

# Chapter 13

## Regime of Marginalisation and Sites of Protest: Understanding the Adivasi Movement in Odisha, India

Jagannath Ambagudia

**Abstract** The era of liberalisation, privatisation and globalisation has been experienced differently by the various parties concerned. This brings hope for the state and corporate sector and despair for the Indigenous people of India, commonly referred to as Adivasis and formally identified as “Scheduled Tribes” by the Indian government. The state of Odisha signed 42 memoranda of understandings with multinational companies between 2002 and 2005, allowing the latter to exploit the natural resources of the Adivasis regions in that state. This has not only challenged an important means of their livelihood but is also leading to the erosion of the Adivasi culture, values and traditions in Odisha. The intrusion has created resentment and disenchantment among the vulnerable Adivasis communities. As a consequence, the Adivasis of the scheduled areas in Odisha have launched forms of resistance in their struggle to retain their ancestral rights over *jal* (jungle) and *jamin* (land, water and forests). Within this backdrop, this chapter explores the Adivasis movement in scheduled areas of Odisha.

**Keywords** Adivasis/Indigenous communities · Natural resources · Marginalisation · Struggle · Protest · India · Odisha · Scheduled areas

### 13.1 Introduction

Since the formation of modern India in 1948 the history of Indigenous Peoples, known in India as Adivasis, has been one of marginalisation, deprivation and subjugation. This is essentially because of the continuous erosion of Adivasis rights

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over natural resources, such as land, water and forests. This condition of Adivasis society is not just the product of the post-colonial state but has continued since time immemorial. The process of land alienation has, however, accelerated in the post-colonial period. With the enactment of neoliberal policies in the 1990s, the state is allowing multinational companies (MNCs) to extract and exploit natural resources from the Adivasis regions. This has not only challenged their important means of livelihood but also has led to the incremental erosion of the Adivasis way of life, culture, values and tradition in India. So, the Adivasis are protesting against their marginalised position and struggling for their freedom and rights. This is most visible in scheduled areas.

This chapter aims to explore the interplay between the Adivasis and natural resources in scheduled areas of Odisha. Firstly, the chapter discusses the constitutional provisions of scheduled areas. Secondly, it examines the land question within the broader framework of developmental and mining projects and its ramification for Adivasis. Thirdly, it explores different dimensions of the Adivasi movement to reinstate and protect their rights over natural resources. I argue that the failure of existing legislative measures to protect Adivasi rights in scheduled areas has created discontent among the Adivasis communities, thereby leading to the emergence of different forms of protest and resistance against the erosion of Adivasi rights over natural resources.

## 13.2 Scheduled Areas

The origin of scheduled areas has a colonial legacy. The British first coined the phrase “scheduled areas” in the 19th century (Government of India 2004: 5). By introducing constitutional reforms in 1919, the British partially or totally excluded certain areas from the civil administration. Following the British precedents, the post-colonial Indian state adopted scheduled areas under the fifth and the sixth schedules to the Constitution. Scheduled areas are autonomous areas within a state that are administered federally and are usually populated by a predominant Adivasi population. The fifth schedule is enacted to cover the partially excluded areas, whereas the sixth schedule covers the totally excluded areas. The fifth schedule covers the states of Andhra Pradesh, Gujarat, Himachal Pradesh, Maharashtra, Odisha, Rajasthan, Jharkhand Madhya Pradesh and Chhattisgarh. The sixth schedule refers to the northeastern states of Assam, Meghalaya, Mizoram and Tripura with a provision of the establishment of Autonomous or Regional District Councils. These Councils have been granted administrative, legislative and judicial powers. Article 244 (1) of the Constitution empowers the President to declare a particular area as a scheduled area by a notified order after consultation with the Governor of that state. Under Clause (2) of Paragraph 6 of the fifth schedule, after consultation with the Governor, the President can also increase, decrease, alter the scheduled areas or repeal any Orders relating to scheduled areas. The criteria for declaring any area as a scheduled area under the fifth schedule are: preponderance

of Adivasis population, compactness and reasonable size of the area; a viable administrative entity such as a district, block or taluk;<sup>1</sup> and economic backwardness of the area as compared to the neighbouring areas.

