



Development Challenges in Extremist Affected Areas

**REPORT OF AN EXPERT GROUP
TO
PLANNING COMMISSION**

**GOVERNMENT OF INDIA
NEW DELHI**

2008

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Prologue

0.1 The Planning Commission set up an Expert Group on “Development Issues to deal with the causes of Discontent, Unrest and Extremism” in May, 2006. It had 16 Members. The Terms of Reference included, inter alia, identification of processes and causes contributing to continued tensions and alienation in the areas of unrest and discontent, such as wide-spread displacement, forest issues, insecure tenancies and other forms of exploitation like usury, land alienation, etc. It also included special measures to be taken for strengthening the implementation of Panchayat Extension to Scheduled Area Act (PESA). It had altogether six terms of reference (the notification is given in Annexure-I). Two Members Prof. Amit Bhaduri and Shri Amiya Samanta did not participate in any one of the meetings and thereby they ceased to be Members of this Group. Dr. Vinayan who was a very active Member, unfortunately, passed away before the Group could conclude its deliberations.

0.2 Three new Members Dr. E.A.S. Sarma, Dr. N.J. Kurian and Shri K.B. Saxena were inducted because of their expertise in different disciplines with which Group had to deal with. The full Group met ten times including the final meeting held on March 14-15, 2008. Some members of the Group constituted sub-groups for field visits. Two field visits were organized one each for Andhra Pradesh and Chhatisgarh and other for Bihar, Jharkhand and Orissa. Both the sub-groups gave their reports.

0.3 The Group invited its own Members to contribute in writing their views in the areas in which they have specialization. Several papers were received from Shri Prakash Singh, Shri Ajit Doval, Dr. B. D. Sharma, Shri Kamla Prasad, Shri K.B. Saxena, Shri S. R. Sankaran, Dr. E.A.S. Sarma and Dr. Sukhdeo Thorat. The Group is highly obliged to each of them for their contribution.

0.4 Dr. Bela Bhatia and Shri K. Balagopal volunteered to make the first draft. In fact both of them worked very hard to produce a fairly exhaustive draft containing materials from the papers already submitted and other secondary materials available in print. The Group is extremely grateful to Dr. Bela Bhatia and Shri K. Balagopal for this effort.

0.5 For preparing the final version, the Group set up a Drafting Committee consisting of about half a dozen members. The drafting Committee met several times both at Delhi and Hyderabad to complete the draft. The final draft as it emerged was then put before the final meeting of the Expert Group held in March, 2008. Before this meeting all the Members were sent the draft along with a letter requesting them to give their comments in writing on whichever issue they felt it necessary. Some of them sent the comments to the Member Secretary and some others gave their written comments in the final meeting. All these comments were gone into and most of them were incorporated with appropriate editorial changes.

0.6 The issues placed before the Group were highly sensitive and even contentious. Eminent persons who constituted the Group had their own views on most of the items based on their experience and scholarship. But they understood the need to come out with a consensus report which would reflect the various points of view and could give the authorities, the civil society and public at large an analysis of the situation and a package of programmes to tackle the issue of rural violence which has been continuing in the rural areas of India for nearly four decades. It speaks highly of their social commitment and spirit of public service that they submerged their personal views to get at a consensus report which gives a good analysis of the situation culminating into a set of actionable points which are reflected in the recommendations.

0.7 The Report has five chapters. The first chapter gives the context in which the whole situation developed. Second chapter deals exclusively with the Tribal issues in the Fifth Scheduled Areas. The third chapter deals

specifically with the elements of discontent of the people arising out of failure of the system. The fourth chapter discusses the responses of the state to these issues of rural violence and the fifth chapter contains recommendations which arose from the analysis contained in the preceding four chapters.

0.8 The Group would like to place on record its high appreciation for continuous support it received from the Rural Development Division of the Planning Commission and especially from Dr. Santosh Mehrotra, Sr. Consultant (RD) and Shri Rupinder Singh, Deputy Secretary, who spared no effort in providing all requisite support for the work of this Group.

0.9 The Group hopes and trusts that efforts made by it to refocus on the basic issues which are behind the continued rural unrest would receive serious attention of the authorities and its recommendations would be implemented sincerely and promptly to douse the spreading bushfire of rural discontent.

Chapter 1

The Context

Introduction

1.1 Widespread discontent among the people has plagued the Indian polity for sometime now. It has often led to unrest, sometimes of a violent nature. Over the years, statutory enactments and institutional mechanisms for addressing the various aspects of deprivation have been brought into being. But the experience has been that the discontent and unrest continue to surface notwithstanding such measures. For a large section of the population, basic survival is the problem.

1.2 As 58 per cent of the Indian labour force is still engaged in agriculture and allied occupations, landlessness is an important root of poverty. The Indian State recognized the vital link between land and livelihood soon after independence and launched land reform measures which included three components: abolition of intermediaries such as zamindars, security of tenancy and a ceiling on agricultural holdings for distribution of the surplus to the landless. However, as time passed the commitment to land reform has weakened and it remains an unfinished agenda of governance. The poor have depended upon common property resources such as forests, pastures and water sources for the satisfaction of their basic survival needs. With the increasing tendency to see all such resources as sources of profit the poor are being deprived of whatever access they had to such resources.

1.3 India is today proudly proclaiming an above 9 per cent growth rate and striving to achieve double digit growth. But it is a matter of common observation that the inequalities between classes, between town and country, and between the upper castes and the underprivileged communities are increasing. That this has potential for tremendous unrest is recognized by all. But somehow policy prescriptions presume otherwise. As the responsibility of the State for providing equal social rights recedes in the sphere of policymaking, we have two worlds of education, two worlds of health, two worlds of transport and two worlds of housing, with a gaping divide in between. With globalisation of information, awareness of opportunities and possible life styles are spreading but the entitlements are receding. The Constitutional mandate (Article 39) to prevent concentration of wealth in a few hands is ignored in policy making. The directional shift in Government policies towards modernisation and mechanisation, export orientation, diversification to produce for the market, withdrawal of various subsidy regimes and exposure to global trade has been an important factor in hurting the poor in several ways.

1.4 The Constitution intended the process of governance to lead to a progressive decrease in social and economic inequalities. The Constitutional and statutory agencies entrusted with the task of safeguarding the entitlements

of all marginalised groups have failed to provide adequate support. Equal status and equal dignity is not merely a Constitutional right but also a basic human right. Inherited institutions of caste, gender and unequal property have traditionally deprived the majority of society of this right. Widespread practice of social discrimination, untouchability, domestic violence, and atrocities against the weaker sections is an index of the failure of the promises made to the oppressed people of this country.

1.5 In this situation it should not cause surprise that a large section of the people are angry and feel alienated from the polity. It is in this context that it has become necessary to identify the variety of causes of discontent and to seek ways by which the State could answer them in a humane, caring and democratic way. If the emphasis of this exploration is on the Naxalite phenomenon it is not because other modes and forms of agitation are less important but only because the method of struggle chosen by the Naxalites has brought the problem to a head. Radical groups seek the justification for their methods of violence from structural violence which is implicit in the social and economic system. While not condoning the radical violence, an honest response to it must, therefore, begin by ameliorating the structural violence in the society. To map out the contours of this response and recommend ways of effectuating it is the task placed before this Committee.

1.6 Unfortunately the underlying and foundational causes leading to unrest, discontent and extremism have never been seriously

studied or have been the subject matter of administrative or academic discourses in India. Excepting occasional knee jerk responses there had not been any sustained administrative and developmental action, including to eliminate the causes and reduce the discontent of the masses. Some earlier committees appointed by the Government might have covered this ground.¹ However, no report since the late 1980s has tried to examine the issue for the government. The core of the report comprises the reasons for the unrest that is associated with the Naxalite movement, and recommendations for how the Government may itself respond to these issues. However, it was felt by the Committee that an overview of the situation prevalent in the country in terms of what could be potential foci of severe unrest would make the report more complete, even if not all the possible reasons have led to actual unrest till date. The committee felt the need to at least set out what could be future points of flare up and not confine itself to just what has been in the past, so that the recommendations can have a comprehensive character.

