voluntary agencies are associated in running educational institutions.
- (c) Public distribution shops should run regularly.
- (d) Identity cards should be issued by the Forest Department to PTG families for entry into forests to collect MFP and grazing their cattle.
- (e) "Package of services" and not sector-wise allocation should be made available.

The Commission expresses their concern over low rate of literacy among the STs of the State (27.89) as compared to 29.6 for the country. Low rate of literacy among Irular females (3%) is a matter of grave concern. The Commission therefore recommends that State Government should accord priority to launch special literacy and elementary education drive among the six PTGs. Close monitoring is required to pursue spread of education among the dispersed tribal population. State Government should execute separate packages for tribals outside tribal Sub-Plan areas.

### **Dispersed Tribal Population**

**3.20** TSP area covered 2.07 roughly 2 lakhs ST population, i.e. 36% and the remaining over 3.68 lakhs STs (64%) are dispersed throughout the state. It was brought to the notice of the Commission that the Tribal Development Department did not spend adequate funds on dispersed tribal groups. **The Commission, therefore, recommends that at least 50% of funds earmarked for tribal development should be set apart for the**

**development of dispersed tribal population, so that STs are able to cross over the poverty line within a short span of time.**

## **4 Economic Development**

### **Agriculture**

**4.1** Agriculture inclusive of horticulture is the main occupation of the tribals. Paddy, groundnut, sugarcane, cotton, pulses, edible oil seeds and coconut are the major crops besides coarse cereals and millets like *ragi* and *samai*. Agriculture department distributed seeds of paddy, millets and pulses and bio-fertilizers to tribals. In Yercaud hills of Salem district, 593 tribals were benefited during 2002-03 and target for 2003-04 was fixed for 1012 beneficiaries.

**4.2** Major horticultural crops grown in the state are coffee, pepper, pine-apple, papaya, tomato, banana, mango, tamarind, grape, chilli and mint. Area covered under horticultural crops is spread over the districts of Salem and Namakkal (35,003 hac), Cuddalore and Villupuram (14,452 hac), Thiruvannamalai (11,052 hac), Vellore (9,688 hac), Dharmapuri (5700 hac) and Kancheepuram and Thiruvallur (2001 hac). During 2002-03 State Government utilized Rs. 59.4 lakhs over distribution of horticultural planting materials and other inputs to 2220 tribal families. Extension work in regard to propagating the techniques for cultivation improved horticultural crops and educating the farmers in taking up organic fertilizer application and pest control measures in appropriate time, was carried out by the horticulture department. Tribals owning upto one acre of land are given seeds / seedlings worth Rs. 1,000 free of cost to popularise horticulture crops. Floricultural varieties nursed in the tribal area are rose, jasmine and marigold. In Yercaud hills of Salem district, assistance was given to STs for raising plants like coffee, silver oak, pepper, nutmeg, orange, free of cost to establish one acre individual orchard. For 2003-04, the horticulture department had drawn plans to distribute hybrid vegetables seeds, besides arranging training and tours in horticulture related activities. Oil engines and sprayers were also to be distributed at a cost of Rs. 5.80 lakhs.

### **Soil Conservation**

**4.3** Assistance free of cost is ensured to tribals for carrying out soil conservation measures in the lands held by them in hilly and sloppy areas for development of land for

raising agricultural crops. Agricultural engineering department undertook extension of soil conservation works in the fields of 800 ST families during 2002-03.

#### **Animal Husbandry**

4.4 Bovine population of the state consists of cattle, buffaloes, sheep, goat and poultry. Toda tribals are well known for their skills in pastoral way of life in the Nilgiris district. Tribals are provided 50% to 75% of the cost of project as subsidy for having sheep units, milch animals and calves. Assistance towards health cover to the animals, artificial insemination etc is also arranged. Animal husbandry department provides broiler hens, heifer calf to supplement income of tribals. The Department provided assistance to 1900 ST families annually. In Salem district 75 tribals were distributed sheep and goat units in 2000-01 (at 100% subsidy) costing Rs. 6.75 lakhs.

#### **Fisheries**

4.5 Tribals are mostly engaged in inland fishing and it is their subsidiary occupation. Main varieties of fish liked by the tribals are *katla*, *rohu* and *mirgal*.

#### **Sericulture**

4.6 Sericulture is remunerative for the tribals, as it is highly labour intensive. Tribals owing less than half an acre of land are provided subsidy ranging from 50% to 75% of the project cost for raising mulberry plantation and rearing of silk worms. The state government has set a target of covering 100 ST families annually.

#### **Cottage Industry**

4.7 Tribals are proficient in collecting honey. Each tribal family is given 10 beehives free of cost for this purpose. Village industry programme covers tribal families by establishing honey-processing plants in ITDP areas. The Todas are well known for their embroidery and their hand made garments can be readily sold in cities for which they should be helped.

### **5 Forest**

5.1 There are 632 tribal villages and 47 tribal settlements in 22 forest divisions of the state. Forest department runs 19 schools in tribal areas, where 4700 students are studying (some of which are residential schools), and also a 70 bedded hospital in the Nilgiris. The tribals are engaged in afforestation schemes, various forest works / projects and also as anti-poaching-watchers. It was reported that the interface between the foresters and the tribals is very cordial with the result that there is no symptoms of tribal unrest. The Forest

department has associated the STs in their forest committees. The State Government has informed that all forest lands encroached by the STs prior to 1980 have been regularized and there is no case of encroachment of land in the Reserved Forest. In respect of Reserved Lands in Kalrayan hills, the area has not been classified as forest land but it has been categorized as revenue forest. However, in accordance with the judgement of the Supreme Court, all encroachments in 2000 acres of Kalrayan hills under forest cover have been called 'AREA UNDER ENCROACHMENT' thereby pattas can not be given. **The Commission, therefore, recommends that the details of encroachments on 2000 acres of land in Kalrayan Hills should be sent to the Government of India for treating them as revenue lands and issuance of pattas. Tribals of Yelaguri hills in the Nilgiris have urged that their traditional rights of collection of minor forest produce (Kadukkai) enjoyed by them till 1989 may be restored. Kota tribals of Gudalur taluk, Todas of Ithalar village of Ooty taluk and tribals of Kalrayan hills have urged for the restoration of their patta lands from the control of Forest Department. The forest villages should be converted into revenue villages to enable them to get benefit under rural development programmes.**

5.2 In Sitheri hills having 81 tribal villages inside the reserved forests and on its fringes, the Forest Department of Dharmapuri district implemented "Tribal Life Support" programmes in their Sandal estate scheme, afforestation project, water shed development works and eco-development project. These activities included incentive to the tribals for tree growing in their farm lands, soil and moisture conservation works by construction of check dams / percolation ponds, construction of pipeline for carrying water, thrashing floor and community halls and distribution of fruit bearing plants free of cost. Training to tribals was provided in motor driving and arranging driving license and also in tailoring and basket making. Sewing machines were distributed to the tribals free of cost. Assistance was made available for purchasing coir making machine and running petty shops. Vermi compost units were set up in tribal villages. The Forest Department also distributed blankets to tribal households. An amount of Rs. 27.65 lakhs was utilized by the Forest Department during 1992-93 to 1996-97 under Sandal Estate Scheme in Harur Forest Division for tribals of Sitheri hills. Other welfare works were construction of kitchen shed, thrashing floor, sheep rearing, coir making, running of petty shops. Further activities proposed to be undertaken were following:

1. Construction of watersheds -15

2. Community hall cum training shed -2
3. Drinking water facilities in one village
4. Installation of flour mill at one village
5. Distribution of 10,000 fruit bearing plants
6. Distribution of 500 bee hive boxes and training to 60 tribals
7. Collection of MFP free of cost

5.3 In accordance with the guidelines for executing Integrated Afforestation and Eco-development Project under the Joint Forest Management concept, afforestation was carried out in 2500 hectares of reserved forests in Dharmapuri district benefiting 30 tribal villages. Women Self Help Groups numbering 30 were provided incentive money at Rs. 5,000 for each group. The Project benefited the tribals by (1) generating employment for 2 lakh mandays, (2) distribution of coconut plants to 1108 persons, (3) beekeeping for 150 persons, (4) solar power street lights in 2 villages and (5) vermi compost units in the fields of 130 households. In addition an area of 5 hectare was demarcated and fenced to raise varieties of medicinal plants in Sitheri reserved forest.

The Commission during their visit to Anakatty village were impressed by the manner in which Irula (PTG) tribals had succeeded in growing anthurium flowers with the support of Forest Department. Forty-six Irula families have been availing facilities of irrigation through diesel water pump, health care and school set up for their children upto IX classes. Electric fencing to protect the tribal families from wild animals has also been erected. These families were earlier living inside the forest. The forest department has built houses for them and also allotted land for cultivation. **The STs demanded that a check dam should be built over the stream so that they can get assured means of irrigation for cultivation.**

5.4 The State Forest Department vide their G.O. MS. NO. 79 dated 29.4.2003 permitted the tribal communities to collect non timber forest produce (NTFP) from forest areas free of cost and sell them in the open market for their day to day earnings. The Village Forest Committees have been associated in this activity. The Commission recommends that the traditional rights with regard to NTFP of tribals should be codified.

5.5 The Forest Department had forwarded through the State Adi Dravidar and Tribal Welfare Department a proposal costing Rs. 91.67 crores for the welfare of tribals but it was not concurred in by the Ministry of Tribal Affairs in the Government of India. The Commission has noticed that the forest department in the state has been associated in

undertaking developmental activities for STs since long and has come up with programmes to cater to their all round programmes. **The Commission, therefore, recommends that Ministry of Tribal Affairs should provide funds out of Article 275 (1) for development of infrastructure in villages / hamlets inhabited by tribals lying in the reserved / protected forests.**

## **6 Cooperation and Marketing**

**6.1** About 33,890 tribal families have been enrolled as members of 19 LAMPS functioning in Tamilnadu. These LAMPS were set up to rescue the tribals from the debt trap of unscrupulous money lenders. LAMP societies provide short term, medium term and consumption loans to tribals besides assuming responsibility for ensuring reasonable return for their produce. They also function as public distribution system centres for distribution of essential commodities at fair price. The LAMPS provide employment opportunities to tribal members by way of collection of minor forest produce (MFP) items, such as, gallnut, curry leaves, tamarind, tapioca and nellikai (aonla). Consumer articles handled by the societies are rice, wheat, sugar and kerosene oil and non-controlled items included grocery, toilet items and oil. In regard to meeting credit requirements, advances are made available to them without charging any interest. Details regarding organization, structure and business activities of LAMPS have been furnished at Appendix II.

**6.2** At the time of organizing a LAMP society, authorized share capital is Rs. 1 lakh. As on 31.12.2003, working capital of LAMPS was Rs. 21.82 crores. During 1998-99 to 2002-03, an amount of Rs. 414.64 lakhs was provided by the state government to LAMPS to carry on their activities. Business undertaken by the LAMPS during 2002-03 (upto 30.11.2002) was worth Rs. 18.07 lakhs in respect of MFP collection and Rs. 99.59 lakhs by selling agricultural inputs to tribal members. As regards recovery of loans, the position was reported to be unsatisfactory (31%). Overall status of LAMPS has been rated by the state government as that of "under loss". The tribals are not able to repay the loans because they don't get employment throughout the year. Other reasons for LAMPS working under net loss are non managerial assistance, inadequate and delayed interest subsidy by the state government, mounting interest dues to District Central Cooperative Banks and high establishment cost. On 18.2.2003, Secretary, Adi Dravidar and Tribal Welfare apprised the Commission of certain constraints in ensuring credit to the tribals



from the banks, as they insisted upon collateral security from the tribals, whereas the same was not insisted for implementation of schemes sponsored by the Rural Development Department. The recent circular issued by NABARD will overcome this difficulty to a large extent.

**6.3 Field visit** - The Commission paid a visit to a LAMP Society located at Sitheri, Pappireddipetty taluk of Dharmapuri district. Out of 4806 members, number of tribals was 4438 (92%). Important activities undertaken by the society and working results were as under:

	<b>2000-01</b>	<b>2001-02</b>
1. No. of tribals given loans	1163	340
2. Purchase of agricultural produce Beans, turmeric, mustard, chilly etc. (Rs. in lakhs)	1.28	2.88
3. Supply of agricultural inputs (Rs. in lakhs)	6.60	5.99
4. Purchase of minor forest produce - Gallnut, Tamarind etc. (Rs. in lakhs)	0.75	0.79
5. No. of tribal families served at 10 fair price shops (2697 out of 3269 families) as on 31.07.2003		
6. Supply of essential consumer articles during 2002-03 worth (Rs. in lakhs)		51.48
7. Coverage of card holders by Mobile van to far off tribal villages -		155
8. Supply of consumer articles to 5 residential schools during 2002-03 (Rs. in lakhs)		4.14
9. Members deposits as on 31.7.2003 -		Rs. 31.64 lakhs
10. Loan of District Central Cooperative Bank outstanding as on 31.3.2003 -		Rs. 87.06 lakhs
11. Loans outstanding as on 31.7.2003 -		Rs. 62.61 lakhs
12. Cumulative loss as on 31.7.2003 -		Rs. 64.39 lakhs

**6.4** The LAMP Society at Yercaud hills in Salem district visited by the Commission has a membership of 7845 tribals out of 8910 persons. As Rs. 31.06 lakhs are outstanding

as on 31.7.2003 against loan advanced, further borrowings from the Central Cooperative bank have been stopped. The society carried activities of public distribution through its 23 full time and 5 part time shops, benefiting 2430 cardholders. Owing to rising establishment cost, the society incurred loss of Rs. 20,000 every month. Primary Land Development Bank had advanced Rs. 20 lakhs some years back as loan to the PTGs for horticultural development in the Nilgiris district. Owing to persisting drought condition, the tribal could not repay outstanding loan amount plus interest accrued thereupon and the penal interest which worked out to Rs. 60 lakhs. Likewise, Irula (PTG) tribal farmers have not been able to repay loans to the Primary Land Development Bank, Kotagiri in the Nilgiris district borrowed for raising tea plantations and they were forced to work as bonded labourers to eke their livelihood.

The Commission considers that transformation of Irulas from forest based economy to horticulture and plantation was premature and for no fault of theirs they have been forced into debt-trap. **The Commission recommends that entire amount due on PTGs may be converted into grant and they may be saved from exploitation and harassment.**

**6.5 The Commission recommends that sources of regular income of tribals should be increased and habit of savings introduced among the STs and only their outstanding loans could be minimized. In order to make LAMPS viable separate regional and state level agencies of LAMPS may be formed, area of LAMPS reduced, managerial subsidy and administrative expenses met by the State Government. The LAMPS should be supported to have business relations with forest officials, land development banks, and other financial institutions. Tribal Cooperative and Marketing Federation (TRIFED) set up by the Ministry of Tribal Affairs should establish tie up arrangements with 19 LAMPS in the state and they should take one of LAMPS representatives in the TRIFED organizational structure. TRIFED should also set up an office or branch in Tamilnadu. The National S.T. Finance and Development Corporation should also establish close linkages with state level LAMPS, so that these could render better service to tribal societies. The Commission further recommends that the banks should not insist for collateral security while providing credit facilities and should adopt personal security while lending assistance to the tribals.**

## **7 Irrigation**

No major and medium irrigation projects are located in the tribal areas of the state. However, under minor irrigation, check dams and percolation ponds are constructed in TSP area to give assured supply of water for irrigating the lands, 50% of which are owned by the tribals. The cost of such schemes works out to Rs. 38,000 per acre. During VIII Five Year Plan, Rs 108.50 lakhs were utilized for irrigating 244 hectares belonging to the tribals and Rs. 47.31 lakhs during IX Plan to benefit 206 hectares. During X Five Year Plan 456.97 hectares are targeted to be covered at a cost of Rs. 430 lakhs. In regard to rehabilitation of those displaced, the State Government implements necessary programmes and funds are provided to a cell set up exclusively for the purpose. During their visit to Kanyakumari district, the Commission was informed that for the people of Kalapparai settlement a small check-dam was constructed by DRDA in 2002-03 to retain the water. **The Commission recommends that an evaluation of irrigation schemes should be carried out by the Tribal Research Centre to find out the benefits derived by the STs.**

## **8 Electrification**

State Government has taken a policy decision to provide streetlight to all the tribal inhabitations. Accordingly street lights were made available to 73 tribal habitations during 1997-98 to 2001-02 at a cost of Rs. 331.19 lakhs. In Salem district lights were provided to two tribal villages, namely Maramangalam and Vadakkunadu during 2001-02. In Kanyakumari district DRDA commissioned 3 Deenabandhu model bio gas plants. Each unit provided lighting to tribal houses and one community hall around Pechipparai. These biogas plants serve the dual purpose of eradicating environmental pollution and generating energy.

## **9 Roads**

State Government has drawn plans to provide facility of road connectivity to all the tribal villages with main villages. During IX Plan period link roads were formed in tribal areas of Coimbatore, Dharmapuri, Namakkal, Tiruvannamalai and Salem districts costing Rs. Six crores.

## **10 Rural Development**

**10.1** The Commission was apprised by panchayat members of Sitheri (Dharmapuri district) on 30.8.2003 that they have drawn full advantage of rural development schemes. A brief of the schemes implemented and works taken up by the Panchayat were as under:

- (1) Construction of retaining walls, multipurpose centres, culverts, drainage, causeways, roads, open wells worth Rs. 11.40 lakhs during 2002-03 under Sampoorna Gramin Rozgar Yojana.
- (2) Construction of 5 anganwadi toilets costing Rs. 50,000 under Total Sanitation Programme during 2002-03.
- (3) Deepening of 2 open wells out of MLA funds in 2003-04 for Rs. 33,000.
- (4) Improvement of Selur – Ammapalagam road for Rs. 18.30 lakhs under Prime Minister Gramin Sadak Yojana during 2001-02.
- (5) Improvement of Palakuttai – Selur road for Rs. 60,000 in 2001-02 out of ITDP budget.

**10.2** Progress of works undertaken in Salem district during the last two years was as under:

- |                               |  |
|-------------------------------|--|
| 1. Indira Awas Yojana         | - 30 houses each in 2001-02 and 2002-03.     |
| 2. Credit based rural housing | - 14 houses in 2000-01                       |
| 3. P.M. Gramin Sadak Yojana   | - employment to 300 families in 2001-02      |
| 4. Rozgar Yojana              | - employment to 246 beneficiaries in 2002-03 |

### **Self Help Groups**

**10.3** Commission visited Sitheri in Dharmapuri district and discussed with the panchayat members the formation of Self Help Groups by the tribals. It was informed that 40 SHGs have been formed and seven of them have been given financial assistance to have revolving fund. Two SHGs have started giving economic assistance to their members. The SHGs have taken up various activities such as collection of tamarind, and rearing sericulture, sheep units etc.

### **Public Distribution System**

**10.4** No distinction is made between families below poverty line and above poverty line in the distribution of rice, sugar and kerosene under PDS. The price of rice distributed through the PDS is Rs. 3.50 per kg. for the first 10 kg, and Rs. 6 for the

remaining entitlement. Sugar is supplied @ 13.50 per kg upto 2 kg per family per month. Kerosene oil is made available @ Rs. 8.90 per litre upto 5 litres per family per month. The rates for these commodities are common for tribals and non-tribals.

### **Developmental Needs Of Tribals**

**10.5** Pappireddypatti Panchayat Union of Dharamapuri district has submitted a proposal for all round development of tribals living in the hills at a height of 3200 feet in the Eastern Ghats. Projection of their priorities was (1) roads, culverts, bridges, (2) housing, (3) health care of human beings and cattle, (4) school buildings

**The Commission was informed that Sitheri Panchayat was considered as most inaccessible followed by Pothakkadu Panchayat. The Commission, therefore, recommends that Tribal Welfare Department should look into the requirements of tribals living in Sitheri hills in Dharamapuri district and provide focused attention for rapid socio-economic development of the area as well as the STs.**

## **11 Tamilnadu Adi Dravidar Housing and Development Corporation (TAHDCO)**

**11.1** Since the tribal population of Tamilnadu is very meagre, the TAHDCO takes care of the tribals interest. From the year 1997-98, the Government has been providing Rs. 150 lakhs per year for the Individual Entrepreneurial Schemes for the Tribals. The nomenclature of this scheme was changed in the year 2001-02 as Financial Assistance to Scheduled Tribes for Economic Development (FASTED) revising the norms of schemes according to the convenience of the tribals to avail the benefits of this scheme. There are other special schemes for women like organizing Self Help Groups, Micro-credit approach in the transport sector, distribution of mini van, jeep and lorry etc.

