

AID Conference 2004

Minutes for Session Named Adivasi Issue Cell

Date: 05/29/04

Time From: 4:00 PM

To: 5:00 PM

Minutes Taken By: Rajendra Marulkar

Number of attendees: 30

Audio/Visual Component?

Slide show.

Speaker/Panelist Names:

1. Sudha
2. Mokshay
3. [P. Chennaiah](#)

What they are speaking about:

Sudha (AID Minnesota): AID Adivasis Cell.

Mokshay: case study: Forest Case

Chennaiah: Adivasis issues.

Main Presentation:

Sudha started the session by giving an overview of the Adivasis issue. Most of the time, Adivasis are obscured from mainstream India. They come into focus only when they organize, resist and assert their rights. Whether in Chhattisgarh, Orissa, Jharkhand, Tamil Nadu, Madhya Pradesh or Kerala, the struggle of tribal communities for their rights is inextricably linked to land and forests.

Developing a single, specific definition or identification for indigenous peoples would be difficult. Individual indigenous peoples' communities reflect tremendous diversity in their cultures, histories and current circumstances. The term indigenous may be defined as a characteristic relating the identity of a particular people to a particular area and distinguishing them culturally from other people or peoples. Self-identification as an indigenous individual and acceptance as such by the dominant group is an essential component of indigenous peoples' sense of identity. Their continued existence as peoples is closely connected to their possibility to influence their own fate and to live in accordance with their own cultural patterns, social institutions and legal systems.

In the past few decades there has been some progress with regard to the international discussion on the issue of indigenous peoples. Starting point for all international documents, declarations, and agreements on indigenous and tribal peoples is Convention 169 of the International Labor Organization (ILO) of 1989. The Convention represents the only international policy to date that concedes indigenous peoples their right to a territory of their own, to their cultura and to their language which is binding by international laws. It furthermore obliges the governments that signed the paper to commit to the minimum standards in the implementation of these rights. ILO Convention 169 is based on the revision of the ILO Convention 107 of 1957, which was very strongly oriented towards integration. Growing criticism from indigenous peoples and also from inside the ILO and other UN organizations made it necessary to review the convention.

Indigenous peoples have prior rights to their territories, lands and resources, but often these have been taken from them or are threatened. They have distinct cultures and economies compared to those of the dominant society. They have community-based ownerships and exhibit much less hierarchy in their social systems. The majority of these people live in hilly and forest-terrain. The importance of indigenous peoples' self-identification is crucial and a part of their identity.

Statistics:

The percent of Adivasi population has been increasing steadily, and the rate of increase has been substantially higher than the rate of growth of the Indian population. The proportion of scheduled tribe population in the total Indian population has increased from 6.94 percent in 1971 to 7.85 percent in 1981, before crossing 8 percent mark in 1991. The largest concentration of tribals is found in states like Madhya Pradesh, Orissa, Bihar, Maharashtra, Gujarat and Rajasthan. The literacy rate is 25 percent for women, which is much less than the national average. Their income level is also very less than the average income in India.

Tribes & Indian government:

Scheduled areas defined in Schedule V: AP, Bihar, Gujarat, Maharashtra, Orissa, Rajasthan, and MP

In schedule VI some amendments were done e.g. Addition of Northeast states.

National commission SC & ST, Ministry of tribal affairs, State wide revenue departments are other government bodies involved with Tribal welfare activities.

There are many numbers available related to displacement of tribal.

One such number is 5 crors by Dr. Saxena, but no good data is available. But certainly at least 40% of total number of people displaced were tribal.

Issues with Rehabilitation:

On issues of rehabilitation, the tribal people are mostly not consulted. There is no proper planning before rehabilitation, the amount given to them as compensation is much less than what they should have got. Lands given are far away. There is no proper infrastructure at the new places. Many times the existing community is hostile to these new comers.

There is no good data on how many tribals were displaced and at what time. Many are displaced multiple times. There is also no data on what happens to the displaced people.

Other Issues related to Tribal community:

About 3 million tribal people live in protected areas (according to 1990 survey). As of now the number can be more than 5 million. The tribal people have very limited access to forest

resources. They are very prone to wild animal attacks. Between 1970 and 1984 nearly 450 people died of animal attacks.

Joint Forest Management was instituted in 1990 in order to develop partnerships between forest user groups and the forest department on the basis of mutual trust and jointly defined roles and responsibilities with regard to forest protection and development. India's experiments with Joint Forest Management grew out of attempts by forest officials to accommodate tribal demands to manage their own resources. Under JFM forests remain the property of the State under the jurisdiction of Forest Departments but local communities are contracted to manage the forests and retain a portion of profits from the sale of harvests. However, JFM has been criticized on many grounds. There is no real power sharing with the local community. In most states, the Forest Protection Committees established to co-manage forests with the Forest Departments lack legal personality and have no status outside their relationship to the government agencies. Many of those involved in JFM thus see the process as just another means by which the Forestry Departments are able to organize local labor to improve public lands.

Mokshay: case study: Forest Case

Mokshay visited a few tribal areas in Andhra Pradesh, Maharashtra, Madhya Pradesh and talked to many people's movements working on Adivasis issues. Reality is too different than our reality. Contexts are too different so difficult to understand. One of the first Colonization movements was from Tribal. There are also many local movements.