Social, Economic and Political Context

1.1.1 Though formulated in general terms, the issue placed before the group is essentially the causes of discontent among the people that has led to the rise and spread of the Naxalite movement. The Naxalite movement is almost four decades old now. Beginning in a single State (West Bengal), it has now spread over a wide area, affecting and influencing the lives of lakhs of people. The Government of India has estimated

¹ Report of the Policy Planning Division of the Ministry of Home Affairs in the late 1960s; the Manmohan Singh Committee relating to rural unrest in Bihar and Andhra Pradesh in the mid 1980s; the committee of senior officials reporting on Naxalite violence chaired by V.C. Pandey in the late 1980s.

that the movement is now active in about 125 districts spread over 12 states.

1.1.2 As mentioned earlier there were three central government committees which looked into the causes of the naxalite movement spreading in the country. Civil Rights groups have also published a number of reports dealing with the causes of disaffection with the Government leading to popularity of the Naxalite movement. The press has also carried many reports, and books have been written by various observers. Naxalite publications have also highlighted the social and economic background to the rise of the movement. From these sources as well as first-hand experience of the members of this Group and the field visits undertaken for the purpose of this report in Bihar, Jharkhand, Chhattisgarh and Andhra Pradesh, this report will identify the factors which emerge as the causes of discontent among the people, leading to the Naxalite movement. However, as these causes specific to the Naxalite movement are part of an overall scenario of poverty, deprivation, oppression, and neglect in large parts of the country, in this Chapter we will attempt an overview of the situation.

The Condition of Dalits, Adivasis and Women

1.2.1 The main support for the Naxalite movement comes from dalits and adivasis. It is thus useful to begin this chapter with a brief look at the condition of these social categories.

1.2.2 Dalits and adivasis comprise about one-fourth of India's population: Dalits constitute 16 per cent and Adivasis 8 per cent. Most of them (80 percent of Dalits and 92 percent of Adivasis) live in rural areas. High levels of rural poverty

therefore, are likely to indicate high distress among SCs and STs. Bihar, Orissa, Madhya Pradesh, Uttar Pradesh and West Bengal are the States with highest rural poverty, and they also account for a high proportion of SC and ST poor. Seventy percent of the SC poor are in these five States, whereas only 55.8% of the SC population of the country is in these five States. And 63% of the ST poor are in these five States whereas the proportion of the country's ST population in these States is only 49%. In addition, they suffer from multi faceted oppression and denial of justice, social legal and political rights.

1.2.3 Examination of the respective shares of SCs and STs in the total population of different districts (from Census data) indicates that districts with a high proportion of Dalits are mainly in the northern states as well as in pockets of Tamil Nadu, Andhra Pradesh and Karnataka. While there is no simple correspondence between the areas under Naxalite influence and the proportion of Dalits and Adivasis in the population, it is the case that these areas generally have relatively high Dalit or Adivasi concentration. However, there are many districts with high proportions of Adivasis or Dalits but little Naxalite activity, such as in Punjab, Haryana, Gujarat, Rajasthan and Madhya Pradesh. Poverty does create deprivation but other factors like denial of justice, human dignity, cause alienation resulting in the conviction that relief can be had outside the system by breaking the current order asunder. Other factors are also likely to be involved. For example in large areas, inhabited by bhils and some other tribals where the situation is seemingly peaceful may face this problem with the spread of awareness and consciousness.

Dalits

1.3.1 Dalits continue to face wide-ranging economic, social disadvantages, and day to day humiliation and degradation, denial of justice and violent atrocities in India. By and large the Dalit condition is marked by high incidence of poverty,

low education, limited employment opportunities and marginalisation in all spheres of public life. These deprivations are compounded by diverse types of violence that they are subject to. Table 1 gives in brief certain relevant data. The main features that mark the SC and ST condition are as follows:

Table 1: Caste, Ethnic Group Inequality, 2000

| Human Development Indicators | | SC | ST | OC | ALL |
|--|---|---------|--------|---------|---------|
| Poverty | | | | | |
| 1 | Poverty - percentage of poor (Rural) | 36 | 46 | 21 | 27 |
| 2 | Poverty - percentage of poor (Urban) | 38 | 35 | 21 | 24 |
| 3 | Poverty of Agricultural Labour (Rural) | 46 | 61 | 39 | 45 |
| 4 | Poverty of Casual Labour (Urban) | 58 | 64 | 45 | 49 |
| Mortality and Undernutrition | | | | | |
| 1 | Infant Mortality (per 1,000 live births), 2005/6 | 51 | 44 | 36 | NA |
| 2 | Under five mortality, 2005/6 | 88 | 96 | 59 | NA |
| 3 | Proportion (%) of Children with Anaemia | 78 | 79 | 72 | NA |
| 4 | Proportion (%) of Underweight Children | 21 | 26 | 14 | NA |
| Access to Agricultural Land and Capital Assets | | | | | |
| 1 | Value of Assets per Household in Rupees (1992) | 49,189 | 52,660 | 134,500 | 107,007 |
| 1 | Percentage of Self-Employed Cultivators | 16 | 48 | 41 | NA |
| 2 | Percentage of Wage Labour (Rural) | 61 | 49 | 25 | NA |
| 3 | Percentage of Casual Labour (Urban) | 26 | 26 | 7 | NA |
| Unemployment Rate (Rural) (Current Daily Status) % | | 5.5 | 3.0 | 3.4 | NA |
| Non-Agriculture Wages of Rural Labour (in Rupees) | | 61.06 | 54.38 | 64.9 | NA |
| Literacy | | | | | |
| 1 | Literacy Rate, 2001 (Rural) | 51 | 45 | 63 | 59 |
| 2 | Literacy Rate, 2001 (Urban) | 68 | 69 | 82 | 80 |
| Percentage of Non-Agriculture Workers (job diversification) | | 27.07 | 15.80 | 32.2 | NA |
| Discrimination and Atrocities | | | | | |
| 1 | Number of registered cases of discrimination, 1992-2001 | 14,030 | 876 | - | - |
| 2 | Number of registered cases of atrocity, 1992-2001 | 81,796 | 7,645 | - | - |
| 3 | Total cases of discrimination and atrocity, 1992-2001 | 285,871 | 47,225 | - | - |

SC: Schedule Caste; ST: Schedule Tribes; OC: Other Caste (Non-SC/ST)

Sources: Employment and Unemployment Survey 1999-2000 (National Sample Survey Organization, New Delhi); Consumption Expenditure Survey 1999-2000 (National Sample Survey Organization, New Delhi); Rural Labour Enquiry Report, 1990-2000 (National Labour Bureau, Shimla); National Family Health Survey 1998-99 (International Institute of Population Studies, Mumbai); Census of India 2001 (Registrar General of India, New Delhi); Annual Report of Commission for Scheduled Castes and Scheduled Tribes 2005, Commission for Scheduled Castes and Tribes, New Delhi.

1.3.2 *High poverty:* In 2004/05, the proportion of SCs below the poverty line was as high as 36.8 per cent in rural and 40% in urban areas. This was much higher than the corresponding poverty ratio for the population as a whole – 28% in rural and 25.7% in urban areas. Similarly, the proportion of STs below the poverty line was 47.3% in rural and 33.3% in urban areas, which was again much higher than the poverty ratio for the population.

1.3.3 *Low education:* Dalits had been excluded from the education system for centuries. In the post-independence period educational opportunities have slowly opened up for them, but education levels continue to be very low among Dalits and the gap between Dalits and non-Dalits remains very wide. This is illustrated in Table 2, which presents literacy rates in 1991 and 2001 for SCs, STs and others.

1.3.4 *Limited employment opportunities:* As mentioned earlier most Dalits live in rural areas. The incidence of landlessness is higher among the SCs than among the others. Ten per cent

of SC households are landless and another 77 per cent are near-landless, whereas the corresponding percentages are 4.8 and 63 for the non-SC/STs. Nearly half (45.6 per cent) of SCs are agricultural labourers. The level of urbanisation and diversification of work in favour of non-farm activities is lower among SCs than non-SC/STs. These facts indicate that the persistently high poverty of SC households is closely associated with low levels of ownership of capital assets like land, low levels of education and considerably lower diversification of avenues of employment.

1.3.5 *Political marginalisation:* The right to vote is an important political right which has added to the empowerment of the dalits as well as added to their status. However, dalits have often had to struggle in order to assert this right and struggle again to demand accountability from the elected representatives. The reins of power have remained with the dominant sections of society, whether it be the upper castes or in recent years the middle castes.