**11.2** In the year 2002-03, infrastructure programmes for tribals such as houses, drinking water, roads, street light etc and also financial assistance programmes for economic activities for tribals were taken up by TAHDCO for a total outlay of Rs. 390 lakhs covering 15,200 tribal beneficiaries in the 10 districts of, Salem, Tiruvannamalai, Villupuram, Vellore, Dharmapuri, Namakkal, Thiruvellore, Kancheepuram, Coimbatore and Nilgiris. At Salem, the Commission discussed the activities implemented by TAHDCO and they were informed that schemes costing Rs. 45.88 lakhs were executed

during 1997-98 to 2001-02 benefiting 109 tribal beneficiaries and in addition to this a school building was constructed at Kariyakoil Valavu in Peddanaicken panchayat. During 2002-03, 103 ST persons were assisted for implementing schemes, such as mini dairy, goat unit, tractor and traylor at a cost of Rs. 61.43 lakhs. Infrastructure facilities, such as, drainage, bore well, open mini-tank, pipeline, group housing etc were provided to 9 tribal villages. Besides, 35 ST candidates were given training in computers under self-employment training programme during 2002-03 by the Corporation.

**11.3 The Commission recommends that an exclusive Finance and Development Corporation for Scheduled Tribes may be set up in the state.**

## **12 Package of services to enable tribals to crossover poverty line**

In the year 2001-02 State Government provided assistance to 5136 ST families to enable them cross over the poverty line. During 2002-03 a package of services containing horticulture, animal husbandry and self-employment scheme was introduced to benefit 13,515 tribal families. Sector-wise details are given below:

<b>S.No.</b>	<b>Sector</b>	<b>No. of families / beneficiaries</b>
1.	Programme for development of primitive tribes and dispersed tribes.	4633
2.	Swarn Jayanthi Gram Swarozgar Yojana (Rural Development Department)	3000
3.	Horticulture	2220
4.	Animal Husbandry	1900
5.	Soil Conservation	800
6.	Housing Schemes under I.A.Y. & ITDP	518
7.	Minor Irrigation	224
8.	Social Welfare	120
9.	Sericulture	100
	<b>Total</b>	<b>13515</b>

**The Commission recommends that evaluation of impact of these programmes should be conducted to find out how many out of 13,515 beneficiaries have been able to cross poverty line.**

## 13 Social Development

### Education

13.1 Education holds the key for the development of any community. The Government of Tamilnadu has set up 272 tribal residential schools admitting 45,606 students, 26 hostels catering the needs of 1271 ST students. It distributed slates, textbooks, notebooks, and uniforms free of cost. Pre-matric and post matric scholarships are also given to ST students. From the year 2001, free bicycles to tribal girl students studying in XI and XII classes have been made available. In the year 2003, a new scheme – “Higher Education Special Scholarship Scheme’ was launched under which tribal students studying in post graduate and professional courses are paid Rs. 7000 per annum as grant. There are four vocational guidance centers and one I.T.I. for them. Students are also taken on excursion in all higher secondary schools and Rs. 1,000 per school per year are made available, other programmes executed by the State are special coaching for students in classes X & XII and those preparing for professional course entrance examination, library facilities in High/Higher Secondary Schools, training to teachers, computer education in schools, boarding grants to subsidized private hostels, book banks, special assistance to law graduates, compensation of tuition fee to universities, exemption from payment of admission fees and registration fees, oversees scholarships and awards and incentives for improving standard of education. Besides students, awards are also given to teachers for enrolling more number of girl students and to those who produce better results. A brief of execution of schemes in districts visited by the Commission is given in the succeeding paragraphs.

### 13.2 Madurai District

No. of educational institutions run by Tribal development department were :

Schools	No.	Students
P.S.	5	1107
M.S.	7	836
H.S.	1	257
H.S.S.	2	1679
Total	15	3879

### Hostels

No. 45	Boarders	3226
Govt. Building 28	Rental Building	17

**Rate of food charges per month:**

Post Matric – Rs. 400 per student

School level – Rs. 300 per student

ST Students were supplied textbooks, two sets of uniform in a year, and awarded scholarships at pre-matric and post matric levels of education. During 2002-03, 1290 ST girls studying in classes IX & XII were distributed bicycles.

**13.3 Salem District**

In Salem district, Tribal welfare department administered 47 Government tribal residential schools and three tribal hostels, benefiting 475 students. An expenditure of Rs. 2.90 lakhs was incurred every month by the district administration on these activities.

**13.4 Tiruchirapally District**

The Commission visited the Higher Secondary School, Sengotapatti on 20.2.2003. The number of students enrolled and present were as under:

<b>Class</b>	<b>Enrolled</b>	<b>Present</b>
VI	82	75
VII	84	75
VIII	66	61
IX	79	70
X	73	68
XI	35	35
XII	26	21
<b>Total</b>	<b>445</b>	<b>405</b>

**13.5 Kanyakumari District**

According to the 1991 census, the total population of Kanyakumari district was 16,01,292, of which 5223 were Scheduled Tribes (0.33%). Kanyakumari district has a high literacy rate in the State. The literacy rate of Scheduled Tribes was 54.81% in the district. For the development of education of Tribals, two Government tribal residential (GTR) higher secondary schools and one residential middle school have been functioning. The details of students strength in these schools are given below:



S.No.	Name of the School	ST
1.	GTR. HSS, Pechipparai	181
2.	GTR. HSS, Pathukani	169
3.	GTR, Middle School, Manalodai	94

The 12<sup>th</sup> standard 2001-02 annual examination result in Government tribal residential schools was as detailed below:

S.No.	Name of the School	12 <sup>th</sup> Standard		
		Appeared	Passed	Percentage
1.	Pechipparai	104	87	85.5%
2.	Pathukani	49	47	96%

Besides these GTR schools there are 17 hostels where 819 boarders have been admitted. Out of the 17 hostels two hostels have been functioning exclusively for tribal girls, one at Pechipparai and other at Pathukani having the total strength of 98 hostellers. The major tribal community of the district is Kanikars. There are 48 Kanikar settlements which are situated in the reserved forest area. One Tribal residential middle school at Manalodai has been functioning in the reserved forest area for very long. In the year 2001-02 solar powered lights were installed in the school by DRDA at a cost of Rs. 1,64,000.

## 14 Employment Opportunities

14.1 State Government has accorded priority in ensuring employment opportunities to educated tribal youth. Vocational guidance centers have been set up at Udagamandalam, Sankarapuram, Jawadhu Hills and Kolli Hills in tribal areas. A mini ITI at Sankarapuram in Villupuram district provided training to 80 ST boys per batch. Self Help Groups of tribal women are encouraged to take up projects upto Rs. 5 lakhs. They are also trained in basket making, tailoring and other vocations. For individual entrepreneurial schemes, assistance is provided to execute a project costing Rs. five lakhs with a component of subsidy upto Rs. 25,000, 20% of the cost is met through margin money and loan upto Rs. 3.50 lakhs is arranged through banks. Under the scheme of supply of mini transport vehicles, jeeps worth Rs. 175 lakhs, Mini vans worth Rs. 90 lakhs have already been supplied for operating these vehicles as tourist vehicles during 2002-03. Assistance worth

Rs. 47 lakhs was extended to tribals for setting up mini dairy, rearing sheep units and producing handicraft items. A new scheme providing financial assistance upto Rs. 7.50 lakhs as loan for doctors, engineers, contractors and other tradesmen was also introduced in the state for STs.

**14.2** Special vocational guidance centre for tribal population, Salem extended coaching facilities to 54 tribal students in 2000-01, 61 in 2001-02 and 52 in 2002-03 for entrance examinations to various professional courses. The centre also registered 368 tribals in 2002 for employment assistance and provided guidance to 656 STs in 2002. Monthly stipend of Rs. 400 was provided to 110 ST students during 2002 by the vocational centre for training in 6 vocations, such as, nursing, lab technician, x-ray operation, electrician, A.C. mechanic, motor mechanic and wiring. The Centre also motivated and guided 28 ST persons in securing loans from TAHDCO for various self-employment pursuits.

## **15 Health**

**15.1** To provide health facilities in tribal areas 14 Siddha dispensaries and one mobile medical unit in tribal areas has been set up. A project to provide health care services and development of capacity building of PTGs is being implemented in the districts of Tiruvallur, Kancheepuram and Nilgiris with the assistance of Indian Council of Medical Research. The mobile health team sanctioned in 2002-03 at a cost of Rs. 2.68 lakhs (for fuel and medicines) for the tribals of Yercaud hills in Salem district has been widely accepted in tribal area as it has served a large ST population of 37,648 persons during the opening year of the scheme itself. In Sitheri hill area of Dharmapuri district, there is one PHC and 4 Health Sub Centres, catering to about 8518 persons. It was informed that village health nurses posted at health sub-centres do not stay in the villages, as residential accommodation is not available for them. Common prevailing diseases are malnutrition, scabies, sexually transmitted disease and leprosy. In Anchetty hill area, one PHC and 14 sub – centres were functioning. Eight posts of village health nurses out of 14 were vacant. Mobile health facility was non-functional for want of budget for fuel at both the places. **The Commission recommends that number of Mobile Health Teams should be increased in tribal areas.**

## 16 Housing

16.1 According to 2001 census, out of 316,567 ST households, percentage of good, livable and dilapidated houses was 83%, 16% and 1% respectively. Thirty nine percent houses had their roofs made of grass, thatch, bamboo, wood and mud etc.

16.2 **Source of lighting** - Out of 3,16,567 ST households, one percent households do not have any lighting in their houses, however, 62% households used electricity, 35% Kerosene, 0.4% Solar energy and 1.6% other oil etc.

16.3 **Type of fuel used for cooking** - Nearly three fourth of ST households used firewood, crop residue, cowdung cake, coal etc for cooking. Those who used LPG and Kerosene were 13% and 12% respectively.

16.4 **House construction** - A special scheme of providing houses to STs is implemented by the Tribal Welfare Department under which a house costing Rs. 32,000 in plains and Rs. 34,000 in hilly areas is constructed. Achievements during IX plan period were 1717 houses and in 2002-03, the houses constructed were 118. The Commission was informed at Sitheri in Dharmapuri district on 30.8.2003 that the Panchayat members took keen interest in availing assistance towards construction of houses. So far 535 houses have been constructed in the Panchayat under various programmes of government including I.A.Y. and ITDP. In Madurai district, house sites are distributed to tribals for those having annual income upto the 24,000 in the range of 3 cents in rural area, 1 ½ cent in Municipal and 1 cent in Corporation area. In Kanyakumari district most of the tribals have huts made of cococut leaves. In the year 2001-02 IAY type houses were constructed for 47 tribals.

## 17 Drinking Water

17.1 According to 2001 census, details of type of the drinking water source and its location available for the STs in the state were as given below:

Water Source	No. of Households	Percentage
Tap	149643	47
Handpump	72082	23
Well	59460	19
Tank, Pond, Lake, River, Canal, Spring, etc.	21659	7
Tubewell	13723	4
<b>Total</b>	<b>316567</b>	<b>100%</b>

The above table indicates that tap water has been made accessible in tribal areas for nearly half of its households. However, it is also noted that only 18.5% households have water-source within their premises, 61% near the premises and 20.5% have to fetch drinking water from places located 'away' (more than 500 metres.)

**17.2** The State Government has informed that out of 1316 tribal habitations in the state, adequate water supply (40 litres per capita per day -Lpcd) has been provided for 918 habitations (70%) by arranging open wells with power pump and mini-power schemes as well as bore wells leaving a balance of 398 habitations. Problem villages (having service level of less than 10 Lpcd) are 102 in the 3 districts of Thiruvannamalai (76), Namakkal (11) and Salem (15). Non-problem villages (with service level from 10 to 39 Lpcd) are 296 in the districts of Vellore, Dharmapuri, Villupuram, Trichy, Namakkal and Salem.

**17.3** During 1997-98 to 2002-03, an expenditure of Rs. 230.22 lakhs was made out of an allocation of Rs. 278.53 lakhs for providing water supply to 79 habitations. State Government has proposed to ensure safe drinking water to cent percent habitations including 13 habitations of Namakkal district affected by iron ore content during tenth five year plan period. In Yercaud hills of Salem district, two tribal habitations were taken up for providing drinking water through power pump and hand pump schemes. Seventeen tribal habitations could not be provided with water supply due to non-availability of proper approach road and power supply. In such areas, open wells is the only alternative for the present. The Tribal Welfare Department also executed water supply works in tribal areas, in addition to the schemes implemented by Tamilnadu Water Board. During IX Plan period, 102 tribal habitations were covered at a cost of Rs. 271 lakhs and during 2002-03, 6 habitations were provided drinking water at a cost of Rs. 39 lakhs.

**17.4 The Commission recommends that tribal habitations of Namakkal, Thiruvannamalai and Salem districts should be ensured safe and adequate drinking water supply expeditiously.**

## **18 Monitoring And Evaluation**

**18.1** The schemes implemented under the TSP are monitored and evaluated at regular intervals by the project authorities on the basis of periodical reports sent by the concerned sectoral departments. At the State level, it is consolidated and analysed for review by the Secretary to Government, Adi Dravidar and Tribal Welfare Department and the Director

of Tribal Welfare. During the year 1998-99, the following evaluation reports were submitted by the Tribal Research Centre, situated at Ooty.

1. Evaluation of LAMP Society in Nilgiris District
2. Evaluation of Hill Area Development Programme Schemes for tribal development.
3. Formal education and use of dialects: a study among the Todas of Nilgiris.

The Tribal Research Centre has proposed to take up 7 more evaluation studies on tribal development schemes.

- (1) Ethnographic profile of STs
- (2) Socio Economic and Cultural Studies among P.T.G.'s
- (3) Evaluation of Tribal Groups at Jawadu Hills, Tiruvannamalai
- (4) Evaluation of G.T.R. Schools in Kolli Hills
- (5) Food and Malnutrition among Malayali tribe
- (6) A study of Kotas, Kattunayakans and Paniyas

**18.2 The Commission recommends that the TRC may be closely associated in the formulation of Tribal Sub-Plan.**

**Tribal Research Centre, Ooty**

**18.3** The Tribal Research Centre was set up on 2.10.1983 at Udagamandalam under the auspices of the Tamil University and later it was taken over by the Department of Adi Dravidar and Tribal Welfare on 13.9.1995. The main objectives of the TRC are : - (1) to conduct studies on STs, (2) to organize seminars / work shops on tribal subjects, (3) to impart training to those who are concerned with tribal development, (4) to conduct research on communities to be included in ST list and to find out the facts of false ST certificates, (5) to preserve tribal artifacts in Tribal museum and to prepare perspective plans for the uplift of the STs. The TRC has a tribal museum – indoor and open air, a library, a audio-video equipment, a herbal garden and also a demonstrative agriculture farm.

## **Nature of Programmes conducted by TRC:**

**18.4** Training programmes, orientation programmes, awareness programmes, seminars / workshops / get together and cultural activities related to tribal participants are organized.

## **On-going Projects**

**18.5** Studies on Marketing and collection of Minor Forest Produce (MFP) in Kalrayan hills of Villupuram district at Tamilnadu, Anthropological verification of certain communities in Tamilnadu for inclusion in the list of SC & STs and Mudugars of Tamilnadu: A tribe in search of development in Anthropological perspectives are underway. The construction of open air Tribal Museum in TRC campus (25 acres of land) is in progress. The TRC has completed a number of research studies like (1) Tribal habitats, (2) Sericulture, (3) Language use, (4) LAMP society, (5) Family welfare programmes, (6) Alienation of tribal lands, (7) Health care – Leprosy, (8) Tribal women and development, (9) Hill Area Development Programme (HAPP), (10) Govt. – Tribal residential schools and (11) Alcoholism among primitive tribes

**18.6** The Nilgiris Adivasi Welfare Association (NAWA) founded by Late Padmashri Dr. S. Narsimha in 1958 urged the Commission to persuade the State Govt. to permit the NAWA to make use of the vacant space in the building of the Tribal Research Centre at Ooty for organizing training programmes for tribals in vocational trades, teachers of residential schools and government employees and NGOs in tribal development. **The Commission recommends that the State Govt. may consider the request of NAWA to make use of the premises of TRC. Terms and conditions could be mutually settled as per rules.**

## **Hill Area Development Programme**

**19** An amount of Rs. 120.66 lakhs was utilized in the Nilgiris district on supply of colour TV sets to 60 ST habitations, streetlights, hutlights, documentation and preparation of tribal culture, health and legal awareness programme for tribal adolescent girls, construction of houses for tribals and holding seminars for drawing action plan on tribal development. New schemes adopted for the welfare of tribals during the Tenth Five Year Plan are training of tribals to work as teachers in tribal areas, formation of volunteers committees, acquisition of land for schools, computer education, promotion of

private management schools, private sector participation in hostel management and assistance to students staying in hostels run by private institutions. Economic development ventures include skill development, talent search training programme for job placement.

### **Services**

**20** Reservation in services for STs in the State is 1%. **Commission recommends that appointments made at district level should adopt the norm of proportion of ST population in the district to the total population in the district. The Nilgiris Adivasi Welfare Association has brought to the notice of the Commission the plight of two tribal women employees (PTG –Toda) whose services were terminated on 31-03-2003 without any showcause notice. The Commission recommends that appointment and termination of Ms Jayamissie (Post Graduate) and Ms Deepa (Graduate), Toda girls may be reviewed by the State Govt.**

### **Non-Official Agencies**

**21** At Anaikatti, Coimbatore, Commission visited Arsha Vidya Gurukulam, run by All India Movement for Seva (AIM for Seva) in which 120 tribal students from Classes III to X are provided schooling boarding and lodging. The tribal students admitted in the Gurukulam come from interior forest areas from about 20 hamlets. Co-curricular activities like sports, games during the evenings and regular medical check-ups are also done. Regular monthly parents-teachers meetings are held to make the parents aware of their children's improvement and given counseling for problems faced by them. AIM for Seva is running the school and hostel without any government aid. The good work of the organization is commendable which should be supported by the Central and State Governments. **The Commission recommends that the Ministry of Tribal Affairs should consider sanctioning grant –in-aid to AIM for Seva for running the residential school for tribals at Anaikatti in Coimbatore district.**

## **22 General Observations / Recommendations**

The Commission makes under-mentioned salient observations and recommendations:

- (1) At present the Forest department is implementing various developmental schemes for tribals in forest areas out of their budget allocations. State Government should also set apart some funds out of special Central Assistance and grant under Art. 275 (1) at the disposal of Forest department for development of tribals living in forest areas. Tribal Forest interface in the state is very cordial and they maintain symbiotic relationship in true spirit of the term. The Commission appreciates the gesture.
- (2) Kadar tribe may be considered for notification as Primitive Tribal Group in Tamilnadu, as it has been recognized as PTG in neighbouring Kerala State.
- (3) A strict vigil on issuance of tribal certificates is no doubt laudable but all the more it should not lead to harassment of genuine tribals in getting the Community Certificates on time.
- (4) One out of thirty nine Lok Sabha seats of the state may be reserved for Scheduled Tribes as their population was 6.5 lakhs in 2001 census.
- (5) Hill top tribal villages should receive focused attention for development of infrastructure and marketing of tribal produce.
- (6) The Commission has noticed from the data on the implementation of several developmental programmes that number of beneficiaries belonging to SC/ST/SC converts are clubbed together and ST beneficiaries are not tabulated separately, which should be done for all schemes.
- (7) A group of "Lambadi" community who are STs in Andhra Pradesh submitted a memorandum to the Commission requesting them to consider their demand for inclusion of Lambadis in the list of ST of Tamil Nadu. State Govt. may process the case taking the advice of Tribal Research Centre and forward their views to the Ministry of Tribal Affairs.
- (8) A development plan by a Committee of experts may be drawn to wean away the Toda tribe from pastoral way of life to some other vocations in a phased manner spread over a long span of time.