The scheduled areas are designed to protect and promote the interest of the Adivasis people. The fifth schedule empowers the Governor to prohibit or restrict the transfer of Adivasis land in scheduled areas. Paragraph 5 (1) of the fifth schedule states that all laws, central or state, shall be applied to the scheduled areas unless the Governor, by public notification, directs that they shall not apply in part or full to such areas. It is worthwhile mentioning that during the colonial period, the Governor decided which civil laws were to be applied to the partially and totally excluded areas. In the post-independent India, however, enacted laws of the federal government and the state are automatically applied to scheduled areas unless the Governor uses his power to restrict such application, which is unlikely because the Governor acts as the agent of the federal government. The Governors show little interest in the administration of scheduled areas in contemporary India (Centre for Policy Research 2013). The Tribes Advisory Councils (TAC) are established in states with scheduled areas, and consists of not more than twenty members of whom, as nearly as may be, three-quarters should be from the representatives of Adivasis in the Legislative Assembly of the state. The role of the TAC is to advise the State Government on matters pertaining to the welfare and advancement of the Adivasis in the state, as may be referred to it by the Governor. As the agendas of the TAC are fixed by the government and the Chief Minister presides over the meeting, s/he may include or exclude any item or approve or disapprove anything (Centre for Policy Research 2013).

### 13.3 Scheduled Areas of Odisha

The scheduled areas of Odisha<sup>2</sup> constitute more than 44 % of the total state land area. Out of 30 districts in Odisha, 12 districts have been declared as fully or partially scheduled areas. The six districts of Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Rayagada and Sundergarh, are declared as fully/totally scheduled areas and the remaining six districts, Balasore, Gajapati, Kalahandi, Kandhamal, Keonjhar and Sambalpur as partially scheduled areas (Singh 2005: 290). The 2011

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<sup>1</sup>Taluk is a sub-district level administrative unit in India, which is mainly created for economic administration in terms of regulating land relations as well as collecting land revenues. Taluk is also known as Mandal and Tahasil in different parts of India.

<sup>2</sup>The scheduled areas in the State of Odisha were originally specified by the Scheduled Areas (Part A States) Order, 1950 (Constitution Order, 9) dated 23.1.1950 and the Scheduled Areas (Part B States) Order, 1950, (Constitution Order, 26) dated 7.12.1950 and have been re-specified as above by the Scheduled Areas (States of Bihar Gujarat, Madhya Pradesh and Orissa) Order, 1977, (Constitution Order, 109) dated 31.12.1977 after rescinding the Orders cited earlier in so far as they related to the state of Odisha (Government of India 2004: 194).

census shows that the Adivasis people make up more than half of the population of the fully declared scheduled area districts, although some districts with more than 50 % Adivasis population, such as Gajapati (54.3 %) and Kandhamal (53.6 %) have been declared as only partial scheduled areas. In short, a high concentration of Adivasi population is not the only criterion to determine a scheduled area. It also has to be a viable administrative entity with evidence of economic deprivation.

### 13.4 Land Alienation and Displacement in Scheduled Areas of Odisha

Despite the existence of protective legislative frameworks, such as the Orissa (Odisha) Scheduled Area Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 (amended in 2002 and 2008) and the Panchayat<sup>3</sup> Extension to Scheduled Areas (PESA) Act, 1996,<sup>4</sup> Adivasis lands are subject to continued erosion through such practices as the institution of moneylenders, collusive title suits, illegal permissive or forcible possession, unredeemed mortgages, fraudulent transfers, abandonment and the making of incorrect entries in the records-of-rights (Government of India 2009: iii). Through such practices there has been a massive alienation of Adivasis lands in Odisha. However legal processes have also restored land to the Indigenous Peoples. A total of 105,491 cases alleging alienation of 104,742 acres of land have been filed in the court in Odisha. An estimated 104,644 cases were disposed of by the court. Of these, 61,431 cases were disposed of in favour of Adivasis and 56,854 acres of land were restored to Adivasis groups (Government of India 2008: 276), as detailed in Table 13.1.