Table 2: Comparative Literacy Rates

| | Literacy Rates (%) | | | Literacy gap (SC/ST vis-a-vis others, in percentage points) | |
|--------------|--------------------|-----------|-----------|---|-----------|
| | SC | ST | Others | SC | ST |
| 1991 | | | | | |
| Male | 50 | 41 | 70 | 20 | 29 |
| Female | 24 | 18 | 45 | 21 | 27 |
| Total | 37 | 30 | 58 | 20 | 28 |
| 2001 | | | | | |
| Male | 67 | 59 | 79 | 12 | 20 |
| Female | 42 | 35 | 58 | 16 | 23 |
| Total | 55 | 47 | 69 | 14 | 22 |

Source: Census data reported in Office of the Registrar General (2004), "Report of Sub-Group I on Assessment of Prevailing Situation in Respect of Scheduled Castes and Scheduled Tribes for Certain Socio-Economic Indicators", New Delhi.

1.3.6 *Social discrimination*: Dalits continue to face many kinds of social discrimination, related for instance to residence, food, clothing, marriage and employment. Even untouchability, the most blatant form of social discrimination against Dalits, persists in many forms. A recent study of untouchability in 565 villages in 11 states identified no less than 63 types of untouchability practiced in many villages of the country. An illustrative sample of these practices is presented in Table 3.

1.3.7 *Human rights violations*: Large-scale human rights violations, crimes and atrocities have been perpetuated against the SCs in the rural areas. These pertain to civil rights (right to vote, right of access to public places, etc.), social rights (freedom of movement, access to education, etc.), economic rights (ownership of property, change in employment, operating businesses, joining labour unions, etc.) and political rights (participation in democratic governance). The total incidence of crime,

Table 3: Prevalence of Untouchability Practices in Rural India

| Form/site of untouchability | Proportion (%) of survey villages where: | | |
|---|--|---------------------------------|--------------------|
| | Untouchability is practiced | Untouchability is not practiced | Uncertain findings |
| Entry into upper-caste houses | 73 | 17 | 10 |
| Inter-dining | 70 | 22 | 8 |
| Entry into places of worship | 64 | 29 | 7 |
| Cremation and burial grounds | 49 | 46 | 5 |
| Access to water facilities | 48 | 44 | 8 |
| Marriage procession on public roads | 47 | 50 | 3 |
| Barber services | 47 | 41 | 12 |
| Entry into village shops | 36 | 57 | 7 |
| Visits by health workers | 33 | 56 | 11 |
| Separate seating in restaurants/hotels | 33 | 58 | 9 |
| Treatment in police stations | 32 | 49 | 19 |
| Seating arrangement in Panchayat office | 30 | 66 | 4 |
| Forced to stand in front of upper-caste men | 26 | 68 | 6 |
| Delivery of letters | 24 | 71 | 5 |
| Seating arrangements in public schools | 22 | 75 | 3 |
| Access to grazing and fishing grounds | 21 | 72 | 7 |
| In the post office | 19 | 76 | 5 |
| Use of umbrellas on public roads | 17 | 80 | 3 |
| Separate lines at polling booths | 12 | 83 | 5 |
| Use of cycles on public roads | 7 | 91 | 2 |

Source: Shah, G., Mander, H., Thorat, S., Deshpande, S., and Baviskar, S. (2006), *Untouchability in Rural India* (New Delhi: Sage), pp. 103-5.

violation of civil rights and atrocities against the SCs stood at 26,252 reported cases in 2003, 26,887 in 2004 and 26,127 in 2005. Some illustrations of atrocities and social rights violations faced by Dalits in India today are given in Table 4.

1.3.8 The genesis of discontent among Dalits lies in the age-old caste-based social order, which condemns them to a life of deprivation, servility, and indignity. The Constitution of India and various legislative and policy measures have created entitlements to undo this structure of oppression. But the traditionally privileged classes have had an undue influence on the process of implementation of these measures.

1.3.9 In the famous report of the commissioner of SC/ST in 1988(28th report) the commissioner attributed the violence related to both Dalits and STs to three causative factors. One, unresolved land disputes related to allotment of government lands or distribution of ceiling surplus lands to SC/ST persons. Two, tension and bitterness on account of non-payment or underpayment of prescribed minimum wages. Three, resentment of upper castes over the manifestation of awareness among the SCs and STs about their rights and privileges as

enshrined in the Constitution and various other laws relating to their welfare.

1.3.10 The National Commission on SCs and STs in its report in 2004 analyzes violence against SCs and STs between 1997 and 2001, as published by the National Crime Record Bureau under the Ministry of Home Affairs. It shows that between 1997 and 2001, 127933 atrocities against SCs were committed which gives an average figure of 25587 per year. The figure relating to STs was considerably lower. The total number of atrocities against STs for the same period was 21426 cases with an annual average of 4285 cases. The newly set up National Commission for STs indicates that figures of atrocities against the tribal communities in the central tribal belt of Madhya Pradesh and Chattisgarh have shown a significant increase between 2001 and 2004 – from 2021 in 2001 to 3012 in 2002 and 2553 in 2003, reaching 2343 in 2004. This is the belt which is most affected by Naxalite violence as reported in the annual report of Union Home Ministry for 2006. Figures clearly show that there has not been any let up in the incidence of atrocities/violence against this marginalised group till very recently.

Table 4: Cases Registered Under various Crimes on Scheduled Castes and Tribes

| | 1991 | 1999 | 2000 |
|---------------------------|-------------|---------------|---------------|
| Total Cases | 8,029 | 115,878 | 116,131 |
| Cases disposed off | - | 8,673(7.5) | 12,956(11.2) |
| Conviction cases | 125(1.6) | 700(0.6) | 982(0.9) |
| Acquittal cases | 1,367(17.0) | 7,420(6.4) | 11,605(10.0) |
| Cases pending | 6,537(81.4) | 107,204(92.5) | 100,891(86.9) |

Note: Figures in brackets are percent of total cases.

Source: National Commission for Scheduled Castes and Scheduled Tribes, 1991, 1999-2000 & 2000-2001.

Adivasis

1.4.1 There are 84.3 million tribal people (also known as Scheduled Tribes) in India according to the census of 2001. They are present in all the States except Punjab, Haryana, Delhi and the Union Territories of Pondicherry and Chandigarh, and are located mostly in hilly and forest areas. The architects of the Constitution, being conscious of the distinct identity of the tribal communities and their habitat, provided certain articles exclusively devoted to the cause of the tribal people, including Articles 244, 244A, 275(1), 342, 338(A) and 339. Following these provisions in the Constitution aimed at ensuring social, economic and political equity, several specific legislations have been enacted by the Central and State Governments for the welfare and protection of tribal people and their tribal domain.

1.4.2 In the seventies, a serious attempt to focus on the tribal population in the planning process was made in the form of a Tribal Sub Plan strategy. The process of bringing all tribal majority areas under the Fifth Schedule of the Constitution was also taken up. The 73rd and the 74th amendments to the Constitution of India, followed by the Provisions of Panchayats (Extension to Scheduled Areas) Act 1996 (popularly known as PESA), brought in a new model for self-government in the Fifth Schedule areas of the country. Despite the plethora of development plans, programmes and activities initiated in the tribal areas, the majority of Scheduled tribes still live in conditions of serious

deprivation and poverty. The tribal people have remained backward in all aspects of human development including education, health, nutrition, etc. Apart from socio-economic deprivation, there has been a steady erosion of traditional tribal rights and their command over resources.

1.4.3 Unrest and discontent are not new to tribal areas, nor is it just a post-independence phenomenon. The earliest uprisings against the British, in the closing decades of the 18th century, were triggered by colonial expansion into the forests. The uprisings were generally suppressed by force. Over the last century, all the tribal communities have had their political, social and economic life changed under the impact of the colonial administrative system. The most significant of these changes has been the loss of command over their resources.

1.4.4 In general, the contradiction between the tribal community and the State itself has become sharper, translating itself into open conflict in many areas. Almost all over the tribal areas, including Nagaland, Manipur, Tripura, Assam, Jharkhand, Orissa, Chhattisgarh, Maharashtra, Andhra Pradesh and Kerala, tribal people seem to feel a deep sense of exclusion and alienation, which has been manifesting itself in different forms. The Report of the Expert Group on Prevention of Alienation of Tribal Land and its Restoration (October 2004) pointed out that the socio-economic infrastructure among the tribal people is inadequate, thereby contributing to their disempowerment and deprivation.³

³ Government of India (2004), Report of the Expert Group on Prevention of Alienation of Tribal Land and its Restoration (New Delhi: Ministry of Rural Development).