## NAMES OF THE SCHEDULED TRIBES IN TAMILNADU

S.No.	NAME OF THE SCHEDULED TRIBES
1.	ADIYAN
2.	ARANADAN
3.	ERAVALLAN
4.	IRULAR
5.	KADAR
6.	KAMMARA (excluding Kanyakumari district and Shenkottah taluk of Tirunelveli district)
7.	KANIKARAN, KANIKKAR (in Kanyakumari district and Shenkottah and Amba samudran taluks of Tirunelveli district)
8.	KANIYAN, KANYAN
9.	KATTUNAYAKAN
10.	KOCHU VELAN
11.	KONDA KAPUS
12.	KONONDAREDDIS
13.	KORAGA
14.	KOTA ( excluding Kanyakumari district and Shenkottah taluk of Tirunelveli district)
15.	KUDIYA, MELAKUDU
16.	KURICHCHAN
17.	KURMBAS (in the Nilgiris district)
18.	KURUMANS
19.	MAHAMALASAR
20.	MALAI ARAYAN
21.	MALAI PANDARAM
22.	MALAI VEDAN
23.	MALAKKURAVAN
24.	MALASAR
25.	MALAYALI ( in Dharmapuri, North Arcot, Pudukottai, Salem, South Arcot and Tiruchicapalli districts).
26.	MALAYEKANDI
27.	MANNAN
28.	MUDUGAR, MUDUVAN
29.	MUTHUVAN
30.	PALLEYAN
31.	PALLIYAN
32.	PALLIYAR
33.	PANIYAN
34.	SHOLAGA
35.	TODA ( excluding Kanyakumari district and Shenkottah taluk of Tirunelveli district)
36.	URALY

**Organisation, Structure and Business Activities of LAMPS**

1. No. Of LAMPS - 19
2. Area of activity - 9 Districts (Salem, Namakkal, Dharmapuri, Trichy, Vellore, Tiruvannamalai, Villupuram, Nilgiris and Erode.
3. Activities (1991-92 to 2002-03 – upto 31.12.2003) – (Rs. in crores)
  - (a) Loans issued - 69.37
  - (b) Purchase of agricultural produce - 11.27
  - (C) Collection / purchase of MFP - 8.86
  - (d) Supply of agricultural produce - 13.16
  - (e) Distribution of consumer commodities - 62.67

# REPORT ON TRIPURA STATE

## 1. Introduction

Tripura is termed as a laboratory of exotic cultural synthesis. It represents a composite culture with several ethnic groups and is known for pollution free eco-friendly environment and pleasant weather. A matchless combination of age-old culture and tradition is reflected in the beautiful handloom and handicraft products of the State, which are known for their classic quality bright and attractive colours, excellent design and craftsmanship.

### 1.2. Profile of the State

1.	Area	-	10,491.69 Sq. Km.		
	Scheduled Area	-	Nil		
	Tribal Area	-	7,132.56 Sq. Km.		
2.	Demography				
			(in lakhs)		
			1981	1991	2001
	(i) Total population		20.53	27.57	31.93
	(ii) ST population		5.84	8.53	9.93
	(iii) Percentage		28.45	30.95	30.45
3.	Sex Ratio	Total	945		
	(2001)	ST	965		
4.	Literacy Rate	Total	60.4	Males 70.58	Females 49.65
	(1991)	S.T.	40.4	Males 52.88	Females 27.34
5.	Gross Enrolment Ratio				
	(1997-98)				
	Classes I to V	Total	88.3,	ST 90.0	
	Classes VI to VIII.	Total	54.7	ST 41.7	
6.	Dropout Rates				
	Classes I to X (2000-2001)				
	Total		76.95		
	S.T.		86.72		
7.	Work participation Rate	Total	31.1		
	(1991)	S.T.	35.8		

8.	Occupational Status (1991)		
		Total	ST
	Cultivators	38.1	57.3
	Agricultural Labourers	23.4	29.9
9.	Political Representation		<b>Total</b> <b>ST</b>
		Lok Sabha	2    1
		Legislative Assembly	60    20
10.	Panchayati Raj Institutions	Total	ST
		5687	448

11. Nineteen tribes have been notified as Scheduled Tribes for Tripura State vide the Constitution (Scheduled Tribes) order, 1950. Synonyms were added in respect of two tribes, namely, Halam and Noatia vide the Scheduled Castes and Scheduled Tribes orders (Amendment) Act, 2002.

1.	Bhil	(ix)	Kuntei
2.	Bhutia	(x)	Laifang
3.	Chaimal	(xi)	Lentei
4.	Chakma	(xii)	Mizel
5.	Garoo	(xiii)	Namte
6.	<b>Halam, Bengshel, Dub, Kaipeng, Kalai, Karbong, Lengui, Mussum, Rupini, Sukuchep, Thangchep.</b>	(xiv)	Paitu, Paite
		(xv)	Rangchan
		(xvi)	Rangkhole
7.	Jamatia	(xvii)	Thangluya
8.	Khasia	10.	Lepcha
9.	Kuki, including the following sub-tribes:	11.	Lushai
	(i) Balte	12.	Mag
	(ii) Belahut	13.	Munda, Kaur
	(iii) Chhalya	14.	Noatia, <b>Murashing</b>
	(iv) Fun	15.	Orang
	(v) Hajango	16.	Riang
	(vi) Jangtei	17.	Santal
	(vii) Khareng	18.	Tripura, Tripuri, Tippera
	(viii) Khephong	19.	Uchai

Riang Tribe (S.N. 16 above) has been recognized as Primitive Tribal Group in the State.

### Decline in ST population

1.3 During 1901, percentage of tribal population to total state population was 53.39% and in 2001 it has come down to 30.45%. The tribals in Tripura who once upon a time were in majority have now declined to less than one third in proportion. This has led to demographic crises adversely affecting power equations of tribals in the State. The growth of tribal population during this period was only about 11 times but it was 27 times in respect of non-tribals. This increase over a period of 100 years is obviously due to influx of people from Bangladesh. A table showing census wise population is given at Appendix - I

## **Tribal Advisory Committee**

**1.4** Tribal Advisory Committee (TAC) was last constituted by a notification No. 5587-618/F 4-3/Vol. IX / TW / 98 dated 23<sup>rd</sup> July, 2003. It comprises 27 members with Chief Minister as the Chairman, besides it has a Sub-Committee consisting of 11 members headed by Minister for Tribal Welfare. The objective of TAC is to discuss measures for the welfare of the STs and give recommendations for consideration of the Government.

## **Administrative set-up**

**1.5** At the State level, Tribal Welfare Department is looked after by two Ministers, one for Scheduled Tribes Welfare and the other for Primitive Tribal Group and plantations. Besides Secretary to the Government, there are three Directorates, one each for Tribal Welfare, Primitive Tribal Group and plantation and Tribal Research Institute. In addition to this there are two Corporations, one for Rubber plantation and the other for providing financial support to tribals known as Tripura ST Cooperative Development Corporation. Tribal Welfare Department has also been entrusted with the responsibility of working as nodal department for various sectoral departments to carry out the activities of the Tribal sub-Plan. Other functionaries at lower levels are District Collectors, Sub Divisional Magistrates and Block Development Officers. The Directorate of Tribal Research was established in 1970 and since then the Organisation has taken up research projects related to many tribal issues. It has been renamed as Tribal Research Institute in 1993. Publication of monographs, booklets, documenting tribal culture and art, organisation of training, collection of tribal artifacts, developing data base related to tribal development have been some of the major activities of TRI. So far 88 number of books dealing with life and culture of the tribes of Tripura including anthropological and ethnological research projects have been published by the Tribal Research Institute. A quarterly research journal titled "TUI" on tribal life and culture is also being published by the TRI. The construction of the Tribal Museum is under progress. Cultural festival and youth festivals are organized regularly. State Government has approved the change of names of 95 tribal villages, rivers etc. renaming them after the original tribal names. Kokborak (tribal dialect) coaching classes have been conducted for Ministers and high Government Officials. 12 Kokborak Coaching Centres are opened across the State. Six Non-Governmental organisations are also running Kokborak coaching classes.

**1.6** Under the provisions of Sixth Schedule, Tripura Tribal Areas Autonomous District Council has also been functioning in the State.

## **2. Protective Measures**

### **2.1 Land alienation**

The Commission was informed that mass alienation of tribal land into the hands of non-tribals took place during 1949 to 1974. Although the Tripura Land Revenue and Land Reforms Act, imposing restrictions on transfer of land from tribals

to non-tribals was enacted in 1960, but its Section 18 (3) spelt out 1.1.1969 and thereafter as the date for effective control. This means that the transfer of land prior to 1.1.1969 did not come under the purview of the legislation. In other words, restoration of land could not be made to the tribals for their lands which were transferred to non-tribals during 1949 to 1.1.1969 (a period of 20 years). The Tripura Land Revenue and Land Reforms Act amended in 1974 also did not make any changes with regard to the date 1.1.1969 (mentioned above). The Commission was informed that number of cases registered under the Act were about 27,000 but the administration took into consideration only 8857 cases (33%) considering them as "valid cases" involving 6941.71 acres of land, out of which in 8656 valid cases, 6757.03 acres of land could be physically restored. Thus, a large number of cases of land alienation were left unattended due to malafide intentions, the Commission was informed. **The Commission therefore recommends that the Tripura Land Revenue and Land Reforms Act 1960 (amended in 1974) should be further modified and date of restoration of land from tribal to non-tribal made effective retrospectively from 26.1.1950, the date on which Constitution of India was adopted. Govt. of India should set up a Special Tribunal for this purpose borrowing Magistrates from States other than Tripura and West Bengal (i. e. non-Bengali speaking States).**

## **2.2 Excise policy**

Commercial vending of liquor is prohibited in tribal area though tribals are allowed to brew liquor upto 10 litres for their own consumption. The liquor shops in tribal area have been closed down.

## **2.3 Bonded Labour and Indebtedness**

The minimum wages are ensured @ Rs. 45 per day. There is no bonded labour in the State as per information furnished by the State Government in their Tenth Five Year Tribal Sub-Plan document (P14). The Bombay Money Lending Act 1979 has been extended to Tripura to check unlicensed money lending. As per the Tripura Agriculture Indebtedness Relief Act, 1997, the debts advanced before 31.03.1997 to Jhumia tribals, landless labourers and marginal farmers have been discharged.

## **2.4 Panchayat system**

The three-tier Panchayatiraj set-up came into existence in 1994 in the area outside the District Council. The Panchayats Extension to Scheduled Areas Act 1996 has not been enforced in the State as none of the area has been specified under the Fifth Schedule of the Constitution. **However, the State Govt. may consider extending the PESA Act to tribal areas not covered under the Sixth Schedule.**

### **3. Tribal Unrest**

**3.1** The roots of tribal unrest in Tripura could be traced from the later half of 19<sup>th</sup> century when the tribals had expressed their anger against the rulers over cruel ways of collection of house tax, slavery, subjugation and oppression, charging of very high rate of interest by money lenders despite failure of crops, coolie labour, additional tax for bamboo and cane. Subsequently, the rulers of Tripura allowed the Bengalis to settle in Tripura, leading to disturbance in the tribal way of life and their subsistence economy. With the heavy influx of settlers from across the border, grasslands of tribals were made available to refugees and jute producing lands were forcefully occupied by the non-tribal moneylenders. Some other causes of unrest were -

- (a) decline in the proportion of tribal population from 56% in 1921 to 31% in 1991
- (b) there has been rise of agricultural labourers among tribals from four percent in 1961 to about 42% in 1991.
- (c) there was visible switchover from tribal communal mode of agricultural production, particularly in shifting cultivation areas, to private and individual mode.
- (d) divide in bureaucratic control over State administration and the Tripura Tribal Area Autonomous District Council.
- (e) lack of sympathy towards tribals in social structure of Tripura by the society at large.

**3.2** In view of the aforesaid the Commission recommends that (a) tribals interests in land and forest should be duly protected, (b) vocational skills may be developed (c) self-employment opportunities may be augmented with adequate marketing cover (d) public distribution system should be improved and (e) banking system may be taken to tribal villages and (f) local tribal youth should be appointed as volunteers/facilitators for each tribal village and paid monthly honorarium to work as close link and guide between a tribal family and the government department/bank/financial institution.

### **4. Implementation of Tribal Sub-Plan (TSP)**

**4.1** The total geographical area of the state is 10,491.85 Sq. Km. of which 69% is under TSP. Four hundred and sixty two (462) revenue villages out of 864 villages fall within the TSP area. The area is covered by various categories of forests and dotted with hill ranges. Major rivers of the State originate from these hill ranges. The communication network is poor making many of the inhabitations inaccessible. The physical and social characteristics of the area contribute significantly to persistent poverty and economic backwardness of the tribals. The benchmark survey conducted in 1987 revealed that the tribal Jhumia families account for approximately 40% of total tribal families in the State. Apart from practice of shifting cultivation, the main problem related to lack of cultivable land and poor irrigation facilities. As a result, the agricultural productivity in tribal area is much less than the State average productivity. The working force distribution shows that the agricultural laboruers and small and marginal farmers account for majority of the work force (89%). In view of the economic backwardness of the area, dependence on the governmental intervention for employment generation programme is high in TSP area. Declining

percentage of ST cultivators during 1971-1991 period.(from 75.37% to 58.27% and increasing proportion in other category of occupations (from 4.49% to 11.41%) bears testimony for this (Appendix II). A special strategy known as Tribal sub-Plan (TSP) was adopted during the Fifth Five Year Plan for accelerated development of the Scheduled Tribes. It is a mechanism under which each development department of the State Government is required to quantify and set apart an amount of their plan budget provision for implementation of schemes exclusively for the welfare of STs. The fund so quantified should not be less than the percentage of S.T. population in the State. In Tripura, each development department is required to quantify at least 31% of its plan fund towards Tribal sub-Plan [Appendix III]. The TSP includes schemes for providing common benefit to the community as well as individual benefit to ST families for the purpose of up-grading the quality of life. Construction of roads, market-sheds, extension of electric line, sinking of tube well, establishment of school/community hall, minor irrigation schemes etc. are examples of schemes for common benefit while settlement of Jhumia, through horticulture and agriculture base, rubber, tea and coffee plantation, assistance for purchase of land, assistance for income-generating family-oriented schemes, distribution of power tillers, auto-rikshaws, poultry, SGSY etc. are examples of family- oriented schemes. The main role of the Tribal Welfare Department is to formulate, coordinate, monitor and supervise the schemes implemented by the various developments departments of the State in the Tribal sub-Plan area. It acts as a Nodal department for all tribal development activities. Initially, three ITDPs were constituted in Tripura but with the formation of Tripura Tribal Areas Autonomous Council in 1982, ITDPs have ceased to function. [Ref: Fourth report of the National Commission for SC & ST, Vol. II] Now the Tribal Welfare Department also looks after the Primitive Tribal Group (Riang) who form 14.38% of the tribal population and the dispersed tribals who account for 8.05% of the tribal population in the State.

### **Flow of funds for TSP**

**4.2** Flow of funds for TSP since the Seventh Plan has been furnished at Appendix -III. It is noted from the flow of funds to TSP during 2002-03 and 2003-04 that

- (i) TSP component of the State Plan during 2002-03 was 28% and of the divisible component it was 48%. [Appendix III (a)]
- (ii) TSP component of the State Plan during 2003-04 worked out to 21.23% and of the divisible component it was 48.5%. [Appendix III (b)]

A Special Central Assistance of Rs.1041.03 lakhs was provided by the G.O.I. to the State Govt. as an additive to Tribal sub-Plan during 2003-04. The grant under Art. 275 (1) was Rs.665.50 lakhs.

**4.3** The Commission recommends that flow of funds from State Plan to TSP should be one third plus of the State Plan outlay taking into consideration vast geographical area under the TSP and relative backwardness of the tribals.



### **Special package for tribal development .**

**4.4** State Govt. has brought out a special package during 2003-04 for tribal development throughout the State to be implemented till 2006-07 for different sectors, such as the following:

<b>S. No.</b>	<b>Particulars</b>	<b>Salient features</b>
1.	Education	Pucca school buildings, furniture, science courses, checking of dropouts, safe drinking water, residential schools, ITI coaching, posting of staff, literacy campaign.
2.	Health	Construction of buildings, Dai training immunization of 100% children.
3.	Infrastructure	Supply of drinking water, minor irrigation, electric supply, cattle care, handloom, road connectivity, market stalls, cold storage.
4.	Economic upliftment	Houses, re-grouping of villages, plantations of rubber, tea and coffee, training to jhumias, horticulture, kisan credit cards, cane and bamboo cultivation, self help group, pisciculture, piggery and goatery, skill development, coaching for pre-recruitment in services.
5	Art and culture	Decoration of tribal art forms and setting up of Directorate of tribal languages.

**4.5** The Commission has observed that problems relating to land alienation, filling up of backlog vacancies in services, strengthening of TTAADC and participation of NGOs have not been accorded due place in the special package for tribal development.

### **Implementation of Point 11-B of Twenty Point Programme – Justice to Scheduled Tribes**

**4.6** The Twenty Point Programme is the cutting edge of the plan for the poor. The programme aims at eradicating poverty, raising productivity, reducing income inequalities and removing social and economic disparities and improving the quality of life. Point 11 B, in particular, pertains to provide justice to Scheduled Tribes. The strategy to achieve the overall objective comprises effective enforcement of constitutional and legal provisions for the protection and advancement of tribals, raise their levels of income and standards of living, provide Special Central Assistance for family-oriented income generating programmes and achieve socio-economic progress through implementation of Tribal-sub-Plan and other centrally-assisted programme. Number of ST beneficiaries under anti-poverty programmes by various departments in the State was 11,974, 13,905 and 10,616 in 2000-01, 2001-02 and 2002-03 respectively. The target for 2003-04 was 12,200 tribal families.

**4.7** The Commission expresses their anxiety over poor coverage of ST beneficiaries in 2002-03 as compared to earlier two years. The State Government should therefore, effectively implement the Tribal-sub-Plan in close co-ordination with other line departments.

## **5. Jhumia Settlement - Foodgathering to Rubber plantation**

**5.1** The tribal economy in the State revolves around rain-fed Jhum cultivation. The productivity of land and production of all crops raised by the tribal farmers are much below the levels attained by the non-tribal farmers. Tripura's infrastructural index is the lowest in the N.E. region barring Arunachal Pradesh. Tripura was among the six poorest states of India in 1991.

[Ref: National Commission for SC & ST – Fourth report- 1996-97 & 1997-98- Vol. II 23 Tripura Page 2]

**5.2** Jhum cultivation is regarded as the transition from food gathering to food production. The system was alright when there was low population. In the olden days there was least disturbance to soil and mixed cropping added potassium to the soil. But today it has resulted in degradation of natural forest resources, leading to many ills, such as, soil erosion and loss of moisture in the soil and depletion of green coverage of fragile hill areas. There have been a drop in rainfall at an alarming rate over the years. It has also caused loss of valuable wild life, loss of grasses and edible vegetation useful for animal nutrition. The Integrated Jhumia Development Programme, Mini Jhum Control Project, Wasteland development schemes and watershed development projects were launched in the country to wean away the families from shifting cultivation and settle them with land based sustainable occupation. Various schemes taken up for the settlements of Jhumias were soil conservation and land development, water harvesting, animal husbandry, cottage industry and handloom, tailoring, carpentry and extension services in agriculture sector.

**5.3** The tribals of Tripura are by tradition shifting cultivators. They have been surviving in a subsistence economy, cultivating food items just enough for their hand to mouth existence. Shifting cultivation involves barest of implements and crops are grown together. Over the years, many households have switched over to settled cultivation on the plain lands between two hillocks, known as 'Lunga'. In the plain cultivation a single variety of crop is cultivated on a particular plot of land and the production is higher than that of Jhum cultivation. The farmers get both, crops for consumption as well as cash crops. Earlier, the tribals did not know the utility of animals in the field of agriculture but with settled cultivation, cattle have been put to ploughing. Alongwith agriculture, the tribals have now adopted horticulture on hill slopes near their settlements. Domestication of cattle, goat, duck has also commenced. In the past, a Jhum family could hardly manage sustenance for three to four months a year and the remaining period of the year had to be spent in great uncertainty. They had to live on wild roots, leaves and bamboo shoots collected from forests. In order to wean them from Jhuming to settled cultivation a number of measures were taken, but with a few exceptions most of these attempts have proved futile. These measures included (a) creation of tribal reserve area in Khowai for settled cultivation in 1931-32 (b) adoption of settled cultivation on 'Lunga' lands (between two hillocks) near their settlements (c) imitation of methods and implements used by non-tribals for cultivation (d) horticultural products sometimes led to distress sale for want of skill and investment.

**5.4** A number of government supported programmes were taken up for the rehabilitation of the Jhumias into other vocations, most of which have had only mixed results. Sometimes either the activity did not find acceptance with the tribal way of life or did not result in a reasonable and regular income. However, rehabilitation through rubber plantation has shown a great degree of promise for the economic development of tribals. In Tripura, rubber was introduced by the Forest department in 1963 followed by setting up a Forest Development and Plantation Corporation. Realizing the potential of rubber for developing tribal economy, the State Govt. set up Tripura Rehabilitation Plantation Corporation in 1983 with its primary mandate for social and economic rehabilitation of tribal Jhumias. The Corporation had helped 3200 families upto 2001-02.