Odisha is one of the mineral resource-rich states of India. In Odisha the districts located in the scheduled areas are rich in coal, iron ore and bauxite, making them vulnerable to rapid development. Table 13.2 exhibits the availability of mineral resources in scheduled areas of Odisha. Table 13.3 shows the annual extraction of mineral reserves. There is a positive relationship between the availability of mineral resources and land alienation among the Adivasi communities in the scheduled areas of Odisha (Tables 13.1, 13.2 and 13.3).

The availability of mineral resources has extended the opportunities for the multinational companies to sign memoranda of understandings (MoUs) with the state government of Odisha. Between 2002 and 2005, 40 MoUs have been signed by the state government in the steel sector, and two in the aluminium sector. Out of these 12 MoUs have been signed in scheduled areas of Odisha with a capacity of producing 9.08 million tons per annum (MTPA) of steel and one producing one

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<sup>3</sup>Panchayat is an administrative unit at the grass root level, which has been created to ensure active people's participation in the process of governance.

<sup>4</sup>PESA empowers the *Gram Sabha* (village council) to enforce prohibition, ownership of minor forest produce, power to prevent alienation of land and restore unlawfully alienated land.

**Table 13.1** Adivasi land alienation and restored in scheduled areas of Odisha in acres (As on December 1999)

Districts	Land alienation	Land restored	% of land restored
Balasore	41.76	18.49	44.27
Gajapati	4724.62	479.93	10.15
Kalahandi	815.57	491.31	60.24
Kandhamal	15864.55	6729.46	42.41
Keonjhar	1347.10	408.22	30.30
Koraput	28901.96	17112.48	59.20
Malkangiri	3156.31	1205.52	38.19
Mayurbhanj	7097.97	1005.17	14.16
Nawarangpur	7396.76	3750.71	50.70
Rayagada	11092.53	5997.51	54.06
Sambalpur	267.88	51.86	19.35
Sundergarh	4177.09	1473.88	35.28
Odisha	84884.1	38724.54	45.62

Source Government of Orissa (2001), *Tribes in Orissa: A Data Sheet* (Bhubaneswar: Scheduled Castes and Scheduled Tribes Research and Training Institute)

**Table 13.2** Mineral resources in scheduled areas of Odisha

District	Mineral resources
Balesore	–
Gajapati	–
Kalahandi	Graphite, Gemstone, Quartz
Kandhamal	Graphite
Kendujhar	Chromite, Iron ores, Manganese ore, Pyrophyelite, Quartzite
Koraput	Bauxite, Lime stone, Mica, Quartzite, China clay
Malkangiri	Quartz
Mayurbhanj	Asbestos, China clay, Fire clay, Iron ores, Manganese ore, Kyanite, Quartzite, Soap stone, Silica sand
Nabarangapur	–
Rayagada	Graphite, Manganese ore
Sambalpur	China clay, Quartz, Soap stone, Coal
Sundargarh	Dolomite, Coal, Fire clay, Iron ores, Manganese ore, Bauxite, Lime stone, Lead ore, Quartz, Soap stone, Silica sand

Source Government of Orissa (nd) *Development Indicators of Scheduled Tribes in Orissa* (Bhubaneswar: Scheduled Castes and Scheduled Tribes Research and Training Institute)

MTPA of aluminium (Government of Orissa not dated: 15–16). These MoUs have had a deep impact on the scheduled areas, as they will cover a significant proportion of Adivasi land, thereby displacing large numbers of families.