1.4.5 Apart from poverty and deprivation in general, the causes of the tribal movements are many: the most important among them are absence of self governance, forest policy, excise policy, land related issues, multifaceted forms of exploitation, cultural humiliation and political marginalisation. Land alienation, forced evictions from land, and displacement also added to unrest. Failure to implement protective regulations in Scheduled Areas, absence of credit mechanism leading to dependence on money lenders and consequent loss of land and often even violence by the State functionaries added to the problem.

1.4.6 In physical terms, much of the Adivasi condition derives from the fact that they predominantly inhabit forest areas. According to the Forest Survey of India Report 2003, about 60% of the forest cover of the country and 63% of the dense forests lie in 187 tribal districts, i.e. districts covered by the Fifth and Sixth Schedules to the Constitution. This has many consequences which impinge on the condition of adivasis. The commercial and industrial over exploitation of forest produce including timber and minerals create hazards for ecological balance. Adivasis are traditionally aware of the ecological interest of preserving forest cover, and the protection of biodiversity including wildlife conservation for their community life.

1.4.7 The other consequence is that the inhospitable terrain of the forests provides ample excuse for the restricted reach of the administration. It is not that there are no genuine difficulties faced by the administration. It is that the negative attitude engendered by the social culture needs to be filtered out before what is

genuine can be seen and remedied. Taking literacy first, the figures from the 2001 census show that while the proportion of literates at the all India level was 65%, it was only 47% among the adivasis. Even this is an overstatement as far as the major chunk of Central Indian tribes are concerned, since it includes the tribes of the North-eastern States where the literacy rates are higher than the national average. Confining to the main tribal areas of the Central Indian expanse, the literacy rate is 28% in Bihar, 41% in Jharkhand, 41% in Madhya Pradesh, 52% in Chattisgarh, 37% in Andhra Pradesh, 37% in Orissa and 47% in Rajasthan.

1.4.8 The health status of both SCs and STs are far worse than that of other sections of society. In 2005/6 (National Family Health Survey 3) infant mortality rate was 50.7 for SCs, 43.8 for STs, and only 36.1 for Others. Since access to care is limited for STs and SCs, barely 42% of pregnant SCs could access a doctor for ante natal care and only 28% could access an ANM. But 64% of Others obtained ante natal care from a doctor. Again, since most STs live in remote rural areas, barely 18% of all STs had deliveries in a health facility, compared to 51% among Other communities. Similarly, only a third of SCs had deliveries in a health facility. Both SC and ST children aged 12-23 months who received basic vaccinations are much lower than the rest of the population; and ST and SC children also have a much higher incidence of anaemia. Moreover, not only is the incidence of stunting and wasting much higher among ST and SC children, the incidence of overall under-nutrition (under weight) is significantly higher among SC and ST children than among Others.

1.4.9 According to Census 2001, only 42% of households had access to electricity in India. The situation is much worse in rural areas, and even worse in areas inhabited by scheduled tribes. But this is an entirely remediable situation, at extremely low cost. Remote rural areas do not have to wait for grid-based electricity to reach them through the Rural Electrification Corporation. Off-grid decentralized generation of electricity is possible throughout the country, on an immediate basis. NTPC already has a technology that is tried and tested, the business model is in place, and 6 off-grid units are already functioning in the country, based on bio-mass gasifiers. The Planning Commission has already approved funds for 60 more such units for which detailed project reports are ready; but what is essential is that this model is taken to scale, and RGGVY (Rajiv Gandhi Grammen Vidyutikaran Yojana) funds are used to take it to scale. China succeeded in ensuring that 94% of rural households had electricity by 1991, based largely upon off-grid decentralized generation of electricity on a small scale. Since STs live in or near forests, there will be no shortage of biomass for generation of electricity in such areas. Since only 42% of Indian households had electricity nearly 54 years after independence; the way forward for rural electrification is, therefore, Decentralized Distributed Generation – which can in future be linked to the grid, when grid-based conventional energy becomes available to such rural villages.

Women

1.5.1 The subjugation of women is another important aspect of the deeper maladies that afflict rural India and contribute to popular unrest. In spite of formal equality with men

under the law, Indian women continue to face wide-ranging disadvantages, whether it is in terms of property rights, workforce participation, educational opportunities, access to health care or political representation. India has some of the worst indicators of gender inequality in the world, including a very low female-male ratio, a major gender bias in literacy rates, and a low share of women in the labour force. Gender-related development indicators such as maternal mortality rates and sex-selective abortion also shed a sobering light on the predicament of Indian women.

1.5.2 Even simple demographic indicators bring out the exceptionally low status of women in Indian society. For instance, the female-male ratio in the population (0.93 at the time of the 2001 Census) is among the lowest in the world. This reflects persistent discrimination against girls starting from early childhood, even in matters of basic nutrition and health care. For instance, they have lower rates of economic participation, lower literacy rates, low shares of earned income and abysmally low share in positions of power and influence in public life. In matters of basic education, health and nutrition, Indian girls and women fare very poorly again.

1.5.3 Government initiatives to address these wide-ranging disadvantages women face have not gone very far. Even the National Rural Employment Guarantee Act (NREGA), which is a potential source of empowerment for women (in so far as it gives them independent income-earning opportunities and equal entitlements vis-à-vis men), is yet to overcome traditional patterns of gender inequality and female subordination. The economic and social disadvantages of women in Indian society reflect

a whole gamut of patriarchal norms and practices such as patrilineal inheritance, patrilocal residence, the gender division of labour, the gender segregation of public spaces, and the discouragement of widow remarriage.

1.5.4 There is a common perception that the position of women in India has improved significantly in last few years due to affirmative action taken on behalf of the state. However, 136 countries for which data exist, India's Gender Development Index rank is 96 (UNDP Human Development Report 2006). The Human Development Report 2006 in a statistical appendix entitled Gender Empowerment Measures shows that women workers in India on average get only 31 % of the wages of the men. This figure might not convey any meaning unless it is pointed out that there are only 5 countries behind India out of 171, that is to say, Pakistan (29 %), Sudan (25 %), Swaziland (29 %), Tunisia (28 %) and Saudi Arabia (15 %).

Access to Basic Resources

1.6.1 Much of the unrest in society, especially that which has given rise to militant movements such as the Naxalite movement, is linked to lack of access to basic resources to sustain livelihood.

Forests

1.7.1 The conflict pertaining to forest dwellers' rights to land and forest produce is a major source of unrest in large parts of the country. The very notion of a symbiotic relation should have implied that no inherent conflict could be seen between such communities and their habitat, but no such understanding informs the

law concerning forest conservation. Thus, large areas that were traditionally the habitat of forest-dwelling communities, which means principally adivasis, were declared reserve forests without any recognition, let alone accommodation of the rights of those communities. The Forest Conservation Act, 1980 made this position irreversible by declaring that no forest land shall be diverted to non-forest use without the permission of the Union government. The punitive provisions of the Act meant that eviction of adivasi occupants of forest land took place on a regular basis, resulting in considerable deprivation and suffering.

1.7.2 Forest conservation has found a strange companion in industrial forestry. While the rights of the forest-dwellers are severely restricted in the name of forest conservation, the forests are increasingly shaped to suit the needs of industry. This has resulted in the forest dwellers simultaneously losing access to land and to a variety of forest produce of day to day use and value. Joint Forest Management (JFM), which was envisaged as a remedy for this has in many cases merely institutionalised this state of affairs. It is expected that the new act, viz. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, which has come into force from 1st January 2008, will make a difference if implemented faithfully.

Land

1.8.1 Even those who know very little about the Naxalite movement know that its central slogan has been 'land to the tiller' and that attempts to put the poor in possession of land have defined much of their activity.

1.8.2 The importance of land as a livelihood resource cannot be overstated. While only 18% of the GDP comes from agriculture today, the proportion of the workforce that is engaged in agriculture is 58%. And it is 64% in the case of the Scheduled castes. Forty per cent of rural households have no land or less than half an acre of land. The estimated number of landless rural families in the country is 1.30 to 1.80 crores. The number of small and marginal operational holdings has been increasing steadily over the years.