Relevant Laws:

5th & 6th schedules: The Fifth Schedule guards the interests of the tribals, protects them against exploitation by money lenders and protects their way of life. Tribals were not involved. This was a major problem.

Forest Act 1927: The 1927 Forest Act, still in force, divided India's forests into three categories: 1) reserved forests where no activities are allowed unless specifically permitted, 2) protected forests which are subject to a limited degree of protection and activities not specifically prohibited are allowed in these areas, and 3) unclassed forests which are the most degraded forests. State governments had control over all forest produce like timber, bamboo, etc.

Forest Conservation Act 1980: Under the provisions of this Act, prior approval of the Central government is essential for diversion of forest lands for non-forestry purposes. In the national interest and in the interest of future generations, this Act aims to regulate the indiscriminate diversion of forest lands for non-forestry uses and to maintain a logical balance between the developmental needs of the nation and the conservation of natural heritage. However, the implementation of this law has been very bad and the rate of diversion of forestland has been increasing in the last couple of decades.

NFAP 1988: One of the good laws which provides for a symbiotic relationship between forest & adivasis.

Provision of Panchayat Extension to Scheduled Areas (PESA) 1996: This is one of the most progressive laws passed since independence. It enables the gram sabha, i.e., the collectivity of village adults, and gram panchayat to take control of their destinies. It empowers villages to protect community resources, control social sector functionaries, own minor forest produce, manage water bodies, give recommendations for mining leases, be consulted for land acquisition, and have a decisive say in all development projects in the villages.

Background of forest case:

In 1995 a Public Interest Litigation was filed by an ex-estate owner in Gudalur, Tamil Nadu who was distressed by the illicit felling of timber from forests nurtured by his family for generations. The Supreme Court extended the scope of the petition to all parts of the country and passed significant judgments at various points of time. In 2001, an interlocutory application was filed regarding the issue of encroachment. In response to the Supreme Court order, in May 2002 the Ministry of Environment and Forests issued a circular on immediate eviction of all illicit encroachments. This circular has rekindled concern regarding the fate of the tribal and other forest-dependent communities.

The term 'encroacher' as has been used/implied in the MoEF circular is very loosely defined. There are lakhs of adivasis who have traditionally cultivated lands long before the notification of these lands as state owned forests under various laws, but whose rights were not recognized because of faulty survey and settlement process. These traditional cultivators do not have any title deeds for their lands and are labeled today as encroachers.

Furthermore, there is a lack of understanding on the part of the government on why encroachment takes place. The understanding of the larger context of development and the subsequent degradation/deforestation and fresh encroachment that takes place, needs to be understood and acknowledged in all policy directives relevant to encroachment. There is a sizeable population of tribals who have been alienated from their lands by land grabbers and have now encroached on forest lands for cultivation for basic survival. It is important that any attempt to deal with this type of encroachers should first ensure stoppage of tribal land alienation.

What we can do in Adivasi cell:

Gujarat & AP can be primary focus areas. In Gujarat, AID saathi Micheal Salgaokar is very active in this area. Adivasi Mahasabha and National forest commission are two active organizations with whom we can link up to understand Adivasi issues and to see how we can help.

In AP, 65 % forest area is tribal.

Chennaiah:

Mr. Chennaiah started his presentation by giving a brief overview of the laws.

National commission for Scheduled Castes and Scheduled Tribes Act is not at all implemented in tribal areas. 5th and 6th schedule laws do not cover some states and some areas. Some Supreme Court case orders have displaced adivasis from their areas, for instance, "Godama" case.

The struggle of Adivasis should continue for ownership of land. If lands are taken from tribal, it's easy to displace adivasis.

There are 3 different kinds of Adivasis issue. Adivasi struggle in scheduled area, non-scheduled area & plain area. They have different issues.

There are also issues related to non tribals taking land appropriately. By the 1970 law, if a non-adivasi marries adivasis, the adivasi cannot claim ownership of the land. This law has been misused and many non-adivasis started marrying adivasi girls to take ownership of land. They would leave the adivasis girls after acquiring the land ownership.

There are adivasis in the non-scheduled areas as well. These non-scheduled tribals have not the same kind of rights as tribal in scheduled areas. There is a need to identify tribal community as a whole. We can't differentiate between tribals from a scheduled area and tribals from a non-scheduled area.

This is another category of adivasis, Adivasis in plain areas. These adivasis are in the worst of conditions. They are exposed to exploitation on a daily basis. They are scattered geographically and as a result are not mobilized enough to demand their rights.

Question/Answer Session:

Q: What is the next step?

A: Identify 3 things what to do next like amendment of the law etc... Come up with action plans.

Q: Any group looking into DNT amendments?

A: ASHA is one of them.

Additional Notes/ Observations:

Yahoo group: adiwasi@yahogroups.com

Additional information: <http://groups.yahoo.com/group/adivasi>, mokshay@dam.brown.edu

Important thing to keep in mind is we need to make sure we keep Cultural integrity, religious rights of Adivasis. Cultural presentation (AID Boston: Bhasha)

We need to make sure we do capacity building in tribal areas in their own terms, while preserving their culture.