**5.5** Rubber plantation has so far been raised in about 30,000 hectares and the State has potential to go upto one lakh hectares. It is expected that in the years to come rubber would play an even greater role in the economic prosperity of the tribals of Tripura.

**5.6** Even after rubber production ends, the trees have a considerable value for their timber and source of nectar for bee-keeping and producing honey. Rubber seeds are good source of oil. It has good scope for a variety of rubber-based industries. It is estimated that a grower can fetch about Rs. 36,000 per annum out of one hect. of rubber plantation.

#### **Tripura Rehabilitation Plantation Corporation Limited (TRPC)**

**5.7** With a view to helping 3900 Jhumia families, the TRPC has raised rubber plantation in 4200 hec. during 1983-2003, with the assistance of World Bank on land not fit for agricultural crop, including degraded forests. It is estimated that 1200 families would earn an income of Rs.2.50 crores (per family Rs.20,000 approximately) during 2003-04. In addition, 200 families have been given assistance for bee keeping and 800 families trained in bamboo mat making.

**5.8** The Commission visited TRPC at Herma where 74 STs have been assisted by the TRPC to raise rubber plantation in 121.71 hact. TRPC had obtained a loan of Rs.1.73 crore on behalf of 720 growers and the total repayment would be Rs.3.96 crore upto 2012, i.e. Rs.55,000 per grower per year. TRPC has been recovering Rs.40,000 per grower per year. This amount is deducted at the rate of 25 per cent from the cost of latex payable to the grower, and would be brought down to 15 per cent from 2004-05 due to better yield and price. One sample case of economic return is illustrated as under:

Name of beneficiary – Shri Tomas Marak, Lambabil Mainama Centre

(In Rs.)

Year of Recovery	Income	Bank loan recovered	Loan amount	Balance
1996-97	16248	4062	40,000	35,938
1997-98	33600	8400	35,938	27538
1998-99	46008	11,502	27,538	16,036
1999-2000	43044	10,761	16,036	5275
2000-2001	42061	5275	5275	Nil

**Visit to Rubber Plantation at Rangmala Village in Bishalgarh Block of West Tripura district.**

5.9 Rubber based rehabilitation project for ST Jhumias was started by the State Govt. in collaboration with Rubber Board of Govt. of India. A compact land (block) is identified where the tribals have tilla/ownership and plantation is taken up by engaging them as wage earners. On attaining tapability the beneficiaries were imparted training in processing and marketing by the Rubber Producers Society. The project was started in 1992-93 to raise rubber plantation in 1500 hec. in a span of five years with a financial outlay of Rs. 8.59 crores for the settlement of 1500 ST families. On hec. of rubber plantation during the gestation of period of 7 years has been estimated to cost Rs.57,223 (Rs.32,223 to be shared by Rubber Board and Rs.25,000 by the Govt. of Tripura). During 1992-1995, 143 hec were brought under plantation by 72 ST families, of which 52.80 hec were damaged due to fire and cattle grazing. However, restocking was done in 2000-01. Details of rubber production are as under.

Year	Average income per beneficiary (in Rs.)
1992-93	11,583
1993-94	21,511
1995-96 (upto Dec., 2003)	35,763

5.10 The Commission was informed that Rs.49.58 lakhs have been earned by the STs so far and they have made use of this amount on the following.

	(Rs. In lakhs)
(A) Family Expenditure	22
(B) Reconstruction/renovation of houses	5
(C) Purchase of land/Mortgaged land recovered	2.75
(D) Purchase of T.V. set	1
(E) Purchase of cattle	1.25
(F) Purchase of bicycles	1
(G) Savings	1
<b>Sub- total</b>	<b>34.00</b>
<b>Other expenditure</b>	<b>15.58</b>
<b>Total</b>	<b>49.58</b>

5.11 The Commission was informed by the ST planters that they got Rs.45 per day as wage and they were well looked after. Now one boy attends class XI in nearby school and a girl class IX. All the young children go to the Anganbadi. The village has a school upto middle level and a P.H.C. at a distance of 5 km at Bishalgarh. The village is electrified but 7 out of 72 families do not have connection. All men of the unit have become literate. Some of them have learnt the skills of trade in purchase and sale of cattle in the market. S/Shri Padul Deb Barma and Hari Kant Dev Barma desired that drinking water has iron content which is not safe and this may be purified.

## **Tripura Forest Development Plantation Corporation (TFDPC)**

**5.12** In pursuit of development of tribals, the TFDPC has created 1552 hec. of rubber plantation for 851 ST families which will be handed over to beneficiaries on attaining seven years. It is targeted that 100 hec. plantation will be passed on for tribal development by 2004-05. A tribal family is likely to earn Rs.20,000 annually out of latex produced in re-settlement centres.

### **Regrouping of Tribals living in the forest areas**

**5.13** Despite development programmes and efforts over the years substantial change in the overall position of Jhumia families could not be achieved. One of the major factors responsible is the remoteness and inaccessibility of the Jhumia habitats. Development strategies therefore were changed by the state Govt. to ensure access to the development inputs. Jhumia families are thus prepared to be relocated and regrouped near security camps. For sustenance of the families, the following development activities are proposed to be taken up amongst others:

- Rubber plantation on degraded Forest Land
- Bamboo plantation through Joint Forest Management
- Industries for value addition of rubber and bamboo products
- Development of basic minimum educational infrastructure & services.
- Development of all weather roads and communication facilities
- Extension of health related infrastructure
- Development of rural electrification
- Extension of public distribution system
- Development of animal resources
- Extension of market facilities.

Forest Department shall be the Nodal Deptt. in regard to the regrouping of tribal villages. The economic and rehabilitation activities shall be taken up by the concerned line departments of the State Govt. Prior approval of G.O.I. under Section 2 of Forest (Conservation) Act, 1980 shall be obtained wherever Forest land is needed for the purpose. State level Coordination and Monitoring Committee with Chief Secretary as Chairman for periodical review of the progress of regrouping and District level Committee with DM & Collector as Chairman for identification of location for establishment of cluster villages and periodical review, have been constituted. Proposals in respect of 99 sites for relocation of 27,398 families have been sent to the Govt. of India. **The Commission recommends that regrouping of tribals in the roadside villages may be done with great care and caution and their rights on homestead and agricultural land may be duly recorded in writing and documents handed over to the bonafide ST families.**

## **6 Primitive Tribal Group-The Riangs**

**6.1** Riang is the only tribe in Tripura which has been recognized as primitive tribal group. Their population is about 1.12 lakhs according to 1991 census forming one-fifth of total tribal population of State. They speak 'Kau Barau' dialect later spelt as 'Kokborak'. In their economic life, they are the dwellers of forest depending upon Jhum cultivation, collection of forest produce besides catching of fish and hunting pig, bear, mouse, deer and birds like dove, parrot and wild cock. The food that they take is constantly supplemented by the green leaves and vegetables grown in forest. They sell forest products to meet the family expenditure. According to a survey

report of State Tribal Research Institute brought out in 1999, an average family's total annual income was reported as Rs. 10,272, and debt as Rs. 1648 per family per year. The Riangs treat the moneylenders as their godfathers.

**6.2** The lifestyle of the Riangs is guided by the super-natural powers. Magic and witchcraft superstition and taboos, dreams and divinations play important roles in their society. They believe that Sun and the Moon are husband and wife while Stars are their Children. As hunting and fishing is taboo for women, so is weaving for Riang men. They believe that the mother earth and ocean are jointly known as 'Lampra' or 'Khmabohi', hence it is unthinkable for them that the land could be – property of any individual. Junction of two roads or a path is treated most suitable place for worshipping the deities. They believe that the forests, the rivers, the trees, the ocean, the stones and even the corner of the house are the abode of spirits but not the horticultural gardens. The Riangs have their own form of internal government based on three-tier organization at the village, clan and community level. Their titles are Rai, Chapiakhan, Chapia and Darkalim. They also have other functionaries, namely, store keeper, attendants, drummers, player of local musical instruments, umbrella bearer and others. Among Riangs, they have a Member of Parliament from Tripura as their leader to represent their interests.

**6.3** Various developmental programmes implemented for the Riangs over the years were rehabilitation through plantation and other land based activities, development of infrastructure like construction of community halls, approach roads, water harvesting structures, tubewells and health care facilities. During the Tenth five year Plan, State Govt. has proposed to popularize teak nurseries and plantation of teak, bamboo, cashew, papaya and areca nut. Construction of link roads, earthen bund water tank, meeting halls, and rainwater harvesting structures would be given impetus. Assistance for treatment of patients has been continuing. Since 2001-02, distribution of school dresses has been taken up. Creation of medicinal plantation, domestic electric connection, animal husbandry inputs, assistance for housing, self-employment have been accorded importance. During 1998-99 to 2001-02 Rs. 673.67 lakhs were utilized on the development of Riangs. Ministry of Tribal Affairs had provided Rs. 26.40 lakhs in 2000-01 and Rs. 86.31 lakhs in 2001-02 for the development of the Riangs.

## **Sectoral Programmes**

### **7. Agriculture and allied**

**7.1** Paddy is the main crop grown in Tribal-sub-Plan areas. Against the target of 242.45 lakh MT of paddy, achievements exceeded by 1.06 lakh MT, [i. e. 243.51 lakh MT). Target fixed for wheat, pulses and maize could not be achieved. In regard to production of commercial crops, except for cotton, targets could not be achieved for oilseeds, sugarcane and jute. Use of fertilizer was only 5.42 lakh MT against the target of 8.50 lakh MT.

## 7.2 Horticulture

Potato, orange, red oil palm, pineapple, cashew, mushroom, coconut and vegetables are raised by the tribals. In a research paper on Economic Potentialities of Tribal Vegetable vendors at different markets in Agartala, it was pointed out that non-tribals have great liking for vegetables grown by the tribals in their Jhum fields. As tribal vendors don't have any allotted place in the market at Agartala, they occupy roadside spots and thus they are not in a position to store the vegetables for more than 2-3 days.

- (a) A market shed and cold storage may be set apart for tribals.
- (b) Market Committees should have representatives of STs and exempt them from paying any rent/tax.
- (c) Bicycle and other small means of carrier transport may be made available to them on loan/grant.

## 7.3 Animal Resources

Although only 9.47 lakh cattle could be covered under animal health care out of target of 15 lakh cattle during IX Plan, target for X Plan has been raised to 30 lakhs cattle. State Govt. has proposed to give priority to developing animal resource as may be seen from the table below:

S. No.	Production	Unit	in	IX Plan Achievement	X Plan Target
1.	Production of egg	"		10.18	116.53
2.	Production of ducklings	"		0.88	12.70
3.	Production of Piglets	No		5,300	30,000
4.	Production of Rabbitkids	No		828	60,000

## 7.4 Fisheries

Besides promoting production of fish, schemes have been drawn for production of prawn seed in tanks, and construction of five markets and three laboratories/research units during 2002-07. Pisciculture with duck/pig in integrated manner are proposed to be introduced under Boarder Area development programme.

## 7.5 Cooperation

On going programmes of providing share capital, subsidy and grants were proposed to be continued for primary cooperative societies, LAMPS, FSS, PACS and Apex bank. The Commission has observed that performance of State Govt. in cooperation sector has been tardy and targets for X Plan have been kept at the level of IX Plan. Moreover, subsidy to power tillers has been discontinued in the X Plan. State Govt. should strengthen cooperative societies in tribal areas.

## 8 Forest

8.1 The forests in Tripura are mainly tropical evergreen, semi evergreen and moist deciduous. Sizeable area is covered with bamboos. The details of forest resources are given below:

- (a) Forest Area 6292.68 sq.km.  
 (b) Percentage of forest area to geographical area (10491 sq. km.) 59.98%  
 (c) Legal classification of forests

Status	Area sq. km.	% of geographical area of State
1. Reserve Forest (RF)	3588.183	34.20
2. Proposed Reserve Forest (PRF)	509.025	4.85
3. Unclassified Govt. Forests (recorded as per rule 16 of the Tripura Land Revenue and Land Reforms Act, 1960)	2195.473 (2070.650 sq.km. inside ADC and 124.823 sq. km. outside ADC)	20.93
<b>Total</b>	<b>6292.681</b>	<b>59.98</b>

8.2 Forest land measuring 122837.16 acres has been under occupation of public before 24/10/1980, details of which are as under:

(a) Classification	(Area in acre)
RF	37006.45
PRF	6258.51
PF	79572.20
<b>Total</b>	<b>122837.16</b>

(b) Pattern of use of the land	(Area in acre)
Agriculture purpose	101674.79
Homestead purpose	13272.42
Public use	2799.42
Misc. purpose	5090.53
<b>Total</b>	<b>122837.16</b>

8.3 The Government has been pursuing a liberal forest policy towards Tribals, as they are allowed to collect minor forest produce such as firewood, bamboo, timber, thatch etc. for their own use, free of cost and without any royalty. The Tribals are also allowed to practise jhum cultivation in the forest area till they are settled or rehabilitated. Special projects have been taken up for rehabilitation of Jhumias inside the RF. Most of the shifting cultivators (Jhumias) including primitive tribal groups reside in the forest area. The number of Jhumias as per latest survey is 4000. The State Govt. has apprised the Commission that the quantum of non-forest land is insufficient to rehabilitate the Jhumias outside the forest land. In order to rehabilitate Jhumia families on forest land certain relaxation in the Forest Conservation Act 1980 is required so that tea, rubber and coffee plantations can be taken up.



**8.4 The Commission recommends that a list of families living in the 'Forest' may be drawn immediately and Pattas providing rights of possession/ownership may be issued. All cases requiring clearance of the Govt. of India in regard to Forest Conservation Act, 1980 should be referred to the Ministry of Forest and Environment immediately, and got regularised.**

## **9 Power**

Most backward tribal villages (87) in the State have been provided with electricity connection. State Govt. proposed to provide electricity to 40 villages, 90 hamlets and 210 habitations during X Plan. Non-conventional sources of energy through Biogas, solar photo voltage and solar thermal programmes are targeted to be raised in a big way.

	<b>Achievement in IX Plan</b>	<b>Target for X Plan</b>
Biogas plant	139	590
Solar lantern	3949	12735
Village electrification	-	380
Solar cooker	-	250
Improved Chulha	9507	8000

Tripura Renewable Energy Development Agency has taken up undermentioned programmes to provide power in tribal areas:

- a. Biomass gasifier power plant – The plant set up in 2002 at cost of Rs. 251 lakhs at Kshetrcherra has been providing electricity to 15 tribal villages.
- b. 1367 tribal families of 16 villages of Satchand, Rupaichheri and Killa blocks of South Tripura district have been covered through solar energy. Total cost of the project was Rs. 185 lakhs.
- c. One rural renewable energy complex at Kalachhara costing Rs. 35 lakhs (partially funded by N.E. Council) has been set up.
- d. Twenty four villages in the State have been electrified during 2003-04 at a cost of Rs. 375 lakhs. Another proposal to provide electricity to 518 hamlets benefiting 12,915 families has been formulated.
- e. A Biomass gasifier power plant at Raisyabari is being set-up at an estimated cost of Rs. 185 lakhs.
- f. Ganganagar under Dhalai district has been identified for a biomass gasifier plant based on bamboo. Feasibility study is being prepared.
- g. A proposal for installation of 145 numbers of Solar Home Lighting System in three government hospitals and 13 primary health centres under Dhalai district has been formulated under Rashtriya Sam Vikas Yojana.
- h. Tribal families have also been distributed solar lanterns (4438), house lighting system (996) and biogas plants (276).

## **10 Cottage Industry**

**10.1** The tribals prepare household crafts out of bamboo and cane, such as, comb, mattress, foodgrain containers, different types fishing and hunting items. Women produce different types of wrapper and other woven articles in a variety of colour and designs.

**10.2** Intake of tribals in craftsman training in I.T.I.s has been tardy (only 152 out of 465 in IX Plan), but the State Govt. plans to cover 500 tribals in next Plan. Scope to promote handloom, and sericulture is enormous and therefore target for weavers has been doubled (from 100 to 200) in handloom sectors and raised from 2000 families in sericulture sector to 3500 families in the X Plan. **The Commission recommends that sericulture should be encouraged among the tribals. Entrepreneurs should be given technical guidance after training and regular follow-up be carried out for marketing their products.**

## **11. Roads and Bridges**

During Tenth Five Year Plan, the State Govt. has accorded priority for the construction of 2636 metre length of bridges and culverts as against 846 metres during IX Plan. PWD has completed brick soling of 328 km., metalling of 111 km. carpeting-96 km. and formation of 424 km. length of road. State Govt. has proposed to provide roads to all habitations having atleast 250 population in rural areas by 2007 based on Core Road Network Plan.

## **12. Rural Development**

Targets and achievements made in IX Plan and targets for X Plan are as under:

	Unit	Ninth Plan		Tenth Plan
		Target	Achievement	Target
IRDP/SGSY	Families	25762	22892	42000
EAS/JGSY/SGRY	Mandays in lakhs	93.55	98.98	216.65
Drinking water wells	No.	5206	5332	8682
IAY	No.	19736	19992	18496
PMGSY	Km. road	72.19	57.74	315.35

## **13. Minor Irrigation**

As against ensuring minor irrigation in 4573 hectares in IX Plan, target for X Plan has been raised to 5500 hec.

## **14. ST Development Corporation**

In order to take up beneficiary oriented economic programmes suitable to the tribal families, the Scheduled Tribes Cooperative Development Corporation was set up in the State in 1979. The authorized share capital of the Corporation is Rs.20 crores of which paid up capital is Rs.6.32 crores. The implementation of land purchase scheme, educational loans and National Scheduled Tribes Finance and Development Corporation programmes have been the main activities of the Corporation. Ministry of Tribal Affairs provided Rs. 62.06 lakhs in 2001-02 and Rs. 122 lakhs in 2002-03 towards collection of minor forest produce to the corporation. About 300 beneficiaries are expected to be covered by S.T. Corporation during 2003-2004.

## 15. Education

15.1 According to 1991 census, literacy rate of STs was 40.37 as against 60.44 for the total population. Progress of female ST literacy was 12 times during 1961-1991 as compared to 5 times for the general population. Details are as given below:

Year	General			ST		
	Male	Female	Total	Male	Female	Total
1961	29.61	10.19	20.24	17.37	2.31	10.01
1991	70.58	49.55	60.44	52.88	27.34	40.37
2001	81.47	65.41	73.66	NA		

Number of schools in the State during 2002-03 was 1769 details of which are as under:

Schools	No
Primary	1362
Upper Primary	198
High School	155
H.S. (+2) stage school	54

Enrolment of ST students in different stages of education during 2002-03 was as given below:

	Total	Girls
Primary class I to V	1,79,950	84,300
Upper primary class VI to VIII	45,150	20,680
High School	22,050	9,100
H. S. (+2)	4,350	1,170

Tribal welfare department has been providing a variety of incentives and other facilities to ST students for pursuing education. No. of beneficiaries during 2002-03 was as under:

	No. of ST students
1. Pre matric scholars	83,336
2. Stipend to hostellers	11,851
3. Post matric Scholarships	3,190
4. Merit awards	2,797
5. Grants to sponsored students outside state	118
6. Supply of free text books	1,39,012
7. Aid to NGOs	3
8. Grant-in-aid to Residential Society	1
9. No. of Hostels (13 for girls + 18 for boys)	31
10. Ashram Schools	6

A few other schemes for the promotion of education among the tribals are additive to G.O.I. post matric scholarship, stipend to trainees of ITI, inter-hostel competitions, book grants, coaching centres, promotion of folk and culture, vigyan darshan and multipurpose training to tribal youth.

**15.2** School dropout rates from class I to X for the year 1998-99 and 2000-01 for ST students were 88.14 and 86.72 respectively as compared to 80.17 and 76.95 for overall students for the corresponding period.

**15.3** The Commission has seriously viewed the high dropout rate among ST students after class V and recommends that adequate incentives should be given to the ST parents towards compensation for opportunity cost. Other incentives like mid-day meals, school uniforms, textbooks, bicycles should also be made available. School education should be popularized among ST children through excursions, tours, exhibitions, sports, cultural festivals etc. Talented and meritorious students should be given awards at all the stages of education at frequent intervals. Special care may be taken in villages known as 'disturbed area' and adequate protection provided to children and teachers by the State Government.