1.8.3 While the economy is at present growing at a rate of about 8% to 9%, agriculture which provides employment to 58% of the country's workforce is growing at less than 3%. This is rightly seen as signifying rising economic disparities between the agricultural and non-agricultural sectors of the economy, but it also signifies continued immiseration of the lower strata in the rural community in an absolute sense.

1.8.4 Since insecurity and exploitation of tenants is a widespread phenomenon, tenancy reforms of various kinds have been attempted right from the time of independence. While some States have banned tenancy altogether, some have provided statutory security against eviction, including preferential right of the tenant to purchase the land if the landlord wants to sell it. But instead of improving the lot of tenants, these reforms have only driven tenancy underground.

1.8.5 Waste or barren land that belongs to the Government is increasingly intended for industries and Special Economic Zones, and the landless poor are fast losing the 'right' they had, namely to hope that the land would be

distributed to them. The situation in the Scheduled areas is on a different footing. What distinguishes such areas in this context is the protection statutorily afforded to the Scheduled tribes from alienation of their land to non-tribals. Today the States which contain Fifth Schedule areas have laws preventing such alienation. The laws which prohibit land alienation also provide for means of restoration of the alienated land to the tribals. However, with economic reforms there is pressure to dilute the laws prohibiting tribal land alienation and permit leasing of mineral-bearing land in the Fifth Schedule areas to private companies.

Special Economic Zones

1.9.1 Land acquisition for Special Economic Zones (SEZ) has given rise to widespread protest in various parts of the country. Large tracts of land are being acquired across the country for this purpose. Already, questions have been raised on two counts. One is the loss of revenue in the form of taxes and the other is the effect on agricultural production.

1.9.2 In both these debates there is no understanding that land is a livelihood resource. Whether it is multi-cropped or single-cropped, whether it is fertile or infertile, it is the source of livelihood for the farmer and also for other rural inhabitants whose livelihood depends directly or indirectly on land. The very notion of a SEZ requires a single huge block of land, and therefore it is impossible to avoid acquiring productive land if SEZs are to be established at all. Thus, the notion of an SEZ, irrespective of whether it is established in multi-cropped land or not, is an assault on a major livelihood resource. The SEZ Act permits the government

to exempt the units set up therein from various laws and there is a promise that such exemption will be given in the matter of labour laws.

Common Property Resources

1.10.1 Common Property Resources (CPR) constitute an important component of the natural resource endowment which contribute significantly to the rural economy and provide sustenance to local communities in rural areas. CPRs cover a wide basket of land, water and vegetation resources consisting of community pastures, common dumping and threshing grounds, watershed drainages, village tanks, rivers and rivulets, and wastelands. The poor depend upon CPRs far more than the rich due to their lack of or low-productive assets, not enough work or purchasing power, particularly in the lean seasons. Therefore, the health of CPRs and ease of access are critical for these vulnerable groups.

1.10.2 Since colonial times, however, the area of CPRs has been shrinking considerably on account of a number of factors, such as State appropriation for revenue generation, industrialization, privatization and development projects. Privatisation is carried out through extension of field boundaries of private farms, forcible grabbing, and distributive policies of the government. State policies focusing on increasing productivity of CPR lands exposed them to influence of the market, which resulted in raising products from it which catered to commercial demand rather than the needs of the local community.

1.10.3 State intervention in respect of management of CPRs emerged from the

introduction of Panchayati Raj institutions and led to the disappearance of the traditional management systems. The latter had involved use regulation, adherence to user obligations, and investments of efforts and resources for conservation and development, which the institution of elected Panchayat, even though legally empowered, were unable to enforce. This led to loss of local initiatives and dependence on funds from the government for upkeep, and on officials for enforcement of regulations. Besides the above interventions, the overall strategy of land management pursued by the government never took into account the relevance and importance of CPRs in the rural economy. The factors which reduced the availability and access of the CPRs for the rural poor apply even more to SCs/STs.

Labour, Unemployment, and Wages

1.11.1 If landlessness has always been the focus of much social unrest among the rural poor, unemployment and insecurity of livelihood is a growing source of dissatisfaction and anger among youth, both in urban and rural areas. While the relatively rapid growth of the Indian economy in recent years has been a cause of celebration, the employment scene gives little to cheer about.

1.11.2 The overall shape of the economy has been characterised by three related facts: the share of agriculture and allied activities, mining and quarrying in the GDP has dropped steadily over the years, from 59% in 1950-51 to 28% in 1999-2000 and about 18% now. The share of manufacturing grew from 13% in 1950-51 to 24% in 1990-1991, but has remained stagnant thereafter, the difference being filled by the steadily expanding tertiary sector. However the

share of agriculture in the workforce has declined only from 72% in 1970 to 62% in 1999-2000 and about 58% now. This disparity between the rapidly falling share of agriculture in the GDP and the much slower decline of its share in employment means that a progressively greater share of workers are concentrated in a segment that produces progressively less and less of the society's income.

1.11.3 But distress in the agricultural sector is not merely relative, it is absolute. Minimum wages for agricultural work are not implemented except where the labour market is itself favourable to the workers, such as in double or triple cropped areas. Moreover, among workers in the rural sector the majority are self-employed (including small farmers) and not wage workers. For the self-employed the Minimum Wages Act has no application and their standard of living is determined by the slow growth of productivity in the rural sector.

1.11.4 The Second National Labour Commission reported that between 1987-88 and 1995-96, handloom production declined by 13%, the number of looms declined by 8%, whereas the workforce in the handloom sector was constant at 65.5 lakhs. This implies substantial depression in the per capita earnings of handloom weavers, which was found to be the factor behind suicides of handloom weavers in Andhra Pradesh and Tamil Nadu. The number of workers engaged in construction industry has crossed 3 crores. Almost no labour law is enforced in this industry. The workers in this industry 'are exploited because they are illiterate, socially backward, unskilled, unorganised, uninformed and poor' in the words of the Second National Labour Commission.

1.11.5 In the first decade after liberalisation the rate of unemployment increased steadily in the rural areas for both men and women and in urban areas for men.

1.11.6 The National Commission for Enterprises in the Unorganised Sector has defined the unorganised (or informal) sector as comprising unincorporated enterprises, whether owned by an individual or a family, engaging 10 workers or less. And it has defined unorganised workers as workers in the unorganised sector plus those working in the organised sector who do not have job security and social security provided by the employer. The Commission has estimated the workforce in the Unorganised Sector to be 34 crores out of the total workforce of 39.7 crores. Since existing labour welfare laws do not either cover or effectively cover the unorganised/informal sector, this means that about 90% of the workforce of the country lacks the security that comes with such laws.

1.11.7 The Second National Labour Commission has identified the following characteristic features of this sector: low wages/low earnings, high proportion of employment of women, employment of family labour, child labour and migrant labour, piece-rate payment, contractual nature of work, seasonal or intermittent employment, home-based work, lack of unionisation, casual and multiple jobs, less access to capital, prevalence of health hazards, etc. Women and children are not only employed on a large scale in the unorganised sector but are exploited inhumanly.

1.11.8 Street hawking and vending is a category of self-employment which helps crores to make a living while playing an essential social role,

but hawkers and vendors are seen as a nuisance by the municipal and police authorities. Rag picking and scrap collection is another mode of self-employment which is looked down upon as unclean but plays an essential role in keeping our cities clean. Fishing, especially in the sea, is accident-prone and while a Central scheme of insurance is there, it often eludes migrant fishermen whose survivors find it difficult to undertake the paper work that is necessary to claim the insurance amount.

1.11.9 The Beedi & Cigar Workers Act is an instance of a law for the unorganised sector that has benefited the beedi workers because it has taken due account of the specific nature of work in that industry. There are very few other such instances. Instead the trend is to ignore the specificity of the particular job but merely aim at providing an overarching welfare fund which will take care of old age, sickness, unemployment and maternity benefits.

Displacement and Rehabilitation

1.12.1 Displacement, which is, in fact, enforced eviction of people from their lands and natural habitats, has for long been a serious problem. Displacement takes place on account of development projects such as large irrigation projects, industrial and mining projects, power plants, declaration of sanctuaries and national parks, setting up of field firing and testing ranges and a myriad other activities of the State itself. Displacement is a multi-dimensional trauma, with far-reaching impacts, which cannot easily be compensated.

