

Mining, Land acquisition and tribal rights: Does FRA secure that?

(Insights from commons , displacement and conflicts due to the overlapping of FRA / PESA in the scheduled areas of Odisha)

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The issue of land acquisition and dispossession through its many revised acts and policies in India has made the problem more complex as it has not only compelled the local people through the coercive measures to sacrifice their land and livelihoods but also has caused a series of devastation and trauma to their lives after displacing them . Amy Chua, professor at Yale Law School, in her book *'The World on fire'*(2002), writes, “the neo-liberal capital is the reincarnation of colonialism, where a global capital displaces local people, misappropriates local assets and livelihood, marginalises local capital, and reduces the vast chunk of humanity into proletariats working hours together to earn respectable lives as consumers”. The book reveals the true nature of globalisation. The author here discusses different reasons for the market dominance of different groups and through various citations the book projects a World , where real development in terms of ecological sustainability, quality of intellectual and emotional life, leisure activities, social bonding, family ties does not happen.

Flagging out this particular paragraph is perhaps a repetition of the Marxian doctrine of how capital ,which naturally faces a falling rate of profits, expands into monopoly power in order to secure its profits and in this way snatches away every other source of production which lay with the community and proletarianizes the people. Displacement, in the Marxian scheme, is therefore an obvious and inevitable fallout of development (Somayaji and Dasgupta, 2013). Ironically, since vast areas of lands are available in the remote rural areas of India, any kind of development project in the name of justifying national interest, have made the rural people victims who since bear the burnt of acquisition over the last more than a century. More so,

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this problem again draws attention due to the rapid expansion of capital intensive mining and industry where the state claims for enhancing economic growth and improving the rural people's livelihoods through the intensive mining activities . In other words, as scholars argue, 'resource restructuring in post-liberalization India involves securing land from farmers to allow for commercial and industrial uses, including mining (Lahiri-Dutt, 2014: 167)'. Thus, the result is seen in many parts of India of how tribal land acquisition for mining activities demonstrates the violence of mining and reveals the formal and informal tactics deployed by the state and private companies to dispossess the poor² .

The state of Odisha is no exception in this case; like other Indian states it has also welcomed mining corporations to generate revenues. Mining activities in various districts in the region have various impacts on the natural environment, most prominent of all the clearing of patches of tropical forest, land alienations, water pollution resulting in livelihoods loss. More so, the OLR 1960 forbids the transfer of tribal land to non-tribals in non-scheduled areas. The OSATIP 1956 (Orissa Scheduled Areas Transfer of Immovable Property by Scheduled Tribes)³ forbids the same for the scheduled areas. Both these acts permit the sale of tribal land to non-tribals only through the permission of competent authorities. Again in 2002, the GoO amended the OSATIP⁴, 1956 and banned all transfer of tribal-owned land to non-tribals in the scheduled areas. Apart from this the survey and settlement process has not formalised ownership of agricultural land being used by the tribes. Clan and lineage based rights over the land and the communal ownership of land especially among the Jhum cultivating tribals or adaivasis such as Juangs and Dongria Kondhs was ignored in the survey and settlement process.. Such lands were invariably classified as the government lands. Approximately 640, 702 acres have never been surveyed and settled in the state, most of these lands lie in the hilly tribal areas of Odisha (Kumar 2002, quoted in Vasundhara , 2016). Keeping in view this grave situation of displacement and dispossession in the state, and further due to the controversial resettlement and rehabilitation act , it is more rather challenging to judge the implementation of the legislations such as FRA and PESA ; FRA 2006 that claims in securing the rights of tribals and forest dwellers such as individual forest rights and

² Ibid: 166.

³ Available at http://odishapolice.gov.in/sites/default/files/PDF/Orissa-Scheduled-Areas-Transfer-by-ST%20Regulation-1956_0.pdf.

⁴ Available at <http://www.ielrc.org/content/e5604.pdf>

community forest rights. FRA 2006 is a landmark legislation which addresses the injustices that the tribals and other traditional forest dwellers in India have faced historically since the colonial period till independence and post –independence as well due to the non-recognition of their rights. Orissa, being one of the few states where this act has been initiated, the implementation of this act is more complex and it raises many challenging questions of how the potential of FRA is measured in addressing the historical grievances of these communities especially because of various controversial issues of displacements, multiple displacements, alienation, dispossession and poverty which have increased with highintensity during the post liberalization period in the state. The present paper , in this context, is based on the following research questions:

- How far the issues of displacement under '*eminent domain*' doctrine still exists in India and in what form?
- How does the question of 'land' in its new Bill of 2011 and 2013 address the issues evident in the political theory framework- state's relationship with its citizens through a 'political economy' discourse?
- Whether FRA does make development more smooth or difficult in India and more specifically in the Odisha state to secure rights of the tribals and OTFDs (Other traditional forest dwellers)?
- Why cannot the legislation such as FRA / PESA prevent acquisition of tribal and OTFDs land for various mining activities and protect their traditional livelihoods?
- What FRA does in the state to improve the condition of the poor- (if through large scale of development and investment)- especially tribals in the scheduled areas out of poverty?

The paper tries to seek the answer through investigating the issues of land acquisition and dispossession in various districts of Odisha state . Apart from discussing few case study analysis through various reports studied , the study has also been based on an exploratory field survey that was conducted in different phases during 2009-2013 . The mineral resource base in Odisha is mainly spread in the tribal community dominated districts. Mineral-intensive growth is known to create significant environmental externalities and this is clearly observed in the two major mineral rich districts of the state- Keonjhar and Sundergarh. This study has sought to explore the impact of mining on these two districts through the land acquisition policy in the surrounding environment & on the most vulnerable sections of the

society who are called as 'indigenous communities' in those two districts and also due to other FDI projects in the district of Jagatsingpur district for a plant and captive port construction and how does the issue of land acquisition prevail in this area among the NTFDs communities and this through a strong people's resistance. Various stake-holders were interviewed for this purpose during the field survey- these included the iron-ore and sponge industries officials, villagers who are mainly tribals and farmers, Orissa Pollution Control Board, activists and number of key informants. Secondary data sources were collected for the purpose- such as EIA reports, literatures published, many govt primary documents on FRA and land acquisition have been consulted and referred for developing this paper.

The paper is divided into three sections apart from introduction and conclusion. Section I delineates a brief historical overview of the LAA under 'Eminent Domain' doctrine in the country followed by a description of the problem regarding the ownership pattern in Odisha during colonial regime. Section II documents the study area, the land as commons and as a commodity in the lives of different actors involved in the whole debate of politicised environment in the field location with narratives. Section III briefly describes the LAA in the liberalized era and its nexus with mining, details the contemporary trends in the changing pattern of livelihoods, displacement and alienation of the indigenous communities from CPR due to the endangered mining in the districts of Keonjhar and Sundergarh through land acquisition projects and in the Jagatsinghpur district due to the FDI projects like POSCO and also the provisions in FRA 2006 mentioned for those displaced and its implications. The paper concludes with a note and argues on the issues of displacement and further the role of FRA- whether displacement produces new poverty and if FRA secures rights of displaced and dispossessed and prevent impoverishment?