**15.4** An overview of achievements under Tribal Development Package as on 30<sup>th</sup> June, 2003 was as given below:

- (i) Construction of 577 primary school buildings has been completed and 90 are in progress as against target of 500 School buildings. Single teacher schools were reduced from 244 to only 75. Construction of six Residential Schools has commenced. Five schools have been developed as schools of excellence in the field of sports like Athletics, Football, Kabbadi, Table Tennis, Judo, Weight lifting and Swimming. One Hostel for tribal students of Degree Colleges has been set up in each District.
- (ii) One hostel for Tribal Girl Students is being set up at Agartala.
- (iii) Eight Vocational Training Centres have started functioning.
- (iv) Special Coaching Centre for Madhyamik Dropout students were opened in all Districts and a total of 6358 students appeared of which 3205 students were successful in the examination during the last 4 years. During 2002-03, 61 centres were run in various Districts.
- (v) Coaching for Joint Entrance Examination: The study circles have been functioning at Agartala and Udaipur.
- (vi) Coaching for appearing in the Civil Services Examination and MBA has also been made available for suitable students.

#### **Visit to ST Boys Hostel (30.01.04)**

**15.5** The Commission visited Umakant Academy ST boys Hostel (New) at Agartala where all the 50 seats were occupied, mostly by Tripuri, Jamatia and Riangs. Class wise enrolment was 5,2,13, 16 and 14 in classes VII, VIII, IX, X and XI respectively. During 2003, result of hostlers was satisfactory as 98% of them passed out their respective annual examinations. During 2001-03, two hostlers were selected for medical course, 1 for Engineering and 2 for polytechnic. The Commission was

informed that ST boys were talented football players as 3 from the hostel represented National Level Football Tournament and one was a prominent State level goalkeeper. Boarding charges approved by the State Govt. for a hostler are Rs.15 per day (or say Rs.450 p.m.). **The Commission recommend that hostellers should be motivated and guided to keep hostel premises and toilets clean.**

#### **Visit to Girls Hostel (30-01-2004)**

**15.6** The Commission paid a visit to Dr. Ambedkar Girls Hostel started in 2003 for 63 ST and 63 SC students. Out of 61 ST hostellers, 38 belonged to Tripuri, 3 each to Reang (PTG) and Jamatia tribes followed by others. During 2002-03, 55% hostlers were successful in their annual examinations. In regard to co-curricular activities 10 girls each were interested in dance and sports and 8 in music and song.

**15.7** The Commission recommends that LPG may be provided for cooking food and supply of drinking water ensured round the clock. A reading room with small library of general books should be sanctioned. A T.V. set and Radio are common necessities today and hostels should have these facilities.

**15.8** In an article on Improvement of Education in Tribal areas: Problems and Remedies, it has been brought out that school children belonging to STs should be exposed to have interaction with the eminent persons of the locality, such as, doctors, officers and other government officials as well as political leaders at regular intervals. While making another suggestion, it was highlighted that in order to ensure regular attendance of teachers in the schools, recruitment should be done on the basis of schoolwise vacancies rather than issuing a general advertisement.

[Tribal Research Institute, Agartala Bulletin Vol X No. 38, Oct-Dec.2002 page 12]

**15.9** The Commission recommend that talented, meritorious and outstanding ST students in different fields of education, sports and culture should be taken to States other than Tripura for exposure and building self confidence.

## **16 Health**

**16.1** According to a survey carried out by the Indian Council of Medical Research, Regional Office Guwahati, water contamination both at source and household is about 98% in tribal villages. The tribals suffer from worm infestation, Hepatitis B&C to the extent of about 15%. Most of them suffer from dysentery, skin diseases, stomach disorders, fever and even goiter, leprosy and T. B. During rainy season the condition of government dispensaries is deplorable, and therefore they are forced to take treatment from local quacks. They take indigenous herbs as medicines and pursue animistic activities.

**16.2** Tribal Research Institute, Tripura in one of their study reports (1999) observed that due to shortage of doctors, supporting staff and insufficient stock of medicine, people in general don't depend on primary health centres.

**16.3** Sub-Divisional hospitals at Kanchanpur, Gandacherra and Chailengta have been made into 50 bedded hospitals, besides providing various equipments. Eight Primary Health Centres were constructed and made functional for tribal areas while construction works in three more places is in progress. Two projects Kanchanpur and Dhalai have taken up training for 60 community health workers and 60 Dhais under each project with ICMR assistance. Two societies have been formed with Corpus fund, interest amount of which is being used for transportation of seriously ill patients and supply of urgent medicine. There are two each Ayurveda and Homeopathic centres in the tribal areas of the State. In a paper on **Primitive Tribal Group (Riang)** brought out by the Tripura Tribal Research Institute, it is mentioned that deworming of tribals under the health care is essential and should receive priority attention (Vol X, 36, June 2002 Page 91).

**16.4** The Commission recommends that tribals should be trained as Health Volunteers and monthly honorarium paid to them. NGOs should be promoted to take up healthcare among the tribals of Tripura, where health infrastructure is either non-existent or weak.

## **17. Housing**

According to 2001 Census, out of 202430 ST households, 112267 households (55%) lived in livable houses, 77,750 (38%) in good quality houses and 12,413 households (7%) were in occupation of dilapidated houses. As regards material of roof of their houses, 1,33535 households (65%) had used grass, thatch etc. 63,233 (33%) G.I. sheets, 1873 cement, 560 tiles, 283 bricks, 121 stone and 2825 other material. As many as 1,65,506 households (82%) possessed only one room houses, 26,341 (13%) had two room accommodation, 5741 two to six rooms and 4842 households did not have any exclusive room. Eighty one percent households used kerosene as source of lighting, 18% electricity and remaining 1% other sources such as oil etc. Over 95% STs used firewood, crop residue, cowdung etc. as type of fuel and other 5% had the facility of LPG, kerosene etc. Out of 202430 ST households, 22% had radio/transistor, 11% television, 18% bicycles, 3% scooter/car and only 2% made use of telephones. Hardly 15% households among the STs availed of banking services.

## **18. Drinking Water**

Out of 2,02,430 ST households, 1,21,163 (60%) drew water from drinking water wells, 23% had access to tap, handpump and tubewells and 17% depended upon tank, pond, river and spring etc., nearly 43% had to travel more than 500 metres to reach the water source. **The Commission recommends that all out efforts may be made to provide safe drinking water without any contamination to tribal villages.**

## **19. Reservation in Services**

A comprehensive law has been enacted by the State Government namely Tripura Scheduled Castes and Scheduled Tribes (Reservation of vacancies in

service and Posts) Act 1991 to prevent violation of the principle of reservation in service. At present the reservations for Tribals account for 31% which is equal to the percentage of Tribals in the total population of the State. The same principle of reservation is also strictly enforced in admission of S.T. students to educational institutions and in selection of students for higher studies. As on April 2002 their representation in services was only 23.13% as compared to their proportion of 31% to total population. In corporate bodies they account for only 20.07%. 915 vacant posts meant for Scheduled Tribes in different departments have been filled up with ST candidates. 300 educated unemployed tribal youths were given training under Entrepreneurial Development Programme (EDP). Swavalamban Programme was launched under which 51 tribal youths have been trained for skill development.

## **20. Visit to Central Jail, Agartala**

**20.1** The Commission visited Central Jail, Agartala on 30-01-04, category wise prisoners were as under: -

<b>S. No.</b>	<b>Category</b>	<b>Total</b>	<b>ST</b>	<b>%</b>
1.	Convicts	268	70	26
2.	Under trial	205	102	50

**20.2** The Commission was informed that tribal youth have of late started joining hands with the extremist elements. This is basically due to their poor economic conditions, lack of employment opportunities and no work at home. It is inferred from the above table that the number of ST convicts in the jail is barely one-fourth as against half of them among the under trials. The under trials are at times arrested probably on suspicion of having association with extremist elements and kept in jails for months together. This situation is alarming and requires adequate care, caution, and correctional services. As the tribals are ignorant of law, humanitarian approach is required in dealing with them.

**20.3** The prisoners who were engaged in different vocational training programmes were 152 - cane and bamboo (32), agriculture (25), floriculture (15) weaving (20) tailoring (18), book binding (11), printing press (11), poultry and duckery (8), pisciculture, (7) piggery (2) and mushroom (3).

**20.4** The Commission held discussions with the prisoners and based on that, make following recommendations:

- (a) LPG gas in place of firewood may be arranged in the Central jail for cooking.
- (b) Rehabilitation package should be developed six months prior to the release of prisoners and an inter departmental committee may be set up for this purpose.
- (c) Human approach may be adopted for those ST prisoners who have none to bail them out.
- (d) Case of Narendra Rupui of Dolai district may be looked into as he was re-arrested after 3 months.

**21. Grant in aid to NGOs-** Ministry of Tribal Affairs gave grant-in-aid to two NGOs in the State, as under:

<b>S. No.</b>	<b>NGO</b>	<b>Project</b>	
1	R. K. Mission Viveknagar, Tripura	Computer Training Hostel,	Rs. 11,56,200 in 2001-02
2.	Ramakrishna Mission, PO: Viveknagar, Tripura	Hostel & Computer Training Centre	Rs. 8,38,794 in 2001-02 Rs. 15.72 lakhs in 2002-03

## **22. The Tripura Tribal Areas Autonomous District Council (TTAADC)**

**22.1** The TTAADC was brought under the purview of Sixth Schedule w. e. f. 1.4.1985. Earlier, it was set up under VII Schedule of the Constitution of India in 1982 in accordance with the Tripura Tribal Areas Autonomous District Council Act, 1979. The main object of forming the District Council was to remove the disparities between advanced and backward sections of the people and to protect them from all forms of exploitation and injustice. The main purpose of the TTAADC is the self-governance and rapid development of the tribal compact areas in the State. The Council implements various schemes for the overall development of the people living within ADC area. The Council has powers to appoint its own staff to look after executive works. The Council is headed by a Chief Executive Member. An officer of the rank of Commissioner/Secretary to the Govt. is posted on deputation to the council as Chief Executive Officer.

**22.2** The District Council having an area of 7,132.56 sq. km. (68%) out of State geographical area of 10,478.78 sq. km. is spread over five hill ranges, namely, Jampui, Sakantang, Longtarai, Altharo Mura and Baro Mura. The TTAADC has an establishment of four Zones, 27 sub-Zones, about 1300 junior basic schools under 16 Inspectorates, 432 Balwadi Centres under 3 Inspectorates of Social Welfare, 3 PWD divisions, 12 PWD sub-divisions, 12 forest ranges and about 8000 officers and staff. Other general information may be seen at Appendix IV.

### **Functions**

**22.3** The TTAADC is vested with 2 (two) types of functions- (a) Legislative Powers and (b) Executive Powers.

**(a) Legislative:** The Legislative Powers are exercised by the Council Members elected by adult franchise, numbering 30 (thirty), including 2 (two) Nominated Members by the Governor of Tripura. The Chairman presides over the meeting of the Council once in 6 (six) months which is mandatory to be convened by the District Council having one secretariat under the Chairman.

**(b) Executive:** The Executive Powers are vested with the Executive Committee presided over by the Chief Executive Member who is elected from among the



Treasury Bench (Ruling Party Members). As part of the Executive Powers, the District Council has appointed its own staff while the council administration is under the Chief Executive Officer. The District council has administrative department as well as development departments similar to the State Govt., such as, Rural Development, Agriculture, Horticulture, Fisheries, Industry, P.W.D. Education, Health, Forest etc.

#### **22.4 General functions of TTAADC**

**(a) Administrative:** Allotment, occupation, use or using a part of land other than reserved forests; Management of forests not being reserve forests; Use of canal water & water course for agriculture; Jhum; Village Committee or council and any other matter relating to administration including public health and sanitation.

**(b)** The Council may establish or manage primary schools, dispensaries, markets, cattle pounds, fisheries, ferries, roads and road transport and waterways.

**(c)** The Government may entrust functions to the Council, such as, agriculture, animal resource development, community projects, co-operative societies, social welfare, village planning, fisheries, plantations and any other matter to which the executive power of the state extends.

**(d) Legal:** The Council has powers to frame laws in the following matters with the approval of Governor. Inheritance of property of scheduled tribes; Marriage and divorce where any party belongs to a schedule tribe; Social customs of scheduled tribes; allotment, occupation, use or setting apart of all lands other than reserve forests; management of forest other than reserve forest; Use of canal or water courses for purposes of agriculture; Jhum; Village Committees or Council and any other matter relating to administration including public health and sanitation.

**(e)** The Council may, with previous approval of the Government, make regulation for administration and control of primary schools, dispensaries, markets, cattle pounds, ferries, fisheries and roads, road transport and water ways.

**(f) Financial:** The Council shall get a share of Forest royalties and royalties accruing each year from Licenses or lease for the purpose of projecting for, or the extraction of minerals granted by the State Government.

**(g)** The Council may regulate and control money lending and trade.

**(h) Taxes:** For maintenance of schools, dispensaries or roads; on entry of goods into markets and tolls on passengers and goods carried in ferries; on animals, vehicles and boats and on professional trades, callings and employments. [During 2002-03 the Council received Rs. 917.52 lakhs as share of taxes].

## 22.5 Budget

The TTAADC receives funds from four sources, i. e. Plan budget (Share of taxes and Award of 11<sup>th</sup> Finance Commission), transferred funds from development departments, Market Licence fee and Miscellaneous receipts. Budget provisions of 2002-03 and estimates for 2003-04 were as under:

Year	Budget (Rs. in crores)
2002-03	84.76
2003-04	198.67 (Estimated)

## 22.6 Works taken up

TTAADC undertook several development works for the tribals. prominent of which are following:

1. Irrigation Six diversion schemes covering 275 hec. have been completed. 11 schemes are underway (likely to cover 450 hec.)
2. Education Construction of 27 pucca school buildings.
3. Culverts and bridges Steel foot bridge on link road from Gulirai Para to Gulirai Bazar in Bishalgarh Block of West Tripura district.  
  
Village roads upto brick soling etc. in other villages
4. Drinking water (a) Construction of wells/tube wells  
(b) Iron removal plants (2)
5. Marketing Sheds and Stalls At Telarban and Jampuijala in Jampuijala Block
6. Construction of Tribal museums and cultural heritage at Khumulwng (ADC HQ.)
7. Residential School building At Khumulwng

22.7 Chief Executive Member, TTAADC during discussions with the Commission on 30.01.04 mentioned that annual budget of the Council was stagnant at Rs. 80 crores for the last three years and about Rs. 73 crores were spent on salary of staff alone, leaving very little for development works. **The Commission are of the view that all developmental programmes, such as, secondary level education, health, social welfare, public distribution system, agriculture, horticulture, sericulture etc. should be under the charge of the Council. Higher education, super specialty hospitals and health care and other such specialized programmes should remain with the State Govt. It should also be ensured that expenditure on establishment is reduced and allocations on schemes are significantly raised. A research study into this issue should be sponsored.**

**22.8** The TTAADC urged that the Government of India should provide funds direct to the Council (and not through the State Govt.). Govt. of India should also change the words "District Council" from the "Tripura Tribal Areas Autonomous District Council", as TTAADC looks after the tribal areas of entire state and not one district. State Govt. should be impressed to raise the share of taxes on forest royalty and minerals in favour of the TTAADC. They also suggested that a legislation to streamline the administration of Autonomous Councils in the N.E. region of the country is necessary for speeding up the pace of development.

**22.9** Chief Executive Officer, TTAADC in a memorandum dated 30.1.04 to the Commission urged the following:

- (1) Conferment of more powers and transfer of nine more departments to the TTAADC;
- (2) Providing of adequate funds to the TTAADC for development works directly by the Central Government;
- (3) The Central Government may allocate and indicate separately the funds to be placed to TTAADC in the Budget of State Government;
- (4) Adequate funds may also be provided for implementation of the following schemes:
  - (a) Special schemes for assistance to Jhumias for sowing and weeding including free distribution of seeds,
  - (b) Construction of more Tribal Rest Houses, and,
  - (c) Strengthening of Nucleus Budget by providing adequate funds.

### **23. Areas requiring further intervention**

Major issues/problems of tribals as expressed before the Commission by the officials, non-officials, political leaders, NGOs and Social workers were as under:

- (1) Density of population being quite high and a large area falling under forests, problem of landlessness is acute. Road communication and power generation being poor, growth of employment opportunities is limited.
- (2) Marketing structure in the tribal areas is undeveloped and therefore, fair return of the produce is restricted.
- (3) There is a need for safe drinking water supply so as to arrest water borne diseases.
- (4) Fake ST certificate holders are on the increase.
- (5) Many STs who have borrowed loans from Banks are not able to effectively make use of the amount because of lack of training, know-how of the trade and entrepreneurial skills.
- (6) Other continuing problems are land alienation, indebtedness, illiteracy and sub-standard education, diminishing cycle of shifting cultivation, non filling of about 8,000 posts reserved for ST over the years and growing unemployment among the tribals. The problem of insurgency and unrest, though has come down, still is a impediment to the growth of the State. **The Commission therefore, recommends that an assessment of backlog vacancies reserved for STs may be made and special recruitment held to appoint the ST candidates.**

## **24. Self-employment**

**24.1** Tribals depend upon forest department to work as casual labourers on plantation works. Some of them worked with PWD and their contractors as gangmen and casual labourers and also with non-tribal land cultivators on contract basis. They are proficient in household craft and supplement their household needs by producing different types of baskets made of bamboo and other fishing and hunting items. The women work on looms and sell woven articles to earn cash money.

**24.2** The Commission recommends that tribal students of Tripura who drop out after class VIII or class X or class XII should be persuaded and motivated to undergo training in various semi skilled and skilled jobs related to forestry operations, rubber processing, bamboo and cane products, sericulture and silk, electrician, mason, plumbing, processing of minor forest produce, handlooms and handicrafts, etc. Training in trades such as fitter, turner, blacksmithy and courses like accountancy, typing, data entry operator, book keeping, secretarial practices could be popularized. Number of Industrial Training Institutes may be increased and training in trades in demand imparted. Administrative arrangements to tie-up the trained candidates with placement agencies, Tribal Financial Development Corporation and Banks should be strengthened and given priority. Regular monitoring and follow-up should receive attention of the Tribal Advisory Committee.

## **25. Recommendations**

For overall development of tribals of Tripura, the Commission makes following recommendations:

- (1)** The Commission was highly concerned with the problem of infiltration of people from across the border to the State, as it caused demographic imbalance against the interests of tribals. All out efforts are therefore necessary to tighten the State apparatus to deal with the situation. The Commission therefore recommends that innerline permit may be introduced for the non-tribals entering into the Sixth Schedule Area.
- (2)** The Commission was informed that infiltration of persons from across the border would be checked to a greater extent once border fencing is completed by 2006. Another step proposed by the State Govt. to be introduced is multipurpose identity card or Central Govt. controlled identity card. All these measures are undoubtedly welcome. Still, the Commission recommends that those who have entered the area notified under the Sixth Schedule should not be settled and rehabilitated in the Sixth Schedule area. This exercise should be carried out without further loss of time.
- (3)** Tripura Tribal Area Autonomous District Council has huge staff strength of 8000 employees. The TTAADC should not spend more than 40% of their budget on establishment.
- (4)** Educational institutions which were closed due to insurgency problem should be re-opened and experienced teaching staff posted to cover the loss.

- (5) State Govt. should earmark more funds for setting up residential schools and hostels for ST students. In addition, hostels for ST students may also be set up outside the State, i. e., Delhi, Kolkatta etc. so that STs attained professional education.
- (6) Coaching for entering into Defence Services, Railways, Central Police Organisations may be imparted within and outside the State.
- (7) The Bhils (ST) who had migrated from Western parts of India, about two hundred years ago to Tripura, number about 2000 persons (400 families). Some of them have now come up well and represent people in the Panchayat raj institutions upto Block level. The Commission recommends that some of their leaders alongwith their families should be taken on excursion/study tour to Bhil region of Maharashtra, Gujarat, Madhya Pradesh and Rajasthan to enable them see their roots and strengthen emotional bond with the other Bhils of the country.
- (8) NGOs should be persuaded and motivated in large number to work in the tribal areas, particularly in running old age homes, working women hostels, mobile dispensaries etc.
- (9) Marketing infrastructure and its linkage with N. E. States and rest of India needed to be given priority.
- (10) Field office of the National Commission for STs at Agartala may be headed by a Deputy Director and office strengthened.
- (11) Tripura is blessed with gas as a natural resource. State Govt. should therefore draft a short-term as well as long-term policy by which tribals interests could be safeguarded and promoted.
- (12) Reservation in services for STs should be in proportion to their population to total population in the Sixth Schedule Area and not according to State population.