1.12.2 The displacement caused by large projects can be physical, occupational and even

cultural. Unless the nature and magnitude of displacement in all its dimensions are fully analysed and appropriate safety nets put in place, well in advance of the implementation of the project itself, it will lead to discontent. The track record of the Government in this regard has so far been dismal and those likely to be displaced are rightly apprehensive about their future. It is important, therefore, that in the case of all major projects, including SEZs, socio-economic impact appraisals are carried out by independent expert institutions so that, before the project is implemented, effective steps are taken to upgrade the skills of the members of the families likely to be affected, so as to ensure that they are in a position to take full advantage of the livelihood opportunities provided by the project. Such a step will minimise the trauma of displacement.

1.12.3 An official database of persons displaced / affected by projects is not available. However, some unofficial studies, particularly by Dr. Walter Fernandes, peg this figure at around 60 million for the period from 1947 to 2004, involving 25 million ha. which includes 7 million ha. of forest and 6 million ha. of other Common Property Resources (CPR)*. Whereas the tribals constitute 8.08% of country's population, they are 40% of the total displaced/affected persons by the projects. Similarly at least 20% of the displaced /affected are Dalits and another 20% are OBCs. The resettlement record is also very dismal. Only a third of the displaced persons of planned development have been resettled.

1.12.4 As tribal areas are also rich in mineral resources, the mining projects proposed such as in Orissa, Jharkhand and Chhattisgarh threaten the very existence of tribal people.

* W. Fernandes (2008), "The Human Cost of Development - Induced Displacement", in *India Social Development Report*, New Delhi : Oxford University Press.

Protest action becomes an inevitable consequence of displacement, such as in Kalinganagar and in Kashipur people's movement against Utkal Alumina Rayagada district, Orissa.

1.12.5 Apart from the physical and occupational displacement caused by large projects, in the case of the Fifth Schedule areas, unless the tribals are resettled in the same scheduled tract, they will face deprivation of the special rights that have accrued to them by virtue of the schedule. For example, the tribals in the scheduled areas enjoy presumptive right of ownership of the land and minerals (Refer SC judgment in CA Nos. 4601-02 of 1997 on SLP Nos. 17080-81 in *Samata vs State of Andhra Pradesh* and others). Also, the Fifth Schedule requires the Government to review any law before it can be extended to the notified areas, so as to ensure that such a law is appropriately adapted to safeguard the interests of the tribals. In view of this, as far as the notified areas are concerned, projects that cause displacement need to be avoided. Even if the setting up of a project becomes inevitable strictly on the ground of public interest, as laid down by the Hon'ble Supreme Court in the *Samata* judgment, it should be on the basis of the prior consent given by the Gram Sabhas and through involvement of the tribals as owners of the projects. The Government should evolve suitable mechanisms to ensure this.

1.12.6 A policy guiding the Rehabilitation and Resettlement (R&R) should ensure that none of the displaced be worse off after the project. They should in fact be better off after it because they are paying its price. The National Rehabilitation and Resettlement Policy, 2007 is

a significant departure from the earlier policies in this direction. First of all, it aims at minimizing large scale displacement as far as possible, by stipulating the acquiring of the minimum possible areas of land and that too of wasteland, degraded land or un-irrigated land. Where large numbers of families are affected (400 in plain area or 200 in tribal/hilly area, DDP blocks or area mentioned in Scheduled V or VI) Social Impact Assessment (SIA) has been made mandatory. The SIA will ensure that impact on Project Affected Families be assessed in a holistic, participatory and transparent manner. More particularly, where ST people are displaced in sizeable numbers, a well thought out Tribal Development Plan must be put in place. Preference in allotment of Land for Land in command areas and Fishing Rights in water bodies is another important feature of the new policy. The specification of clear time frames for implementation of rehabilitation package as well as for utilization of land along with an effective monitoring and grievances redressal mechanism, are the other significant inclusions in the new policy. The policy is to be put into effect through an Act of Parliament (as of February 2008, the Bill on R&R is with Parliament). It is hoped that this humane policy would result in reducing the number of project affected persons and their multiple trauma.

1.12.7 However, there is still a feeling that this R&R policy would be infructuous without suitable amendments to the Land Acquisition Act. Further, the new policy does not provide for single/deserted women-headed household. There is no provision for loss of CPR, which should be included in R&R policy. It still lacks clarity about "Public Purpose", which should be strictly limited to public welfare activities

performed by Government. The displaced / affected persons should be actively involved in the decision regarding the selection of a particular land. This requires their prior informed consent based on proper information, given in a language and manner they can understand. The Standing Committee on Inter Sectoral Issues has strongly recommended the protection of tribal domain whenever Government transfers land from a tribal to non-tribal. The consultations leading to consent of the tribal community / Gram Sabha as required under PESA are mandatory. Cultivable Land for Land based R&R with suitable safeguards be ensured for all SCs / STs and other BPL families and provisions to bring it to cultivation be made mandatory and not “preferential”.

The Process of Adjudication

1.13.1 Of all the things that are known about the Naxalites, their Peoples Courts are perhaps the most notorious. While the abuses that have been reported about them are not all false, taking that to be the whole story would not be quite correct. The fact is that such informal, rough and ready forums of dispute resolution did in a way respond to the felt need.

1.13.2 Considerable frustration gets built up in society when disputes and conflicts are not settled in time and in a just and fair manner. The judicial system we have is time consuming in nature. It is too formal, too remote and too slow. The parties to the dispute lose control over even the terms and details of the dispute once it goes to Court. Cost and delay in the formal adjudication tends to legitimize the totally illegal Peoples Courts of the extremists in the minds of the poor.

1.13.3 In recent years a lot of attention has been focused on Alternative Dispute Resolution systems, called ADR in brief. This alternative starts with the premise that disputes must be encouraged to be resolved through negotiations between the parties, failing which the matter can be taken to Mediator, Arbitrator or the Court. Negotiation, Mediation, Arbitration (failing which the matter can of course go for adjudication) are the three steps it envisages. It is doubtful that the notion of ADR as thought out till now has much relevance to the kind of issues ordinary people would want quick resolution of. Moreover, thinking about ADR has not freed adjudication from formality, for it is premised on the existence of a written contract or terms of dealing, perhaps statutory rules, and documented evidence of the grievances and the reply. A way out is to have participatory elected Nyaya Panchayats. In several States Nyaya Panchayats are functioning very well. Universalisation of the system might reduce the current problem.

1.13.4 A number of disputes concerning rights of the poor in Government land, rights of tenants, rights in ceiling surplus land, rights in land of erstwhile superior right-holders like zamindars, and of adivasis in the Scheduled areas are the subject of Special Laws which provide for adjudication by quasi-judicial tribunals. Even in these fora, matters drag on for years with the landlord continuing in possession on the basis of stay orders, causing erosion in the poor persons' faith in the establishment.

Environmental Degradation

1.14.1 “Environmental degradation and social injustice” are two sides of the same coin.

Environmental degradation can be caused both by nature and by human action. In the case of the tribal heartland, the centre of the Naxalite movement, it is overwhelmingly the latter which contributes to it.

1.14.2 Land is targeted primarily for mineral extraction. Geographical distribution of fossil fuels, and metallic and non-metallic mineral reserves, shows a high degree of concentration in central and eastern India. This implies drastic changes in the existing land use from agriculture and forestry. Mining is an unavoidable component of industrial development, but its full effect on the environment must be taken note of. Mining is carried out in two ways: open cast and underground. Either way, the extraction of ore releases extensive dust which spreads all around and spoils all elements of the environment – it makes the agricultural lands barren, pollutes water sources, denudes forests, defiles the air and degrades the quality of life for people who live and work in this area.

1.14.3 Environmental degradation resulting from industrial, mining and other development activities has created serious health problems for the local population. A large number of occupational diseases are caused by dust from mines and polluted air from industrial units.⁴ Uranium mining and processing near the Subarnarekha river has even caused radioactive pollution. In addition to the damage caused to the environment and its consequential effects, illegal mining and illegal practices in legal mining

compound people's misery. The activities for exploitation of water resources directly create conflict with the local population. Large dams by changing the course of nature cause severe damage to the natural environment and rich biodiversity as they are located in ecologically sensitive regions.

