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Title : Land Security of the Tribals and
Panchayat (Extension to the
Scheduled Areas) Act, 1996 (PESA)
A study of Problems and prospects
in Selected Areas of Jharkhand.

ABSTRACT

The Tribal Society in Jharkhand is in a state of ferment. There have been steady encroachments on their land, water, forest and mining rights in the pre and post independence era to meet the development needs. This has progressively pushed the tribal towards rising cult of Naxalites. The Tribal have struggled for the last three centuries to uphold their command over these vital natural resources which sustained their livelihood and culture.

The Indian Parliament enacted the Panchayat (Extension to the Scheduled Areas) Act, 1996 bestowing the command over the tribal land resources and their way of life to their self-governing institutions. It was heralded as a magic pill for the all the ills of the tribal society.

The study was conducted in two villages of Ranchi District and one village of Pakur District in Santhal Parganas as both Chota Nagpur and Santhal Parganas represent diverse tribal cultures. The sample villages were purposely selected following wide consultation. Household village, block and district schedules were prepared and revised after test runs. The final enumeration was done by the research scholar using trained researchers.

The findings of the study are clear- land continues to be vital for the existence of the tribal society; the demand for land have increased with globalisation of the economy; the State has freely used the instrumentality of the LA Act to take land away from the tribals; the tribals no longer look upon the State as ‘Marang Gomke’ or the Supreme Protectors of their interest and ‘honest brokers’; the restoration proceedings involve the tribals into endless and costly litigation; PESA remains unknown and unimplemented; most feel that it could have made a difference to the field situation; majority of the people still see the Naxalites more as a threat; however, the percentage of people seeing Naxalite Courts as viable alternatives to the regular channels implementing law is not statistically insignificant. The so called protective framework of the tribal lands simply does not exist. What is more disturbing is that there has been a massive institutional failure where most of the time honoured institutions have succumbed to the new forces of globalised liberalised order.

The way forward is encapsulated into the doctrine of Panchasutras (Five Sutras) make all laws PESA compliant; frame the Rules setting forth the procedures governing the implementation of PESA; give sufficient staff to the Gram Sabhas and the Panchayats in Jharkhand; create a direct flow of funds to the Panchayats; and provide mass training in PESA both to the office bearers and to the people at large.

The study concludes that it is still possible to retrieve the situation by wide focused institutional reforms.