Guided by the colonial doctrine of “Eminent Domain”, the state has also acquired a large amount of land and forests, again depriving the Adivasis of control

**Table 13.3** District-wise break-up of extraction of major minerals in Odisha 2012–2013 in lakh million tons

Districts	Chromites	Coal	Iron ore (provisional)	Manganese ore	Bauxite
Anugul	–	611.96	–		1
Dhenkanal	0.16				
Jajpur	28.68	–	7.03		–
Jharsuguda	–	342.43	–		–
Keonjhar	–	–	447.42	4.77	–
Koraput	–	–	–		54.2
Mayurbhanj	–	–	14.24	–	–
Sundergarh	–	12.03	160.62	0.53	0.4
Sambalpur	–	22.37	–		–

Source Government of Odisha (2014), *Odisha Economic Survey, 2013–2014* (Bhubaneswar: Directorate of Economics and Statistics, p. 186)

over their resources. In the name of the national interest, the construction of dams in Kolab, Machkund and Indravati of the Koraput district and Balimela in the Malkangiri district for hydroelectric projects and the setting up of industries such as Hindustan Aeronautics Limited, Nalco Alumina Refinery and mines at Damonjodi of Koraput district displaced a large number of Adivasis from their land in scheduled areas of Odisha, depriving them of important sources of livelihood as well as the means of preserving their cultural identity. For instance, the hydroelectric project of Machkund in Koraput district displaced a large number of Adivasis (51 % of the displaced families are Adivasis). The hydroelectric project of Balimela in Malkangiri district affected 1113 Adivasi families (Ambagudia 2010: 62). Though the Adivasis of Odisha constitute 22.8 % of the population, 40 % of the displaced families are Adivasis in Odisha (Government of India 2002: 466).

### 13.5 Discontent and Protest

The earlier part of the chapter shows that much of Odisha's mineral resources are located in the protected schedule areas. Since the formation, the fifth schedule has been under constant threat of amendment to allow the transfer of Adivasi land to non-Adivasi people and corporate bodies (Shah 2010: 18). The process of Adivasi land alienation is accelerated, not only by the establishment of different industries, but also by the transfer of land from Adivasis to non-Adivasis, discussed later in this chapter. For instance, Koraput district witnessed extensive land alienation, though it is not competitively rich in mineral resources in comparison to other scheduled districts of Odisha. The enactment of neoliberal policies in the 1990s, allowing the MNCs to extract these resources from the Adivasi region, is increasingly contributing to the growing erosion of Adivasi rights over resources, which has generated protest and resistance. The protest and resistance of the

Adivasi communities in Odisha emerged in response to a threat to their means of livelihood. Such resistance was prominent in the 1990s because the displaced Adivasis had not been rehabilitated and compensated for earlier development projects, and the state is initiating new projects. The exploitation of natural resources by the MNCs is increasingly contributing to the scarcity of resources in scheduled areas of Odisha. The laws and policies of the Odisha state are no longer governed by the idea of social justice and social welfare but by the maximisation of profit and exploitation of resources. This resulted in people's growing disenchantment with state policies and reflected various magnitudes of resistance. The contemporary Adivasis movement in scheduled areas of Odisha has two different dimensions: one, their resistance against the establishment of industries in Adivasi areas, and, two, the transfer of Adivasi land to the non-Adivasis.

### 13.6 Kashipur Struggle

The Adivasi people have been resisting against Utkal Alumina International Limited (UAIL), which proposed mining Bauxite from the Baphlimali hills of Kashipur block in Rayagada district. The mining project acquired 2,800 acres of land in Kashipur Block in 1995, of which 2,153 acres were privately owned. The Kashipur Block falls under the fifth schedule areas and is also governed by the PESA Act, 1996. At the initial stage of land acquisition, the state government did not follow the norms enshrined in the PESA Act and failed to consult *Gram Sabha* (village councils) while acquiring land, but *Gram Sabhas* were consulted at a later stage in order to fulfill the legal requirements. Under the PESA Act, consultation with the *Gram Sabha* or the Panchayat at the appropriate level is mandatory in the case of land acquisition in scheduled areas. It is also mandatory to obtain the recommendations of the *Gram Sabha* or the Panchayat at the appropriate level before granting a mining lease for minor minerals in the scheduled areas. The state, however, has breached the "*Gram Sabha* or the Panchayat" clause and ignored the *Gram Sabha* in most of the cases while granting licence to the corporate sectors, which has generated protest and resistance in different parts of Odisha.