**CENSUSWISE TRIBAL POPULATION**

S. No.	Census Year	State Population	Tribal Population	Percentage of Tribal Population to Total Population
1.	1901	173325	92544	53.39
2.	1911	229613	111308	48.48
3.	1921	304437	171610	56.37
4.	1931	382450	192240	50.26
5.	1941	513010	256991	50.09
6.	1951	645707	237953	36.85
7.	1961	1142005	360070	31.53
8.	1971	1556342	450544	28.95
9.	1981	2053058	583920	28.45
10.	1991	2757205	853345	30.95
11.	2001	31,91,168	9,93,426	30.45

[Source: Govt. of Tripura- 10<sup>th</sup> Five Year, Tribal sub-Plan, P4]

**Occupational Classification of Scheduled Tribes- Tripura  
(in percentages)**

<b>Category</b>	<b>1971</b>	<b>1981</b>	<b>1991</b>
Cultivators	75.37	64.03	58.27
Agricultural labourers	20.14	28.72	30.32
Other workers	4.49	7.25	11.41
<b>Total</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>

## FLOW OF FUND TO TSP FROM STATE PLAN SINCE VII PLAN

(Rs. in lakhs)

Year	Outlay		Expenditure	
	Total State Plan	Of which flow to TSP .	TSP	% to TSP outlay
7 <sup>th</sup> Pan	62700.00	20609.83 (32.87%)	21,102.69	102.4
Annual Plan 90-92	42800.00	14089.96 (32.92%)	13,207.52	93.7
8 <sup>th</sup> Plan	132798.60	42320.57 (31.86%)	41,261.53	97.5
9 <sup>th</sup> Plan	213547.06	70217.70 (32.88%)	68,216.25	97.1



## SECTOR WISE FLOW TO TSP DURING 2002-03

(Rs. in lakhs)

S. No.	Sector	Plan Allocation Divisible	TSP Flow	TSP Expenditure
1.	Agriculture & allied	3645.22	1433.97	1201.27
2.	Rural development	4403.83	1528.60	1458.60
3.	Special Area Programme (TTAASDC)	3847.42	3847.42	3847.42
4.	Irrigation and Flood control	3766.78	1202.5	1197.81
5.	Energy	1368.83	915.34	937.12
6.	Industry and Minerals	515.50	135.46	136.09
7.	Transport	1465.21	454.22	389.72
8.	Communication	0	0	0
9.	Science, Technology and Environment	71	23	23
10.	General Economic Services	166.41	47.61	47.61
11.	Social Services	15642.40	7379.04	6905.59
12.	General Services	10.77	3.43	3.43
	<b>Total</b>	34933.57	16978.09	16155.16

**Note:**

- (i) Total State Plan outlay was Rs. 60011.50 lakhs of which divisible was Rs. 34933.57 lakhs.
- (ii) Flow to TSP out of State Plan was 28.29%.
- (iii) Percentage of expenditure out of TSP allocation was 95.15%.

## SECTOR WISE FLOW TO TSP DURING 2003-04

(Rs. in lakhs)

S. No.	Sector	Plan Allocation Divisible	TSP Flow
1.	Agriculture & allied	2470.34	932.57
2.	Rural development	4413.89	1533.80
3.	Special Area Programme (TTAADC)	3847.42	3847.42
4.	Irrigation and Flood control	3991.50	1376.30
5.	Energy	369.00	102.75
6.	Industry and Minerals	230.60	61.54
7.	Transport	1465.21	454.22
8.	Communication	0	0
9.	Science, Technology and Environment	20.06	6.0
10.	General Economic Services	166.45	49.00
11.	Social Services	11476.40	5436.99
12.	General Services	10.77	3.43
	<b>Total</b>	<b>28461.64</b>	<b>13804.02</b>

**Note:**

- (i) Total State Plan outlay was Rs. 65,000 lakhs of which divisible is Rs. 28461.64 lakhs.
- (ii) Flow to TSP out of State Plan was 48.5%.

**THE TRIPURA TRIBAL AREAS AUTONOMOUS DISTRICT COUNCIL  
AT A GLANCE**

1. Area		<b>TTAADC</b> 7,132.56 Sq. Km.
2. Population	2001	11 lakhs
	1991	8.9 lakhs
		ST 6.62 lakhs (74.4%)
3. Constituency		28
4. Members ST		25
5. Nominated Member by the Governor		02
6. Other Members		03
7. Revenue Villages		462
8. Village Development Committee in TTAADC areas		522
9. Primary Schools (including 65 Model Schools)		1375
10. Senior Basic School		181
11. High School		139
12. Higher Secondary School		50
13. Residential School		02
14. Block		13
15. Jhumia Rehabilitation Colony		53
16. Rubber based Colony		26
17. (i) Primary Market		229
(ii) Regulated Market		10
18. Sericulture Farm		02
19. Industrial Training Centre		55
20. Madhyamik Condensed Course Coaching Centre		01

# Uttaranchal

The State of Uttaranchal was formed on November 9, 2000 as 27<sup>th</sup> State of the Indian Union. It was carved-out of the State of Uttar Pradesh by amalgamating Garhwal and Kumaon Divisions and some other parts of Uttar Pradesh. The State is located in the Central Himalayas which is interspersed with rivers, deep valleys, glaciers, alpine pastures and high mountain peaks. The Holy shrines of Badrinath, Kedarnath, Gangotri and Yamotri are located in the State of Uttaranchal, which are considered to be the abode of Gods. The State has international land borders with Nepal in the East, Tibet (PR China) in the North and bounded by Himachal Pradesh in the West and North-West, Gangetic plains of Uttar Pradesh in the South.

The vital statistics of the State are as under:-

Total Geographical Area	53483 Sq. Km.
Total Population of the State 2001 Census	84.80 Lakhs
Population of Scheduled Tribes 2001 Census	2.56 Lakhs i.e. 3.02%
Density of population (State) 2001 Census	159 person/Sq. Km. (All India 324)
Sex Ratio 2001 Census (State)	964 (Gen) Female per thousand 950 (STS)
Decennial Growth Rate of population (State)	20.89% (census 2001)

Life expectancy at birth  
(State)

62 Years  
(All India 61)

Districts

13, namely, Almora, Bageshwar, Champawat, Nainital, Pithoragarh, Uddamsingh Nagar, Haridwar, Dehradun, Pauri, Tehri, Rudraprayag, Chamoli and Uttarkashi.

## Scheduled Tribes

Under the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967, the following tribal communities have been notified as Scheduled Tribes:-

### The Tribal Communities:-

1. Bhotia
2. Buksa
3. Jaunsari
4. Raji
5. Tharu

The District-wise distribution of various Scheduled Tribes in the State is as under:-

Tribe	District	Population as per 1991 Census
<b>Bhotia</b>	Almora, Bageswar, Pithoragarh, Chamoli, Uttarkashi	23,410
<b>Jaunsari</b>	Dehradun	66,948
<b>Tharu</b>	Uddamsingh Nagar	66,123
<b>Buksa</b>	Uddamsingh Nagar, Nainital, Haridwar, Pauri, Dehradun	40,146
<b>Raji</b>	Pithoragarh	416

Population figures as per census 2001 have not yet been published.

It is, perhaps, difficult to establish with certainty the ethnographic history of these five tribal communities in Uttaranchal in the absence of the ancient historical and mythological records. However, a brief description in respect of different tribal communities can be given as under:-

- 1) **Bhotia** Bhotia tribal community shares the same cultural history as the Bhotia or Bhutia elsewhere with minor local variations. Many of these tribes live in strategically sensitive border areas along the International land border with Tibet (PR-China).

The term Bhotia is loosely used to describe people living in the 'Bhot' region. The Bhotia tribals claim to be of Rajput origin. They had an age old trading contact with Tibet and have embraced Lamaistic Buddhism. There are various sub-groups which form the term 'Bhotia' – viz. – Tolcha, Marcha, Jad, Jaunsari and Shauka.

Their principal occupation used to be the border trade. Now they are mainly agriculturists and also depend on the traditional handloom industry for their livelihood. Polyandry is still practised by some Bhotia families.

**2) Jaunsari** They are reported to be Khasa immigrants. Their physical features and looks easily distinguish them from their neighbours the Garhwalies. They worship Mahasu Devta – 'Shiva' and Somesu (Duryodna). Polyandry used to be common among them and is adopted as a family unit by some even today. Not much efforts have been made for the documentation of the cultural and religious practices under Mahasu Devta to preserve all this as cultural heritage.

The Jaunsari tribals are dependent on agriculture. Some agricultural produce like ginger and rajmah produced in the area are prized for their taste.

There is a controversy as to the eligibility of castes under the Hindu Caste System practiced in the area for the Scheduled Tribe Certificate. The term Jaunsari covers all who are the natives of Jaunsar-Bawar. That means all Jaunsari natives who may belong to any caste under the caste system are the Scheduled Tribes. Some of the candidates belonging to the castes under Hindu-caste system have obtained SC Certificate while others among them have taken the ST Certificate. There is perhaps no problem as long as these certificates are used for job reservations and for the economic benefits. But, the disputes can arise when a provision is made in the Panchayati Raj reserving elected offices for the Scheduled Tribes only if the Jansar-Bawar having the

preponderance of the Scheduled Tribes as per the population statistics is notified as Scheduled Areas, the Commission observed.

**The Commission recommends that this controversy should be settled without any further loss of time by the State Government so as to obviate a possible tribal unrest in the area.**

- 3) Buksa** This tribe inhabits the lower regions of the State. In their physique and habits they are stated to be akin to the Tharu Tribals. Their customs and rituals are quite the same as standard Hindu ones. They are totally dependent on agriculture. They have never been doing any trade traditionally.
- 4) Raji** Raji tribals are considered to be the original inhabitants of parts of Kumaon. They have a dialect distinct from that of other communities in the Kumaon hills. Their traditional occupation has been hunting and food gathering. Presently, they are engaged in agricultural production. They continue to practice their traditional indigenous faith in the matter of religion and culture.
- 5) Tharu** They are the inhabitants of the foot hills of Kumaon Himalayas. Traditionally they have been dependent on forest and forest produce. Now they have started agricultural practices and are totally dependent on agricultural production.

**The State Government has, before the Commission, reiterated the demand for the inclusion of 'Rawalta' community in the list of the Scheduled Tribes of the State, which the State had earlier in August, 2001 submitted to the Government of India. The Rawalta is said to be a sub-group of Jaunsari settled in the District of Uttarkashi – adjoining Jaunsar-Bawar.**

#### **ST certificate**

The Chief Secretary and the Secretaries reported in the meeting that the Scheduled Tribe Certificates are being issued as per the guidelines provided by the Government of India. The ground realities appear to be different.

It was brought to the notice of the Commission by the tribal representatives of Jaunsar-Bawar that the guidelines issued by the Central Government are not being properly followed while granting the Scheduled Tribes Certificate in the Jaunsar-Bawar area. While in the case of the other 4 tribes in Uttaranchal, there are no problems as to the guidelines for issuing the Scheduled Tribes Certificates as all those who belong to different tribal communities are eligible for Scheduled Tribe Certificate and also for various economic concession and job reservations etc. But in the case of Jaunsari, a clarification is needed on the question as to who all are the Jaunsari belonging to Jaunsar-Bawar on the date of Notification of the Jaunsari as a Scheduled Tribe. It appears that a mistake had been committed as to the interpretation of the term Jaunsari for the purpose of declaring Scheduled Tribe.

**Tribals argue that a Jaunsari who is a native of Jaunsar-Bawar is a Jaunsari. That means anybody who on the date of Notification belonged to a family who is a native of Jaunsar-Bawar is a Jaunsari. And that on the date of Notification a temporary resident in Jaunsar-Bawar was erroneously treated as Jaunsari.**

The tribal representatives have demanded that for a Jaunsari to be qualified as Scheduled Tribe should belong to a family who is a traditional Jaunsari, whose ancestors had permanent residence in Jaunsar-Bawar as per village revenue records and also as per village administrative report. Any outsider who had settled even a century or more before the date of Notification does not become Jaunsari. He should be treated as a temporary resident. There is always a distinction made between the permanent and temporary residents and the question as to who are the natives only the Gram Sabha and Dev Sabha of village should be able to determine.

**The Commission observed that these criteria should be appraised and proper guidelines should be issued afresh. The tribal representatives said before the Commission that many outsiders have availed of the job reservation opportunities who are not the natives of the Jaunsar-Bawar who have been only temporary residents migrated from outside on the date of Notification. The District Administration appears to have**



**taken an erroneous view of the definition of the Jaunsari and that has adversely affected the interests of the natives, the Commission observed.**

### **Job Reservation**

The tribal representations were of the view that the situation obtaining after the re-organization of UP i.e. after the creation of Uttaranchal as a new State has not been satisfactory in the matter of job reservation, and there has been no expansion of the employment opportunities for the tribals. In 1967 certain communities were declared as Scheduled Tribes in the State of UP. After the re-organization and creation of the State of Uttaranchal, the majority of the Scheduled Tribe Officers/employees in the combined UP State have been shifted to the cadres of the new State of Uttaranchal. At present, reservation for the Scheduled Tribe in the services is fixed at 3.6% as per the population ratio. In view of the fact that a large number of tribal officers/employees have been allocated to Uttaranchal, no vacancies are available for the Scheduled Tribes in the services in respect of most of the service cadres in the State.

**There is a kind of unrest in the tribal areas of Uttaranchal on this account, as there are no vacancies available for the STs on the reservation rosters. This has blocked the opportunities for the new entrants. The State Government may have to find a solution to this, the Commission observed.**

3.6% or 4% reservation in the opinion of the tribal delegations is not enough. They pleaded that all new recruitments made in the State of Uttatanchal should be filled by providing reservation at least at 4% to the Schedule Tribes without any reference to the total strength of the tribal officers/employees in different cadres which actually in some cases has exceeded the ceiling on the reservation. They were also of the view that the percentage of the reservation for the Scheduled Tribes should be increased to 7 ½%.

## **Scheduled Area**

There are no Scheduled Areas declared/notified under the provisions of the Fifth Schedule of the Constitution in the State of Uttaranchal. During the field visits, the Commission received demands for the declaration of certain tribal areas as Scheduled Areas under the provisions of the Article 244 (1) and of the Fifth Schedule of the Constitution. The Jaunsar-Bawar area comprised of 2 Development Blocks in Dehradun District perhaps fulfil the criteria laid down for carving out a Scheduled Area as it is geographically contiguous having the preponderance of tribal population. This area to be declared as Scheduled Area is of a reasonable size to form an economic unit under the Tribal Sub-Plan.

**The demand of the people for declaring the Jaunsar-Bawar area as Scheduled Area under the provisions of the Fifth Schedule of the Constitution may be considered by the State Government and the Government of India. A feasibility exercise can be undertaken in terms of the criteria laid-down for the creation of a Scheduled Area. The Jaunsar-Bawar area apparently fulfils two main criteria i.e. geographic contiguity and the preponderance of the tribal communities, the Commission observed.**

There was a **demand also made** for declaring **Niti area of the Joshimath** Development Block as Scheduled Area. It also has the preponderance of tribal population in the Niti area along the international land borders, but it does not fulfil the criteria laid down for the size of the area comprised.

**The Commission observed that without being declared as the Scheduled Area there can be an Integrated Tribal Development Project set up for Niti area, as the area requires special attention to be paid in the infrastructural development along the International land border. That may also help opening up border trade route via Niti Pass area.**

## **Tribes Advisory Council**

The tribal representatives have pleaded before the Commission that there should be a Tribes Advisory Council set-up under the provisions of the Fifth Schedule of the Constitution in the State.

**The Commission recommends that a Tribes Advisory Council may be set-up under the provisions of the Fifth Schedule of the Constitution. This can be done even where there are no Scheduled Areas notified. The Tribes Advisory Council will provide a forum for the tribals to deliberate upon the tribal affairs and the development policies and programmes for the tribals. It will provide opportunities to the tribals for playing advisory role in all legislative, executive and development matters.**

### **Regulations relating to transfer of land**

Under Section 157 B of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, there are restrictions on transfer of land by Members of Scheduled Tribes. No Bhumidhari or Asami belonging to a Scheduled Tribe shall have right to transfer by way of sale, gift, mortgage or lease or otherwise any land to a person not belonging to a Scheduled Tribe. As per these provisions any kind of transfer of land from a person belonging to a Scheduled Tribe to a person not belonging to a Scheduled Tribe is prohibited under the law.

The provisions of the Act further restrict transfer of land within the tribal communities as well. It says that where transfer of land is from a person belonging to a Scheduled Tribe to a person belonging to a Scheduled Tribe it should take place in the following order of preference – a) landless agricultural labourer; b) marginal farmers; c) small farmers; and d) a person other than referred to in Clause a), b) & c) and that such transfers shall be made only with the previous approval of the Assistant Collector of Revenue concerned.

These provisions under the Act apparently provide adequate protection against the exploitation of tribals by non-tribals, also it protects interests of landless and marginal farmers among the tribals.

But the ground realities are different. During the interaction the Commission had with the Buksa Tribals in Vikas Nagar Development Block in Dehradun District, the tribal representatives submitted documentary proof about the irregularities/violation of laws/regulations where the transfer of tribal land to non-tribal had taken place

which in fact is unlawful as the provisions of the Act prohibit land transfer of any kind from tribal to non-tribal. When this was brought to the notice of the Minister in-charge, Social Welfare/Tribal Welfare and the Chief Secretary in the Commission's meeting with them, the State Government admitted that there are some cases of land alienation in Buksa and Tharu Tribe's habitat that had come to the notice of the State Government which would be looked into by the State Government and that in all the cases of tribal land alienation detected and the land so alienated will be restored to the original tribal land owners.

**The Commission observed that the provisions of the UP Zamindari Abolition and Land Reforms Act, made applicable to Uttaranchal, regulating the transfer of tribal land are not being implemented strictly which needs the attention of the State Government.**

### **Tribal Sub-Plan (TSP)**

The Tribal Sub-Plan approach has been adopted. The tribal development programmes and projects are being implemented with the following objectives and the strategies laid down for the development of tribals of the State:-

- (1) Funds are being earmarked for TSP in proportion to percentage of the Scheduled Tribe population in the State;
- (2) In the Tenth Plan period (2002-07) out of the State Plan outlay of Rs.9000 crore, the funds flow to TSP is at Rs.324 crore which is 3.6% of the State Plan. In the Annual Plan (2002-03) allocation to TSP was 4.59% and that in the Annual Plan (2003-04), the allocation made has been at 3.66% of the State Plan.
- (3) Emphasis given in the Tribal Sub-Plan for socio-economic development are the schemes/projects like basic minimum services i.e. drinking water supply, primary health-care, housing, link roads and streamlining of public distribution system and universal and primary education etc.
- (4) Thrust of the projects and schemes are for employment and income generation.

- (5) Under TSP outlays physical and financial targets have been fixed for the schemes.
- (6) An important aspect of TSP is for the rehabilitation of tribals displaced on account of all the development projects etc.
- (7) An emphasis has also been given for the development of schemes in handloom, carpet-weaving and handicraft etc.
- (8) As per the guidelines under National Forest Policy within the framework of the Forest (Conservation) Act, 1980, Joint Forest Management Programme has been given priority in respect of the development of the tribal habitat and for maximizing the benefits that the tribals are expected to derive from the forest resources in and around their habitat.

There are no problems associated with the users rights of the tribals in the forest areas. The State Government has acknowledged that the tribals have played an important role in the forest conservation work programmes in the tribal areas. There are no complaints about the users right traditionally exercised in respect of minerals, mines and non-timber forest produce etc. The Van Panchayat System introduced in the State are working in the tribals habitat also.

**The TSP does not include major schemes and projects under the State Plan** such as, State Highways, electrification and power distribution, major transport and communication infrastructure, forest, higher education and specialized health system etc. These aspects of Human Resource Development and infrastructural facilities development in respect of the TSP are covered under the State Plan, i.e. over and above the TSP allocation.

S.No.	Plan Period	Plan Outlay	TSP	Percentage
1	2	3	4	5
1	10 <sup>th</sup> Plan (2002-07)	Rs.9000 Cr.	Rs. 324 Cr.	3.6%
2	Annual Plan (2002-03)	Rs. 1534 Cr.	Rs. 70.4 Cr.	4.6%
3	Annual Plan (2003-04)	Rs. 1740 Cr.	Rs. 64 Cr.	3.66%

## **TSP funds allocation**

Of all the 5 tribes, Raji and Buksa Tribes are comparatively more backward economically than the rest of the tribes in the State.