1.14.4 Not merely land, water and forests, even bio-diversity is being exploited for economic growth. This is done through massive expansion of tourism which is seemingly projected as a people-friendly development activity with considerable distributive benefits. This too has adverse implications both for ecology and local communities, which are not even recognized. The other issue relates to the perceived adverse effects of the tourism industry on tribal communities and the conflicts it would generate. Tourism disturbs the existing cultural-economy-governance matrix of tribal life which is inseparably interwoven with ecology. The introduction of commercialisation and foreign influences in their life would cause the worst impact on the tribal communities. It would trigger the process of disintegration of tribal society and its cultural ethos leading to social degradation.

Political Marginalisation of the SCs and STs

1.15.1 The Constitution has facilitated the political participation of SCs/STs (dalits and adivasis) through three measures: Fundamental

⁴ Mining dust causes pneumoconiosis (a group of lung diseases), eye infection, conjunctivitis, corneal ulcers, glaucoma and squint trachoma. Silicosis is caused by dust from coal, mica, silver, lead, zinc and manganese mines, pottery and ceramic units, sand blasting, metal grinding, building and construction work, rock mining, iron and steel plants, slate pencil factories, etc.

Right to equality granted to citizens, abolition of discrimination including untouchability, and special provision for their representation in legislature.

1.15.2 These rights and entitlements, however, have not resulted in effective political participation and removal of their sense of political marginalization. Though both groups face exclusionary practices, dalits and adivasis are differently placed in respect of their social situation. Dalits are exposed continuously to the domination of other castes hostile to them. They are also socially and economically dependent upon these very castes in their day to day life. They have, therefore, little autonomy to act on their own in any matter. Adivasis, by and large, are distanced from dominant non-tribal communities and have considerable space to act autonomously.

1.15.3 The political equality in respect of dalits is compromised in various ways. The exercise of the right to vote without fear or favour is widely frustrated both by untouchability practices and exertion of dominance by 'higher' caste groups. The absence of public buildings to serve as a polling booth near the cluster of dalits prevents this option being exercised on a large scale, even where the local officials are motivated to provide such a booth. Dalit votes are frequently 'captured' en masse. Both discrimination and dominance affect the exercise of the right to contest elections, which severely circumscribes dalit freedom. Threatening dalit aspirants not to contest the election, forcing them to withdraw their candidature if they file their nomination, and assaulting them and their supporters if they persist in their political assertion, are quite common.

1.15.4 The factors which frustrate political empowerment at the Assembly/ Parliament levels become more pronounced at the Panchayat level. Right to hold office is frustrated by dominant castes through two modes. One is the refusal to accept the reserved nature of the constituency and the executive positions in representative bodies, thereby creating conditions where elections may not be held or the elected person may not hold office. The second mode is to cripple the autonomy of elected persons to function if he/she does succeed in assuming charge of the position. More common is the less extreme kind of response, where the dominant communities do not openly oppose reservation of seats or headship of the elected body but ensure that only the candidate supported by them is elected. This results in tokenism.

1.15.5 The disability that adivasis face in availing political opportunities is different in character. Lack of financial resources is a crippling factor in exercising their right to contest elections. This is even more so when the candidates are not backed by any political party. At the Panchayat level, the ST chiefs of Panchayat, even in tribal concentration areas, may be manipulated by non-tribals of the constituencies to spend development funds suited to their needs and to get contracts for government schemes. Political marginalization is not confined to the elected positions in the legislature or Panchayats. It extends to executive positions as well. These communities get a 'token' representation in the Cabinet rather than in terms of their numerical strength. The token representation given to them is largely guided by constitutional compulsions.

1.15.6 The position is not very different with the institutions specifically created for protecting the interests of the scheduled communities. The status and role assigned to National Commissions, constituted under Act 338 and 338A of the Constitution, gives them a certain importance in the Constitutional scheme. They have no executive power and their power is only advisory in nature, but consultation with these Commissions is mandatory when any policy affecting the scheduled castes or tribes is sought to be devised.

Some Statistical Pointers

1.16.1 Before summarising the main causes of discontent leading to the emergence of the Naxalite movement, we may note the broad correlation between various indicators of backwardness and the spread of the Naxalite movement. We have selected five States with a high level of Naxalite activity: Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand and Orissa. In each of these States, four of the most affected districts were identified and compared with four districts that are comparatively more developed.

1.16.2 District-wise data relating to economic, social and human development have been assembled from different sources in table 5. A careful examination of the data enables us to identify 10 factors that appear to show significant variation between the affected districts and the developed districts. They indicate the circumstances underlying rural unrest and the emergence of Naxalism to a significant extent. These factors are: (1) high share of SC/ST population; (2) low levels of literacy; (3) high level of infant mortality; (4) low level of urbanisation; (5) high share of forest cover; (6)

high share of agricultural labour; (7) low per-capita food grain production; (8) low level of road length per 100 sq.kms.; (9) high share of rural households which have no bank account; and (10) high share of rural households without specified assets.

1.16.3 A summary of the picture is presented in Table 5. The unweighted averages of the affected and developed districts clearly indicate significant differences in respect of all the indicators except in a few cases. The only cases in which the direction of variation is not along the expected lines are: (1) the share of agricultural labour in Andhra Pradesh and Chhattisgarh; (2) urbanisation in Bihar; and (3) food grain production in Orissa. These, however, are not difficult to explain.

Governance

1.17.1 Articles 14, 15 and 16 of Indian Constitution provide the framework for a harmonious conjuncture of equality as citizens and compensatory discrimination and affirmative action in favour of SCs/STs and the other backward sections in certain areas. The Directive Principles cast an obligation on the State to promote the educational and economic interests of these sections, and social and economic justice and equality. These mandates have been translated into specific policy instruments for social justice.

1.17.2 Reservation provisions in public services are intended to ensure that the vast gap in educational attainments and economic status does not stand in the way of occupying decision making positions. This has been done by earmarking a percentage share in recruitment

Table 5 : Identified factors which distinguish between affected and forward districts

| | Orissa | | Jharkhand | | Chhattisgarh | | Bihar | | Andhra Pradesh | |
|--|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|
| | Affected Districts | Forward Districts |
| Share of SC/ST (%)* | 65 | 23 | 45 | 30 | 69 | 36 | 19 | 18 | 26 | 22 |
| Literacy rate (%)* | 44 | 76 | 40 | 51 | 50 | 68 | 46 | 48 | 56 | 68 |
| Infant Mortality rate (%) (1999) | 123 | 73 | n/a | n/a | 76 | 57 | n/a | n/a | 34 | 28 |
| Urbanisation (%)* | 17 | 23 | 10 | 37 | 7 | 29 | 12 | 8.6 | 24 | 27 |
| Forest Coverage (%)** | 39 | 15 | 38 | 16 | 53 | 28 | 8 | 1 | 17 | 14 |
| Agriculture Labourers (%)* | 35 | 25 | 29 | 20 | 26 | 34 | 52 | 46 | 40 | 51 |
| Percapita Foodgrain production* | 151 | 95 | n/a | n/a | n/a | n/a | n/a | n/a | 121 | 293 |
| Road length per 100 sq.kms, (1996/7) | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 44 | 70 |
| Rural HH with no Bank a/c (%)* | 81 | 80 | 77 | 74 | 83 | 82 | 83 | 80 | 69 | 72 |
| Rural HH without specified assets (%)* | 63 | 37 | 46 | 36 | 47 | 31 | 53 | 50 | 56 | 41 |

Sources:

* : Figure based on 2001 census, Registrar General of India, New Delhi.

** : Figure based on Forest Survey of India 2003.

Note: For each state, this table compares four districts where the Naxalite movement is most active (the “affected districts”) with four districts that are comparatively developed (“forward districts”). The selected districts are as follows: Orissa: Sundergarh, Gajapati, Malkangiri (Orissa, affected); Cuttack, Dhenkanal, Khurda, Puri (Orissa, forward); Chhatisgarh: Koraput, Sundergarh, Gajapati, Malkangiri (Orissa, affected); Chhattisgarh: Dhanbad, Deogarh (Jharkhand, forward); Bastar, Dantewada, Kanker, Sarguja (Chhattisgarh, affected); Bihar: Durg, Mahasumund, Raipur (Chhattisgarh, forward); Bhojpur, Gaya, Champaran, Purnia (Bihar, affected); Hajipur, Madhubani, Muzaifarpur, Nalanda (Bihar, forward); Karimnagar, Mehboobnagar, Prakasham, Warangal (Andhra Pradesh, affected); East Godavari, West Godavari, Krihna, Guntur (Andhra Pradesh, forward). The classification of districts should be taken as informal and indicative. The figures presented in the table are unweighted averages of the relevant district-specific figure.

and promotion to them. Similar provisions for entry into educational institutions seek to ensure equality of opportunity for acquiring eligibility qualifications to compete in the employment market and to take up desired professional vocations.

