

# STATE LEVEL CONSULTATION ON **PESA**: A BACKGROUND NOTE

Those concerned for the tribal people, keen to know our indigenous communities, their lives and livelihoods, their identity and culture, their rights and responsibilities are disturbed. The simmering unrest in these regions, and the continuing poverty and abysmal human development indicators indicates something seriously wrong. Apart from visiting the tribal/scheduled V areas, we have to really go through some of the latest books and documents in circulation. Many perceptive and informative studies and reports exist. Some of our friends have written a book called "**INDIA AND THE RIGHTS OF INDIGENOUS PEOPLES**" C.R.Bijoy, Shankar Gopalkrishnan, Shomoma Khanna, Publishers, Asia Indigenous Peoples Pact. There has been an interesting study by Ministry of Panchayati Raj (PESA, Left-wing Extremism and Governance: Concerns and Challenges in India's Tribal Districts by Ajay dandekar, Chitragada Choudhury of IRMA). The National Advisory Council (NAC) has also prepared a document on Tribal Development dealing extensively on various Acts and Policies. Years back, Dr. B.D. Sharma had written an authentic book called 'The Tribal Affairs.' We need to take all these into account, and have much more discussions.

Some of the major issues that need to be discussed are outlined below:

- Poverty, Hunger and Underdevelopment of the indigenous communities,
- Loss of Livelihood
- Migration
- Large scale alienation from Land, Forest and Habitat
- Rampant Industrialization leading to involuntary displacement
- Imposition of so called Modern development
- Loss of Social, Cultural and Political Identity
- Poor Governance, poor programme delivery, poor implementation of PESA
- Anti-tribal policies of the Government and Corporates

Going by numbers, the pro-tribal and pro-poor policies and Acts seem to outnumber those not in favour of the tribals:

Policies in favour of the tribal communities:

- National Tribal Policy
- National Policy on Voluntary Sector
- National Policy on Farmers
- Prime Ministers Action Plan on Climate Change

Favorable Acts:

- PESA
- NREGA
- RTIA

- FRA
- Right to Education

Policies not favoring the Tribals:

- National Mineral Policy
- National Industrial Policy
- Land Acquisition Act
- SEZ Act
- National Seeds Act
- The IPC

And yet, we see that in implementation, very little that is positive is really carried out for the tribal communities. Land is very rarely settled in their favour, whereas, land acquisition is aggressively pursued by the Governments in power for myriad projects, to which the tribals can scarcely relate, the RTE hardly makes any impact, as too few teachers are provided, and they don't really seek to teach anyway and the NREGA provides employment, but not the wages! The Scheduled Areas are Resource Rich areas as the Centre for Science and Environment (CSE) Report RICH LAND:POOR PEOPLE has underlined. However these resources are garnered by the corporates, with more harm than good to the local communities. The overdrive for imposing development from the top has resulted in tremendous discontent among the tribals. There has been real shrinkage of democratic space as result the tribals are no longer able to resolve their own issues of self-governance. Some of the Acts like NREGA, FRA etc. are also not implemented in letter and spirit. The Odisha State with nearly 23% of tribal population has not been able to inspire confidence among the tribals that is legitimate to them. As per the Constitution, the Governor of a State is the actual protector of the tribals in the Scheduled Areas for peace and good governance. The tribals have developed indifference to various constitutional and administrative institutions. A simple question can be asked: how much time and attention do these institutions and their functionaries give to the welfare of the tribals. How many issues have been raised and resolved in the Tribes Advisory Council (TAC)?

The Tribals in the Scheduled V areas have been a mute spectator as provisions for self-governance are subverted by bureaucratic ritualism. Gram Sabhas are hardly ever organised or even allowed to function as institutions of decentralised self-governance. The popular saying is that the Sarpanch is controlled by the VLW, the Panchayat Samiti Chairperson by the BDO and the Zilla Parishad Chairman by the District Collector. One can imagine what is the state of affairs in the Schedule V areas.

Let us look at the Tribal Assertion however insignificant it may be. The State has been so intolerant that every assertion is branded as instigation. In the name of Law and Order, such assertion has been brutally suppressed. The Number of Cases, the number of prisoners in the jails in the Scheduled V areas are the indicative of the State's response to tribal voice and aspirations.

PESA was enacted in 1996. It is imperative to revisit its status, and its presence for the tribal communities, as a set of constitutionally guaranteed rights. The Tribals have bitter experience about the violations of PESA. At the same time, they feel that given a chance the PESA can address many an injustice in the tribal regions. What is needed is an Action Plan formulated by the tribals and implemented by them to fight the range of insecurities – Food and Nutrition, Economic and Ecological.