**The Commission recommends that under the Tribal Sub-Plan some special economic package/programmes/projects should be undertaken by the State Government for the economic development of the Raji and Buksa Tribes, the object of which should mainly be the employment and income generation. It further recommends that there should be a criteria/formula devised for the allocation of plan funds to different tribal development sectors.**

In the State of Uttaranchal there are no Scheduled Areas and that tribals are dispersed in 9 Districts mainly and that the tribal habitat are not contiguous geographically with the result it would be difficult to have integrated tribal development projects set-up. In fact, it is for this reason that the ITDPs set-up earlier on trial basis were abolished. That leaves only one criteria to be adopted for the allocation of funds i.e. the population and the relative economic backwardness can form the basis for the allocation of funds.

**The Commission recommends that Raji and Buksa Tribes should receive higher allocation considering their relative economic backwardness. These two tribes also need basic services such as Human Resource Development and health services to be provided on priority basis. The State Government may see the feasibility of a formula for allocation of TSP funds such as – 40% on population basis of each tribe and 60% on the basis of relative economic backwardness.**

The Chief Secretary stated in the meeting that there are 11 Blocks covered under **Border Area Development Programmes**, over and above, the development efforts made under Tribal Sub-Plan.

## **Revenue Deficit Grants from the Centre**

In the meeting with the Commission, during its visit to the State of Uttaranchal, the Hon'ble Chief Minister, Shri N.D. Tiwari stated that the State of Uttaranchal is a

special category State for various purposes particularly for the plan financing and for the special grants from the Centre. He also mentioned that other special category States like Himachal Pradesh are provided every year special grants by the Central Government, but the State of Uttaranchal has not been getting such special grants even after declaring it as a special category State. In the absence of the special grants from the Centre, the State has been facing difficulty in financing the development and welfare projects for both tribals and non-tribals in the State, he added.

The special category States get their plan financing in the form of 90% grants and only 10% as loan. This is done because these States presumably have weak revenue base resulting in large deficits on their non-plan revenue account. These States, in fact, always remain under acute stress with fiscal deficits requiring massive infusion of Central funds/grants. For these reasons, the special category States are provided revenue deficit grants which the State of Himachal Pradesh has been getting and that may be the case with the other special category States. These special category States are allowed to transfer 20% of plan assistance for the non-plan expenditure. The State of Uttaranchal has not been getting revenue deficit grants from the Centre because such grants are assessed by the Finance Commission which sits periodically. **The last Finance Commission** i.e. XIth Finance Commission had made its recommendations a little before the State of Uttaranchal was created and therefore, no special financial arrangements by way of revenue deficit grants or Special Assistance could be recommended by the XIth Finance Commission in respect of the State of UP and for the areas now forming parts of Uttaranchal. The newly created State of Uttaranchal had to wait for three years and may have to wait until the XIIth Finance Commission presents its recommendations. The XIIth Finance Commission can assess the financial requirements to meet the revenue deficits for making necessary recommendations after assessing the size of the revenue deficit grants for the State of Uttaranchal it being a special category State.

**The Commission observed that the revenue base of this new State is apparently weak and the State being particularly a newly created State is facing financial problems on account of revenue resource**

**constraints. The State being a special category State for the purpose of Plan financing and for the Special Central Assistance by way of revenue deficit grants, can place before the XIth Finance Commission its demand for special grants to meet its revenue deficits.**

### **Integrated Tribal Development Projects**

At one time, before the reorganization of the State of UP, there were 5 Integrated Tribal Development Projects in the tribal belts now forming parts of the Uttaranchal State. These ITDPs were abolished by the State Government of UP long before the re-organisation. As such, at present, there are no Integrated Tribal Development Projects in operation in the State of Uttaranchal.

The State Officials as well as the tribal development agencies in the State had expressed their views justifying having the Integrated Tribal Development Projects for a comprehensive tribal development in the State. It appears that the State is open to the concept of Integrated Tribal Development Projects. The State may be considering floating the ITDPs as a mechanism for tribal development.

**There are certain tribal belts which qualify to have ITDPs such as two Development Blocks covering Jaunsar-Bawar area in Dehradun District; Joshimath Development Block in Chamoli District and Harsil and Nilang Pass areas in Uttarkashi. The Darchula and Munsyari areas also qualify to have ITDPs considering the preponderance of Scheduled Tribes and the unit being either a Development Block or a Tehsil, the Commission observed. The Integrated Tribal Development Projects that can be set-up should cover all the tribal communities. The smallest of all is Raji tribal community but it has only a couple of habitat which can qualify for ITDP. Those pocket of Raji tribal concentration which do not qualify for ITDP can be covered under the Modified Area Development Approach (MADA).**

### **Human Resource Development**

The Chief Secretary stated that the new State of Uttaranchal has faced a lot of difficulties in getting it established as apparently there are new problems,



difficulties and constraints in setting up the systems in a new State. Despite the constraints, the efforts have been made for proper development of tribal areas. The Chief Secretary stated in the meeting that the State has given top priority to Human Resource Development particularly for the Scheduled Tribes. Apart from the normal Government Schools, there are also Ashram Schools in the State.

But the ground realities perceived are different. **The Commission observed**, on hearing the tribal representatives and on a perusal of the reports on the educational institutions run by the Government as also the health institutions in the tribal habitat in the state that adequate infrastructural facilities like buildings, laboratories, essential teaching staff and medical and para-medical staff, medical equipments etc. have not been provided. There are reports also about the problems associated with the distribution of scholarship/stipends to the tribal students in the tribal areas.

## **Economy**

### **Agriculture and Allied Services**

Agriculture continues to be the main source of livelihood for all the 5 tribal communities in the State. The Bhotia Tribe along the International land border at one time had a good source of employment and income on account of border trade. Now, they are totally dependent on the agriculture and the traditional handloom industry. The other 4 tribes who have their habitat in the lower hills of the State are totally dependent on agriculture.

**The Commission observed during the field visits and on perusal of the records on the agriculture production, trade and commerce etc. in the State that nothing substantial has been done for the development of agriculture, trade in industry for the tribals. There is no trace found of any impact of the green revolution in the tribal habitat. The agri/horticulture can make major contribution for the development of economy of the tribal habitat but its development on modern lines with the aid of new technology has not yet been initiated.**

The twin Revenue villages of Nilang and Jadung of Nilang Pass area were vacated by the tribal natives during the 1962 Indo-China War. A delegation of these tribals met the Commission during its field visit and stated that the land allotted to them in the new habitat area Bagori (Harsil) & Dunda in the District of Uttarkashi is not enough for their livelihood and in fact the land given to them is not commensurate with the area they have lost in these twin villages on evacuation. They have further stated that they were not given any compensation for the land lost by them on account of their evacuation. The representatives of the Bhotia Tribe who had to vacate their original habitat Nilang and Jadung villages during the Indo-China War of 1962 stated before the Commission that the land in these villages vacated on their evacuation can now be restored to the original tribal owners of these villages. Now that Indo-China relations have normalized the tribals claim that there are no problems for reviving the economic activities in these villages.

**The Commission recommends that the Government of India/State Government may consider restoring the two tribal habitats i.e. Nilang and Jadung Revenue villages to the original/native owners which they had to vacate during 1962 war, as the tribal representatives from these areas are of the view that neither there are any security problems in the area nor the restoration of these villages would adversely affect the deployment of the military/security forces in these areas. The local administration reported that these Revenue villages vacated by the tribals in 1962 have the fertile land and there is a good scope for agricultural/horticultural development in the area which would help generate employment and income for these displaced tribal natives of the area.**

In the meeting held by the Commission with the Hon'ble Social Welfare/Tribal Development Minister and with the Chief Secretary and the Secretaries of the Departments, the Commission was told that there were no complaints about the **land alienation** in the tribal habitat. **The ground reality is that** during the interaction the Commission had with Buksa Tribe in Vikas Nagar Block in Dehradun District, the tribal representatives submitted documentary proof about the irregularities/violation of laws/rules where transfer of land from tribals to non-

tribals had taken place. Under Section 157 B of the Uttar Pradesh Zamindari Abolition and Land Reforms Act (now applicable to the State of Uttaranchal) there is a total ban on transfer of land from a person belonging to a Scheduled Tribe to a person not belonging to a Scheduled Tribe. When this was brought to the notice of the Hon'ble Minister, Social Welfare/Tribal Welfare and the Chief Secretary in the Commission's meeting with them the State Government admitted that there are some cases of land alienation in Buksa and Tharu Tribes' habitat that had come to the notice of the State Government, which would be looked into by the State Government and efforts would be made for the restoration of the tribal land alienated.

**The Commission recommends that a survey should be conducted to detect the cases of land alienation in Buksa and Tharu Tribes' habitats and for that matter in respect of other tribes as well and that land alienated should be quickly restored to the original tribal owners. The Commission further recommends that the land reform measures provided under Uttar Pradesh Zamindari Abolition and Land Reforms Act should be strictly enforced, as in the opinion of the Commission strict implementation of land reform measures is a key to the land development and productivity.**

During the interaction with Buksa Tribe, it was revealed by the tribal speakers that there have been **cases of exploitation** where loan papers/documents and figures of loan amount etc. had been fudged by the money-lenders. The tribals have always been in the need of financial assistance to meet their land development activities and cultivation of the land for agri/horticultural production. As per the statement made by the functionaries of the local administration and also by the tribal representatives during the interaction with Buksa tribal representatives in the Vikas Nagar Block that not a single case of **Government sponsored loan** has been processed in the past that could replace the loan by the money-lenders. The SC and ST Finance Development Corporation of the State has not sanctioned even a single loan case in this Block having the preponderance of tribal population.

**The Commission observed that there is a need to build awareness campaign about the availability and the process for obtaining the loan**

**from the Government, Cooperative Bank and Financial Institutions/Commercial Banks and the ST Finance and Development Corporation etc.**

The Block Development Officer and the Tehsil functionaries revealed that not a single survey has been done to collect the basic statistics on economic development in agriculture, horticulture, animal husbandry and allied fields of economy in the Block. This is precisely the case with other tribal habitats in the State where no survey has been undertaken to assess the impact of economic development programmes. Also, there are no statistics prepared of the persons below the poverty line in respect of the tribal habitats in the State.

**The Commission recommends that there should be an economic survey undertaken in all the tribal habitats in the State to assess the state of economic development and the impact of the development in all these years of planned development.**

#### **Development of infrastructural facilities – Road/Transport**

The representatives of the Bhotia Tribe of Mana village situated only a couple of kilometers beyond the sacred Badrinath Temple have made the following demand before the Commission.

- i) They have demanded that a road be built from Mana village to its hamlet across the river at a distance of 10 Kms. which has the tourism potentiality. This will help develop the economy of the area and would provide employment and income to the local tribals.

**The Commission observed that there are no security problems that come in the way of building this road stretching around 10 Kms. across the river to the hamlet where they have agricultural activities. At present, the tourists have to go upto the hamlet on foot. By constructing this road, more tourists and pilgrims visiting Badrinath will visit the area that will create employment opportunities for the local tribals.**

- ii) The tribal people of Mana shift from this village to lower areas of the State in November and return to the village in the month of May. This migration is an annual feature. They produce a variety of handloom and handicraft items. They have demanded before the Commission that they faced problem for marketing their handloom products and there are no institutional arrangements for marketing of these products. Secondly, their handloom and handicraft work/products are distinct and their market has been threatened by cheaper mill-made clothings. They have demanded that handloom and handicraft items brought from outside the State should be banned to protect the market for their local products. There is enough strength in their plea.

**The Commission recommends that necessary measures be taken first to promote the handloom and handicraft items of the tribals and then provide necessary market protection which measure can be to the extent of banning the handloom and handicraft products from outside for sale in the area. At present there are no institutional arrangements made for marketing of the products nor any incentives have been given to these tribals. In fact, the promotional work through incentives and financial assistance can be undertaken under the Tribal Sub-Plan or with special assistance from the Central Government.**

The tribals of Mana have also demanded that the traditional trade route to Tibet should be re-opened and a road should be built upto the border. The Commission had, during the interaction with the local administration and also with the tribals, observed that the feasibility of constructing a road upto the border to reduce the distance to be covered on foot and save time as well can be undertaken. **The road built will obviously open up opportunities for economic development in the area and these tribals can seize the benefit.**

The Commission observed that the Mana village inhabited by Bhotia tribals situated just a couple of kilometers beyond the sacred Badrinath Temple do not

benefit directly or indirectly from the pilgrimage to the sacred Badrinath. Mana being the only village close to Badrinath Temple have no participation directly or indirectly in the management of the Badrinath shrine under the Temple Committee. The Temple Management, according to the tribals of Mana, has never asked for any services to be rendered by these tribals for the Badrinath shrine.

**The State Government can consider enlisting participation of these tribals in the management of the Temple and in the developmental activities in and around the Badrinath shrine. Their participation can open up employment opportunities for these tribals and it might augment economic development of the tribal habitat.**

**The Jaunsar-Bawar has the largest tribal population. The area is underdeveloped economically and it lacks basic infrastructural facilities such as roads and transport system and communication facilities etc. The trade/commerce is not much visible. The reason stated by Jaunsari tribal representatives was that the gate system regulating the entry to and exit from Chakrota virtually keeps the whole area of Jaunsar-Bawar out of bounds and have demanded that the gate system be removed.**

**The Defence Ministry, Government of India may look into the feasibility of finding an alternative to the present gate system so as to help open up the area for tourism, trade and commerce. The area has great potentiality for faster economic development of the economy of the tribal people.**

**The Commission observed that in all these border land areas, the infrastructural development needs attention for opening up the area and for building economy of these tribal belts along the International land border from Darchula and Munsyari in Pithoragarh District in the East along the International border through Malari and Niti Pass area in Chamoli and Mana village beyond the sacred Badrinath Temple to Nilang Pass beyond Gangotri in Uttarkashi District in the State and also in Jaunsar-Bawar area of Dehradun District in the West. For the development of the economy of these border lands, roads and infrastructural facilities like transportation, communication facilities**

**should be built and expanded. In the name of security considerations, the infrastructural facilities have been denied to the natives of these areas who are mostly tribals. The infrastructural facilities would in fact help opening these areas for hiking, trekking, tourism development, trade and commerce which would create opportunities for employment and income generation.**

**The Commission recommends that a task force may be set up by the Government of India for undertaking feasibility exercises for the economic development by building infrastructural facilities all along the International land borders from Ladakh through Himachal Pradesh, Uttaranchal, Sikkim to Arunachal Pradesh.**

### **Cultural Tourism– Its impact on the economy of the Tribal Habitat**

The famous pilgrimage route – the only route from India – to the sacred Mt. Kailash (22,028 ft./6675 mtr) and Mansarovar (at the height of 14,930 ft./4530 mtrs.) passes through the District of Pithoragarh in Uttaranchal. The upper part of the District along International land border is inhabited by Bhotia tribe and in the lower parts of District both Bhotia and Raji tribes have their habitat. From the ancient times for many centuries, this was the pilgrimage route to the Mt. Kailash and Mansarovar in Tibet (PR-China). This route was closed in 1956 and was re-opened in 1981 on the normalization of India's relation with PR-China which was welcomed by the tribals as well as non-tribals settled along this route.

The pilgrimage is organized by Kumaon Mandal Vikas Nigam Ltd. Since the re-opening of the route in 1981, in all these years i.e. upto 2003, season 6889 pilgrims/travelers in 231 batches visited the sacred Mt. Kailash and Mansarovar via this route. The pilgrimage is performed in various groups between June and September every year. The pilgrimage is organized on the Indian side by the Kumaon Mandal Vikas Nigam Ltd. and that on the Tibet (PR-China) side by a tourism agency of China. The pilgrimage route passes through Almora, Darchula and Navidag, Lipu Lake Pass (International border) and from the border via Takiakot to Mt. Kailash and Mansarovar in Tibet (PR-China).

The pilgrimage every year generates employment and income for the local inhabitants both tribals and non-tribals. The Kumaon Mandal Vikas Nigam Ltd. and the local administration have reported that the tribals along this route are directly or indirectly benefited in the following ways:-

- (1) That the local tribals are deployed as chowkidars/security guards along the pilgrimage route. The entire seasonal fruits and vegetable for the mess run by the pilgrimage batches are procured locally.
- (2) The local inhabitants deployed the horses, ponies and labourers for the transportation purposes for the pilgrimage along this route.
- (3) A large number of small shops, restaurants, dabhas have been established by the locals inhabitants which provide them employment.
- (4) Throughout the year, surveys are conducted in connection with the arrangements for the pilgrimage and for the purpose the local tribals are employed.

The tribal representatives during the interaction with the Commission had demanded that the road upto the International border on Indian side should be constructed which would not only help faster movement of the pilgrims but also boost the economy of the border land. There are a large number of tribals both Bhotia and Raji in the Tehsil Darchūla and Tehsil Munsyari in the District of Pithoragarh. These areas have tremendous potentiality for the development of tourism – trekking, hiking, mountaineering and adventure sports. The development of motorable roads in this area would help economic development resulting in employment and income generation for the local people.

**The Commission recommends that the Government of India and the State Government of Uttaranchal may consider building motorable road upto the International border along this route and develop the basic infrastructural facilities like transport and communication and promote cultural and adventure tourism which can have a multiplier effect on the economy resulting in employment and income generation for both the tribals and non-tribals inhabiting the catchment area along this route.**



### **Border Trade – Its impact on the economy of the tribal habitat**

The commercial trade between tribal habitat along the International land border in Uttaranchal and Tibet (PR-China) had existed from the ancient times. The International borders with Tibet (PR-China) were closed for the trade from 1956 onwards due to the deterioration in the relations between India and PR-China on the issue of Tibet. The trade vitually stopped after the flight of His Holiness the Dalai Lama in 1959.

The tribal people inhabiting the International land border in Uttaranchal/UP as well as in other parts of the Himalayas had been pressing for re-opening of various trade routes from India to Tibet (PR-China) which were the branches of the famous silk route. To begin with, the trade route from Pithoragarh via Navidag and Lipu Lake Pass (border) and Taklakot was re-opened in 1992. Although, the pilgrimage route in Pithoragarh via this trade route to the sacred Mt. Kailash/Mansarovar was re-opened in 1981.

There was a proposal for re-openeing another trade route running from Joshimath via Niti Pass in Chamoli District. So far no decision has been taken for re-opening of this route which is also a branch of the famous ancient silk route. The tribal representatives of the Joshimath Block in Chamoli District have during the interaction with the Commission demanded re-opening of this trade route. The tribals of Mana habitat beyond Badrinath Temple in Chamoli District and also the tribes of the Nilang Pass area beyond the Gangotri in Uttarkashi District placed their demands before the Commission for re-opening of the trade routes through these areas.

The border trade has since been re-opened via Nathu La in Sikkim and Shipki La in Himachal Pradesh, Lipu lake pass in Pithoragarh District of Uttaranchal which have been from ancient times the important branches of the ancient silk route.

**The Commission observed, during the interaction with the cross-section of tribal representatives from the International land borders along the Niti Pass and Mana Pass in Chamoli District and Nilang Pass in Uttarkashi District, that the border situation in these areas, as it appears, are no different from that of Nathu La in Sikkim, Shipki La in**

**Himachal Pradesh and Lipu Lake Pass in the Pithoragarh District as far as the border trade is concerned.**

**The Commission recommends that the Government examine the possibility of re-opening border trade with Tibet (PR-China) via Niti/Mana Passes and via Nilang Pass for the reasons that these routes have been from ancient times the important branches of ancient silk route; and that the border trade had been the backbone of the economy of the tribals inhabiting the International border land.**

The trade items along these routes that can be imported from Tibet (PR-China) are Byang (Tibetan Sheep) wool, pashmina, musk, horses, ponies, yak & yak-tails, borax, Tibetan sheep and goats, butter and cheese products etc. The items which can be exported via these trade routes are food-grains – rice and wheat, fruits, sugar, gur – khandsari, utensils, hardware, Indian tea, cloths/garments etc. It may be mentioned here that there are many items which can be exported through these trade routes which are much in demand in Tibet and other provinces in North-Western China. During the last two years via Shipki La in Himachal Pradesh, various items of trade have been exported from India which were in great demand in Tibet and other Provinces of North-Western China.