The Adivasi people formed various committees such as Prakrutika Sampada Suraksha Parishad (PSSP), Bashundhara Suraksya Samiti, Vanasampad Suraksha Samiti and Baphlimali Suraksha Samiti to accelerate their struggle against the project. These important developments took place in 1998 as a result of a referendum conducted by the PSSP across 40 villages, where 96 % of the people rejected the UAIL project (Srikant 2009: 3).

The continuation of the Adivasi movement between 1998 and 2010 with its hopes and despairs compelled two of UAIL's partners, Tata and Norsk Hydro, to withdraw from the project. This has not, however, stalled the mission of the company. The state has responded to the movement with repressive measures. The movement has currently reached a standstill position, and the company is moving ahead with mining bauxite.

### 13.7 The Niyamgiri Movement

In the case of Langigarh block of Kalahandi district, the Dangaria Kandha Adivasi people continue to campaign against the Vedanta Alumina company which, with the Odisha mining corporation, aims to mine bauxite deposit from Niyamgiri hills. This proposed project will affect 302 households of 12 villages of Bathilima and Langigarh panchayats of Kalahandi district (Singh 2005: 240). The agitation by the Dangaria Kandha Adivasi people started in 2003 after the Chief Minister, Naveen Patnaik, laid the foundation stone for Vedanta's one-million-tonne-capacity refinery at Lanjigarh (Das 2010). The public protests and signs of resistance were initially limited to the affected households and villages (Xaxa 2012: 196). But the campaign spread and support came from other Kandhas when they realised that the proposed mining would dishonour their sacred site, Niyamgiri Hill. The Kandhas and other affected people formed an organisation known as Niyamgiri Suraksha Samiti (NSS) on April 7, 2004, with the slogan '*Vedanta Hatao*' (Remove Vedanta) (*The Times of India*, 2006, May 28). The members of this organisation planned, coordinated, executed and sustained their resistance for over a decade, with the aim to protect the natural resources. They questioned the violation of laws by the company when it went ahead with the construction of its refinery.

Vedanta claimed not to be violating any law, but the Saxena Committee report demonstrated that Vedanta violated the Forest Conservation Act, the Environment Protection Act and the Forest Rights Act (Government of India 2010: 53, 65, 71). Vedanta also violated the Samata judgement of the Supreme Court of India.<sup>5</sup> Acknowledging the Adivasis' rights over resources and the religious importance of Niyamgiri Hill, on April 18, 2013, the Supreme Court ordered the state government to consult the 12 affected *Gram Sabhas*. In a series of *Gram Sabha* meetings, all the 12 *Gram Sabhas* of Rayagada and Kalahandi districts unanimously voted against the bauxite mining in Niyamgiri Hill (Maharaptra 2013).

There are instances in the cases of both the Kashipur and Langigarh movements where the state has tacitly supported the developers by deploying police personnel to stop the protest actions by the Indigenous Peoples. Though the role of the state should be to protect the rights of the people, in these cases, it has failed to intervene effectively on the side of the people, who are deprived of their rights. The existing literature, however, shows that the Adivasis are not against development and do not express a desire to live in isolation. They want to be a part of development but wish to redefine the concept of development as one which emerges from within the community (Mishra/Roy Choudhary 1993: 48–53). So, the ongoing protests are not

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<sup>5</sup>Samata, an NGO working in the scheduled area of Andhra Pradesh, filed a case against the Government of Andhra Pradesh for leasing Adivasi lands to private mining companies in the scheduled areas. The special leave petition filed in the Supreme Court led to an historic judgement in July 1997 by a three judge-bench which declared that government is also a 'person' and that all land leases to private mining companies in the scheduled areas are null and void.



against industrialisation but the Adivasi people are demanding their rights within the broader perspective of social justice in Odisha.

### **13.8 Adivasis' Resistance Against Non-Adivasis**

Apart from waging campaigns against exploitative resource development on their lands by commercial operators the other form of Adivasi resistance in Odisha is their protest against government policies to transfer Adivasi land to non-Adivasis, referred to as Dalits, who are the other group at the bottom of India's highly structured society in terms of poverty, education and social power. This struggle has its basis in the Indian caste system where Dalits, comprising some 16 % of the total population, are the lowest ranking of the castes and confined to the lowest levels of occupation, principally casual manual labour. Though being the most deprived of rural households in India, the Adivasis control and farm more land than Dalits. Governments in many states have enacted land reform policies to forcibly re-distribute Adivasi land to Dalits and also other marginalised ethnic groups. Adivasis have campaigned to retain control of the land that is the basis of their livelihood and cultures. Scheduled areas of Odisha witnessed this resistance in response to the appropriation of land without consent, with conflicts between Adivasis and Dalits in Narayanpatna block of Koraput district, Adivasi-Bengali conflicts in Nabarangpur district and Kandha-pana (Adivasi-Dalit) conflicts in Kandhamal district.

The centrality of all these conflicts is the importance of land and forests in Adivasi life, where the Adivasi communities experience "relative deprivation" in a resource relation paradigm. In other words, the affirmative policies of the state have failed to protect Adivasi rights in Odisha (Ambagudia 2010: 66).

### **13.9 Violence in Adivasi Protests**

While most Adivasi campaigns have been peaceful there have been instances where frustration at the violation of their rights as Indian citizens and also as Indigenous Peoples in the international context has spilled into violence. The Adivasis' protest has sometimes taken violent forms, especially in the case of Narayanpatna and Kandhamal conflicts. In such instances questions have been raised as to whether the Adivasis initiated violence on their own or whether there has been any role of outside forces inciting violent means? It is worthwhile mentioning that the right-wing Hindu forces such as Bajrang Dal and Sangh Parivar played a significant role in creating violence in Kandhamal conflict, and transformed the socio-economic competition into a communal conflict, portraying the dispute as a case of Hindu-Christian violence. Similarly, in the case of Narayanpatna conflict, the Naxalites had a role in generating violence, while presenting their movement as

an Adivasi movement (Ismail/Shah 2015) and inciting Adivasis to following violent means. However, these are generally specific instances in local contexts and not organised campaigns.

### 13.10 Conclusion

The contemporary Adivasi movements in the scheduled areas of Odisha are directed towards protecting and reinstating the Adivasi rights over their means of livelihood, such as land and forests. The Adivasis are generally peace-loving people, and they do not incite violence unless compelled to do so or with outside influence. They give due recognition to the peaceful means of protest. Though the internationally renowned ‘tree-hugging’ Chipko movement of the 1970s in Uttarakhand may not be exclusively considered as the Adivasi movement, it set an example of peaceful movement to protect forest resources that has been followed by Adivasis in Odisha. Even in the case of protecting the sacred Niyamgir Hill, the continuous peaceful movement of the Adivasis compelled the Supreme Court’s intervention to halt the project and restore the power of the *Gram Sabha* to regulate the transaction of natural resources in scheduled areas.

As there is a symbiotic relationship between the Adivasis and land and forests, the state should be functioning in accordance with the United Nations Declaration on the Rights of Indigenous People. The state should not take the advantage of the powerlessness of Adivasis. The Adivasis in India are not against the development per se. But the development model that runs counter to Adivasi culture, values, traditions and rights will certainly be questioned by the Adivasis. The need of the hour is to design the developmental process in a more “inclusive” manner, which would not only facilitate community involvement but also ensure Adivasis’ rights. Adivasis participation in or control over developments that affect their lives will enable them to maintain and strengthen their institutions, cultures and traditions (United Nations 2007). The effective implementation of the rights of Adivasis to control the process of development under *Gram Sabha* will enhance harmonious and cooperative relationships between the state and the Adivasis in India.

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