**Traditionally the border trade was between the natives along the International land border on both sides of the border. On re-opening the border trade it was presumed that the trade would be permitted to the natives only on Indian side. There is no explicit direction issued in this regard.**

**The Commission recommends that the trade interest of the tribals settled along the International land borders be protected through legislative measures which can extend to providing for necessary Constitutional safeguards to regulate the border trade with the object of keeping it open to the natives only as the border trade traditionally had been the backbone of the economy of the tribals inhabiting the International land borders.**

## WEST BENGAL

Out of a total population of 8.04 crores, West Bengal has a scheduled tribe (ST) population of 51.23 lakhs. The ST population is spread over the districts of Midnapur, Bardhaman, Purulia, Bankura and Jalpaiguri. The major tribes are the Santhal, Munda and Oraon among 40 different ST communities. Three primitive tribal groups have been recognized i.e. the Lodha/Kheria, Toto and Birhor. Two new ST communities have been added to the list i.e. Limbu (Subba) and Tamang to make the forty. ST community-wise figures of 2001 census are not available. No area of the State has been declared as Scheduled Area.

2. The Commission's Team toured the districts of Purulia, Birbhum and Bankura. In these districts, they met a large number of members of the public, members of Panchayats and legislators. The tour was wrapped up with a meeting in Kolkata with the Chief Secretary of the State and several of his state-level colleagues. Further, at the end of the visit, the Team had the benefit of discussions with the Chief Minister, West Bengal, Shri Buddhadev Bhattacharya. We could not have a meeting with the Governor as he was on leave.

3. Arriving Ranchi airport on 11 August 2003, we motored down to Purulia, headquarters of the district of that name. Later in the evening, we had separate meetings with legislators and Zilla Parishad Chairpersons and subsequently with NGOs and public men. At this meeting, the District Magistrate Shri Bhagwati Prasad Gopalika and the Superintendent Police Shri Vineet Kumar Goel were present.

4. At the meeting with legislators, among those who were prominent were Shri Basudev Acharya MP, Shri Upendra Nath Hansda MLA, Shrimati Samya Pujari Mahato MLA, Shri Mithoo Singh Sardar Zilla Parishad Chairperson and several others. The main issues raised at this meeting related to education and health. It was mentioned that the female literacy was very low being of the order of just 3 per cent (1991 figure). The latest literacy figures were not available. Even the 2001 figures of the total population of STs as well as break-up of ST community-wise also were not available, despite the fact that the census figures had been generated in the district. Some legislators mentioned that more hostels were needed as the demand for seats in hostels was high. At the same time, it was indicated that funds were not being fully utilized, as in the Kashipur Block. A high rate of drop-out on account of migration stood in the way of spread of education. Other legislators indicated that notwithstanding the existence of PHCs and hospitals, STs did not make use of the facilities because of lack of awareness. Not many NGOs worked among them to create the awareness. Thirdly, the scheme of availability of micro-credit to self-help groups needed to be revamped. Fourthly, the MP and other legislators mentioned that the community Kharia-Savar should be formally included in the Scheduled Tribe list as recommended by the West Bengal government and the concerned Parliamentary Committee. It seems this community had been a criminal tribe.

5. At the meeting with the NGOs, again the major problems related to education and health. The case of the Kharia-Savar came up again. However, a fruitful discussion related to Panchayat-administrative structure in the district. From the discussion it appeared that the Zila Parishad had not been involved in

all the development activities in the district. The Parishad had considerable quantum of staff like engineers and executive officers and the ADM was the Additional Executive Officer. The Secretary and the Deputy Secretary Zila Parishad belonged to the PCS.

6. In the morning of 12 August 2003, we proceeded to Hutmura and visited Harimati hostel for girl's high school as also a boys hostel meant both for SC and ST students. The girls hostel contained 20 SC and 27 ST girl students. They were well housed and the kitchen was clean. They looked comfortable. But the boys hostel seemed to be over-crowded, having 10 beds in not so large a room. The kitchen also was not well ventilated. On the whole, the arrangements in the boys hostel did not appear to be satisfactory.

7. The Team proceeded to Bolpur and Birbhum district via Bankura. We had a round of Shantiniketan. Although it was a half-day holiday, we got the opportunity of having discussions with the Vice-Chancellor Vishwabharti, Dr. Sujit K. Basu. The Team members discussed broadly the ideology of the Vishwabharti University and more specifically the ideas of Rabindranath Tagore on rural and tribal development. Dr. Basu promised to send us literature on the subject. Two members of the Team had discussions with Dr. Kumkum Bhattacharya, Professor and Head of Deptt. Social Work, Vishwabharti University, Shantiniketan. She assured us that she would send us papers relating to course contents of training of Panchayat members. After some discussion with the local officers, the Team proceeded to Bankura. Night halt at Bankura.

8. In the morning of 13 August 2003, at Bankura we had a meeting with MLAs Shri Subhash Chakravorty, Smt. Manushi Ghosh, Shri Iriti Bagdi

(Indupur), Shri Makar Tudu (Ranibandh), representatives of NGOs and prominent members of public. A list of those present is annexed. The following issues came up:

- a) Integrated development was required
- b) Agriculture should be emphasized. Irrigation should be provided
- c) Social forestry should be undertaken on fallow land
- d) Inadequate opportunities existed for education. Stipend amount should be increased. A college was needed. The rate of drop-outs should be checked, particularly through construction of hostels
- e) More attention to health was required
- f) The rate of migration had decreased, but more economic schemes particularly in the field of agriculture would bring it down further. Unemployment should be brought down
- g) There were forests in South Bankura. But business in Bidi and sal leaves had decreased owing to lack of marketing facilities. Employment generation schemes should be emphasized
- h) Financial incentives were required for ST cultural advancement
- i) The Lutheran World Service representative stated that development depended more on people's strength and wisdom.

9. After the meeting, the Team proceeded to Raipur in the same district. We had a look at the girls' hostel attached to girls' high school. Here also, the girl students seemed to be quite comfortable. There was a small number of SC students, but the majority was of the ST students. Kitchen arrangements were satisfactory.

10. In the LAMPS, located at Raipur under the name of DRMS Large Sized Multipurpose Cooperative Society Ltd. discussions were held with the Secretary, Manager and Directors of the Board of Directors. During discussions we were told that the entire paid-up share capital had been utilized as working capital, but in the working sheets given to us, the paid-up share capital was shown as Rs. 68.07 lakhs and the net working capital was shown as Rs. 30.80 lakhs. Some other accounting discrepancies also came to light. The rate of recovery of loans to members was not available. Thirdly, against the three-fold functions of LAMPS, conceived originally i.e. extension of production and consumption loans to members, sale to them of their daily basic consumer necessities at reasonable or controlled prices and purchase from them of their surplus agricultural and forest produce, six other functions had been added. They were labour contract jobs, deposit mobilization, nursery, vocational training, construction of cold storage and cold storage operations. While in principle, there does not seem to be objection to expansion of the activities of LAMPS, the practical aspect of capacity of LAMPS to undertake multifarious occupations would need to be examined fully. For example, we did not find adequate administrative, engineering and technical personnel available in the LAMPS, though it is possible that they might have been employed on project basis. Vocational training had been started in the tailoring and motor driving trades, but the scheme had to be abandoned for want of funds. It seems desirable to limit the activities of LAMPS to the extent that the organization can possibly execute.

11. In the afternoon, we had a meeting with members of Matgoda Gram Panchayat. Out of the total population of 14,881 according to the 1991 census,

the population of SCs was 3,978 and that of STs 2,397. The Pradhan of the Gram Panchayat and 16 members were present. We had a detailed discussion with them.

12. The Gram Panchayat Act 1973 as amended from time to time, the latest amendment being of 14 July 2003, is very elaborate. The functions, powers and duties of Gram Panchayat have been spelt out in the Act in Sections 19 to 34, that of the Panchayat Samitis in Sections 109 to 118 and that of Zilla Parishads in Sections 153 to 165. It is interesting to note that each of these three institutions consists of executive bodies i.e. Gram Panchayat, Panchayat Samiti and Zilla Parishad, as well as its corresponding deliberative bodies called Gram Sansad, Block Sansad and Zilla Sansad.

13. The Gram Panchayat consists of not less than 5 and not more than 30 elected members from among persons whose names are included in the electoral roll pertaining to the area comprised in the Gram + members of the Panchayat Samiti elected from the constituency comprising any part of the Gram. As per Section 16A of the Act, every constituency of a Gram Panchayat should have a Gram Sansad consisting of persons whose names are included in the electoral roll of the West Bengal Legislative Assembly pertaining to the area comprised in such constituency of the Gram Panchayat. As mentioned, the powers and duties of Gram Panchayat are wide ranging contained in several sections of the Act above cited. But Section 16A(6) narrating the functions of a Gram Sansad makes it clear that the "Gram Sansad shall guide and advise the Gram Panchayat in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken" , laying down principles for identification of schemes,



beneficiaries of poverty alleviation programmes, mobilization of mass participation for community welfare, promotion of solidarity and harmony among all sections of the people irrespective of religion, faith, caste, creed or race.

14. As per Section 94 of the Act, a Panchayat Samiti consists of not more than 3 members elected from each Gram within the Block + Pradhans of Gram Panchayats + MPs, MLAs and MLCs + Members of Zila Parishad elected from constituency within the Block. The July 2003 Amendment incorporated Section 115LA adding Block Sansad to the structure. It lays down that every Panchayat shall have a Block Sansad consisting of all members of the Gram Panchayat within the Block + all members of that Panchayat Samiti. Thus, it appears that the Panchayat Simiti could be regarded as the executive counterpart of the Block Sansad, a deliberative body. It is also noteworthy that, as in the case of Gram Panchayat, the Panchayat Samiti has been conferred large quantum of powers, mentioned in Sections 109 to 139. Generally, a Block and a Panchayat Samiti are conceived to be development oriented bodies, but the West Bengal Act goes further and empowers them in Section 133 even to levy tolls, taxes, fees etc.

15. According to Section 140 of the Act, a Zila Parishad consists of Sabhapatis of Panchayat Samitis + not more than 3 persons elected from amongst those whose names are included in the electoral roll from each Block within the district + MPs, MLAs and MLCs of the district. The July 2003 Amendment added Section 163A to the effect that every Zila Parishad shall have a Zila Sansad consisting of all members of Zila Parishad + Pradhans of all Gram Panchayats + Sabhapatis, Sahkari Sabhapatis + Karmadhayakshas of all Panchayat Samitis within the jurisdiction of the Zila Parishad. In other words, the pattern of having

two bodies has been followed by and large at all the three i.e. Gram Panchayats, intermediate Panchayats and district Panchayat tiers. The powers, duties and functions are sweeping. At the same time, the number of members at each tier of the Panchayat system is large.

16. We approached the interaction with the Matgoda Gram Panchayat with this background. We learnt that the Gram Sansad, Gram Panchayat and other bodies were meeting regularly as prescribed. The Gram Panchayat had one Secretary, one Job Assistant, one Sahayak and three 'D' category staff. But we found that, in practice, the field of work of the Gram Panchayat was limited to execution of a few schemes of SGRY, IAY, construction of primary school boundary wall, construction of drains etc. The total cost of these schemes might work out to rupees 5 to 6 lakhs per annum. We thought that in the context of the powers conferred on the Gram Panchayats this was too modest.

17. Our last item of visit was a cold storage constructed and run by DRMS LAMPS. The storage has a capacity of 5000 metric tonnes established at the cost of Rs. 1.90 crores. Of the total cost, the contribution of LAMPS was Rs. 14.25 lakhs, the share of the State Government Rs. 66.5 lakhs, loan obtained from NCDC Rs. 76 lakhs and subsidy from NCDC Rs. 33.25 lakhs. The entire storage area was stacked with potato seed bags which is the agricultural product of the area. According to LAMPS, since the 5,000 MT capacity cold storage had not been economically viable, the NCDC had sanctioned Rs. 2.10 lakhs for adding a second chamber for preserving local fruits and vegetables enhancing the capacity to 6000 MT. The LAMPS expected to complete the extension work by February 2004. We were not very clear about the economics of the scheme, particularly

because the DRMS LAMPS has asked for the sanction of a further sum of Rs. 50 lakhs for various projects being undertaken.

18. Night halt at Bankura.

19. The next day i.e. on 14 August 2003, we had meetings with the Chief Secretary West Bengal and other State level officers as well as a meeting with the Chief Minister West Bengal. Brief records of the meetings are appended.

**SUMMARY RECORD OF MEETING WITH THE WEST BENGAL STATE LEVEL OFFICERS ON 14 AUGUST 2003, KOLKATA**

2. No tribal area in the State of West Bengal is a Scheduled Area. Out of its total population of 8.04 crores, the ST population is 51.23 lacs or 6.37 percent. According to information furnished to the Commission, a group of Mouzas has been taken as a unit of ITDP, there being 33 project areas and one tribal pocket (Nadia), in all 34 project areas distributed in 14 ITDP districts excluding Kochbehar, Howrah and West Midinipur. It was pointed out on behalf of the Commission that the original concept of ITDP was to identify in a district, blocks having a majority of ST population aggregating them into an integrated tribal development project or projects (ITDPs). However, that situation did not obtain in West Bengal, where the more appropriate concepts would be modified area development approach (MADA) and cluster approach, depending on the total ST population in MADA/cluster pockets. In practice, we found this approach obtaining in field in the districts of Purulia, Birbhum and Bankura that we toured. However, we left this matter to the discretion of the West Bengal authorities.

3. On behalf of the Commission, it was conveyed to the West Bengal authorities that the Panchayat structure in the State was impressive, consisting as it did of Gram Sansad and Gram Panchayats, Block Sansad and Panchayat Samiti and Zila Sansad and Zila Parishad. In creating the Sansads at the three levels, apparently maximum participation of the people was sought. The functions, powers and duties of the bodies at the three tiers were wide ranging, as per the law. The Commission members had the benefit of inter-action with the Pradhan and members of the Matgoda Gram Panchayat near Raipur in the district of Bankura. It was found that, as compared to the wide-ranging duties powers and functions assigned by law to Gram Panchayats, its activities were rather limited to a few schemes like SGRY, IAY, construction of primary school boundary wall, drains etc. involving an expenditure of Rs. five to six lacs per annum. It was felt that large capacities envisaged in law should be utilized for implementation of a range of development programmes.

4. The State Officers informed that the ST land alienation was not a big problem in West Bengal. It was pointed out that in the districts the Commission's Team toured, they came across complaints of landlessness among STs, even driving them to migrate in search of work. The Land Reforms Commissioner, Shri Prasad Roy informed that the State Government was aware of the situation and, to an extent, the Bargadar system had ameliorated the predicament of STs. However, other steps as may be necessary would be taken.

5. In so far as the question of rights of tribals over minor forest produce was concerned, the Government of West Bengal had issued directions to the field officers entitling the tribals to a certain quantum of fuel items, items for house-

construction, items of minor forest produce and assignment of any tree in the forest as Johar Than for prayer and worship in addition to leaves, flowers, fruits, seeds, excepting Kendu leaves and sal seeds. But it needed a review owing to diminishing forest area consequent on deforestation and increasing population. The state forest policy should, inter alia, aim at increasing the forest cover including MFP species designed to help tribals till their dependence on these items tapers off. Secondly, forest-based industry may generate employment among tribals, particularly in respect of MFP items. Thirdly, on the subject of forestry, the state officers mentioned that number of forest "encroachers" was not large. On behalf of the Commission, the State authorities were requested to approach the matter in a sympathetic manner, in view of the fact that though the tribal families might have been living in the forest areas for decades, they might still not possess written documents in proof of their long standing habitation. In fact it might be difficult to brand them as "encroachers", since full-fledged and sympathetic enquiries are likely to prove them otherwise.

6. The low literacy percentage among tribals, particularly female literacy percentage as low as 3 percent in certain tribal areas of the State, was brought to the notice of the assembled officers, specifically of the Education Department. One dichotomy which surfaced related to the duality of control over education between the Education Department and the Backward Classes Welfare Department of the State Government. It seemed that the subject of hostels was being looked after by the latter, while the subject of education as such was being handled by the Education Department. In order to disseminate education widely, it was necessary that, in the tribal context, for reasons more than one, hostels

should be established on a big scale. Further, on behalf of the Commission, it was emphasized that both the questions of quantity and quality of education for tribals should attract attention.

7. It was the observation of the Commission's Team that the tribals' access to health systems was too limited, particularly on account of low level of awareness, though other reasons also existed. This aspect had been repeatedly stressed by non-officials in the field. The State Government might like to look into all aspects of the matter closely.

8. The Commission Members apprised the State authorities that they had scrutinized the papers of the DRMS LAMPS at Raipur. One major comment was that in addition to three-fold functions assigned to LAMPS in the original concept i.e. extension to tribals of production and consumption loans, purchase from them of their surplus agricultural and forest produce and sale to them of their basic consumer necessities, it had taken over various other activities like labour contract jobs, deposit mobilization, construction and operation of cold storage, vocational training, nursery etc. It appeared that the transactions on all the counts ran into more than Rs. 3 crores. It had two implications. Firstly, that the activities were becoming unwieldy and could soon go out of control. Secondly, not enough accounting, engineering and administrative capacities had been built into the system to take on the load. To the Team, accounts seemed to be in an unhealthy condition. Not only this, but all LAMPS needed to be scrutinized closely from an over-all perspective.

9. During its visit to the Bengal districts, the team found that a number of self-help groups were active. They needed to be encouraged, particularly at the district level.

10. Representations had been received by the Team for establishing local industries in those tribal areas where the concerned raw materials were available. From the over-all point of view, this might appear as a very small programme, but it could help generate livelihood for not a small number of families. The State authorities might consider issue of directions to the district administration so that planning could be done through Panchayats. Adequate infra-structure, as in the matter of communications, should find place in the programmes.

11. At least in one district i.e. Bankura, the Team found that funds had been distributed equally among the administrative units in the district. What seems to be required is equitable distribution and not equal distribution, relative to population, area and backwardness. In other words, backward project areas and pockets should attract larger quantum of funds than other units. The State Government might consider.

12. In view of the heavy responsibilities of planned development cast on the Panchayat system, the Commissions' Team felt that the members of Panchayats should be adequately trained so as to be equipped to handle administrative and accounting matters properly.

**BRIEF RECORD OF DISCUSSIONS OF THE COMMISSION'S TEAM WITH THE CHIEF MINISTER WEST BENGAL ON 14 AUGUST 2003, KOLKATA.**

2. The Commission's members thanked the Chief Minister for sparing his valuable time for discussions with the Members of the Second Scheduled Areas and Scheduled Tribes Commission.

3. The Chief Minister stated that Panchayats had been functioning in West Bengal since 1978. There was no caste or class oppression in the State. Nor were there atrocities on scheduled castes and scheduled tribes. But a lot needed to be done on the socio-economic front. The Commission Team was of the view that members of the Panchayats required adequate training to become equipped to handle Panchayat affairs.

4. The Commission's members referred to the low level of literacy among STs, the female literacy being as low as 3 percent in some areas of the district of Purulia. The Chief Minister agreed with the members' observation and informed that both he and the State Government were seized of the problem and were keen to ensure wide spread of education among the scheduled tribe population through establishment of new educational institutions, hostels and various other appropriate measures.

5. The institution of LAMPS has been designed to serve tribals on mainly three fronts i.e. extension of production and consumption loans, supply of



consumer necessities and purchase from tribals of their surplus agricultural and forest produce. During their study of DRMS LAMPS at Raipur in the district of Bankura, the Commission members found that in addition to the aforesaid activities, it had taken up other jobs like labour contracts, construction and operation of cold storage, vocational training, deposit mobilization, nursery etc. At the same time, its accounts were found to be not in order. While, generally, there could be no objection to the society undertaking worthwhile activities to benefit tribals and the local population, on the whole it appeared that the Raipur LAMPS was stretching its activities to practically unwieldy and uncontrollable limits. The Chief Minister observed that he also entertained the view that not all LAMPS were working well. He asked the Chief Secretary to look into the matter.

6. The members of the Commission took the opportunity of informing the Chief Minister that they had visited Shantiniketan and had held discussions with the Vice-Chancellor, Dr. Sujit Basu on problems of tribal development particularly and rural development generally. Tagore's ideas on rural development came in for special mention. The Chief Minister felt that a lot of water had flowed under the bridge since Tagore's time and the problems required modern approach. In fact, a number of NGOs and self-help groups were working in the field.

7. During the tour of the Commission Team, there were requests for support of tribals' cultural activities. The Chief Minister was appreciative of the demand and said that cultural activities were a part of the constructive approach. The State Government's policy was to support such activities, in conjunction with

major thrust on the socio-economic front. Through this policy, the Government would not allow the MCC and other affined organizations to penetrate Bengal. He expressed the determination to drive back such forces out of Bengal, should they venture to sneak in.