1.17.3 Political participation is facilitated by a percentage share of seats in elected democratic bodies at the State, central and PRI levels and representation in the Central and State cabinets. The dedicated committees of the Parliament and State legislature advise concerned Government on matters concerning these communities. Constitutional and statutory bodies [National/State Commissions] have also been created for safeguarding the interests of these communities and to protect their entitlements against encroachment by non-eligible persons and neglect by the State.

1.17.4 There is, however, a failure of governance, which has multiple dimensions and is not confined to the inefficiency of the delivery system only. It is not fortuitous that overwhelmingly large sections of bureaucracy/ technocracy constituting the delivery system come from landowning dominant castes or well to do middle classes, with their attachment to ownership of property, cultural superiority, purity-pollution governed behaviour and a state of mind which rationalizes and asserts their existing position of dominance in relation to others. This influences their attitudes, behaviour and performance. As it happens, the politics has also been aligned with this social segment which constitutes the power structure in rural and urban areas since colonial times. It is this coalition of interests and social background that deeply affect governance at all levels.

1.17.5 The failure of political leadership is typically reflected in enacting weak laws when it comes to effectuating the promise to empower the poor and the marginalised or ensure social/economic justice to them. This facilitates their subversion in multiple ways. On the other hand, laws which restrict their rights, such as the forest conservation laws, are given teeth and pursued aggressively at the behest of vested interests, such as, for instance, the forest bureaucracy and elite environmentalists.

1.17.6 Nevertheless, Government has not been oblivious of the governance deficit in the implementation of development programmes as a whole. The Tenth Five Year Plan recognized that better governance holds the key to achieving effective results for the development programmes initiated by the Government. This perception has led to articulation of a nation-specific paradigm of governance, different from an international perspective. The latter is interpreted to mean policies that will attract foreign capital, enforcement of contracts, protection of property rights, replacement of state agencies by independent regulatory agencies for smooth operation of business and rule of law. Good governance in our national context has been elaborately conceptualised, so as to focus on decentralization implying devolution of authority, financial and administrative, strengthening of district level planning, etc. The poor implementation of social sectors in government programmes has been attributed to the lack of mobilization and accountability, the absence of performance appraisal, non-existence of a system of incentives and penalties, understaffing, poor working conditions and large scale leakages. These maladies can be corrected by bringing

in improved transparency, greater accountability and streamlining the structures of Government.

1.17.7 The importance assigned to good governance is evident from the fact that an Action Plan focusing on effective and responsible administration enumerating various measures to be taken at Central and State levels was formulated by the Central government, discussed in the conference of Chief Ministers held on 24th May, 1997 and adopted therein. This incorporated all the measures discussed above. Subsequently, the follow up action in pursuance of this Action plan was deliberated in the 9th meeting of the Interstate council on June 28, 2005.

1.17.8 It would be evident that this perspective of good governance captures the common problems which citizens face in relation to the State, but does not reflect the specific concerns which socially excluded categories like SCs/ STs/OBCs experience in their day to day life, both from the State and the larger society. Their problems with administration extend beyond those listed for the Citizens as a whole, and good governance in terms of this index may still bypass their grievances. This is not to underestimate the efforts at improving governance on lines formulated by central Government which may also yield some positive outcomes for these sections as well. But the difficulties they encounter are chiefly rooted in the lack of sensitivity to problems of these communities in all organs of Government (legislative, executive, judicial), and at all levels, and deep seated social bias against these groups. These biases are a hang-over of the dominant traditional social order, which even religious minorities have internalized in their

social behaviour. This attitudinal trait colours behaviour of persons in decision making and implementing positions, and has the effect of denying these communities the benefit of laws, policies and programmes. Good governance in their context has to be conceptualized taking this dimension in view.

1.17.9 The strategy for Governance outlined above would have to be multi-dimensional. It should have elements of protection, development, participation, effective administration, accountability, inclusive politics and a paradigm shift in the approach to violence.

1.17.10 The incidence of atrocities on SCs and STs is on the increase, and the deterrence envisaged in the laws specially enacted for this purpose does not operate. This is because implementation of important criminal laws – PCR Act and SC & ST (Prevention of Atrocities) Act (the Atrocities Act, in short) has been dismal. The Atrocities Act is not merely a penal law. The Act and Rules contain fairly elaborate provisions for prevention of atrocities and protection to the SCs. Their effective implementation is frustrated by indifference, social bias, routine observance of procedures and even withdrawal of registered cases. Conviction rates for crimes against Scheduled Castes and Scheduled Tribes are abysmal – less than one per cent. Table-6 illustrates these facts.

Table – 6 is not exhaustive. It is illustrative. It only shows the degree of social subjugation, political domination, socio-religious oppression and general human degradation to which these segments of society are exposed in their daily, almost routine life. Illustrations above indicate the peak of an iceberg.

Table 6: Atrocities against the Dalits: Recent Examples

| | Nature of Incident | Nature of Atrocities |
|--------------------------------|--|--|
| Civil Rights Violations | | |
| 1. | Traffic delayed temporarily by a Dalit <i>Vinayaka</i> procession in Pedakalikri village on the 22 September 1999 in Andhra Pradesh. | One upper caste youth named Venu Naidu disembarks from the bus, abuses the Dalits and later attacks the Dalit community and chops the hands of a Dalit named Mogili Eswar. |
| 2. | In Bihar, a Dalit paan shop owner named Paswan requested a high caste person, Rajinder Singh not to sit on the slender wooden plank in the shop as it would break down by his weight. | Rajinder Singh reacted angrily to Paswan's courteous request. He abused and maltreated him by taking goods from his shop without paying. |
| 3. | The Bhuiyans Dalits of Hariobara village in Bihar cohabiting on land provided by the landowner attempt poultry to enhance their livelihood. | The local manager of the landowner abused, humiliated and even restricted Dalits pets freedom by butchering them. |
| 4. | The Hindu caste Savarnas of Upale Dumala village in Solapur district, Maharashtra, opposed and obstructed Dalits Jatra cultural procession. | The Savarnas attacked the Dalits and did not allow them to access a public road. It is felt that due to the hostile attitude and non-cooperation of the higher castes, Dalit cultural practices are dying out. |
| 5. | A Dalit wants to buy fish for food and is humiliated by the upper caste with a derogatory comment like "You <i>Dom</i> caste people, have you ever eaten fish?" near Jayapatna at the fish market, Karlakote, Orissa on 9 October, 2001. | The non-Dalits insulted and abused the Dalits. They even limited and restricted their choices to food and other essential amenities by imposition of caste differentiation and segregation. |
| 6. | A Dalit named Dayal requests a cup of tea in an upper caste tea stall in Suroth village, Karauli District, Rajasthan. | Dayal was abused, physically assaulted, beaten up and jailed under false charges and harassed by the police in custody. |
| 7. | Dalits attempt to assert their rights and to mobilize for the same in Shinde, Maharashtra on 6 March, 2004. | The higher caste mob attacks the Dalits and brutally injures 20 Dalits. Even children and women were not spared. The Dalit dwellings were burnt. The Dalits of Shinde now reside in doubt and suffer from fear psychosis. |
| 8. | A Dalit named Subai Mahto of Hansa village in Samastipur district, Bihar was shot dead by a police officer named Rajesh Kumar Roy on 18 August 2004 for protesting against kidnapping and brutal murder of his son Amarnath. | Enjoying the support of police authority and district administration, Rajesh Kumar Roy roughed up Subai, arrested, jailed, and tortured him and eventually killed him in custody. |
| 9. | The mango trees in the fallow land that belong to Dalit Jayanthi Lal of Mujhgawan Sharif in Suraiyya Majra Fatehpur, U.P. were forcibly felled by Rajendra Prasad of the same village. | The Dalits under the banner of All India Pasi Samaj staged protests in front of Vidhan Sabha against atrocities committed on them on 24 July 2004. In the subsequent <i>lathi</i> charge by the caste police, Jayanti Lal lost his eyesight. |
| 10. | On 3 August 2004, Mohan who sold <i>dal-pakhwan</i> had already sold his produce for the day when he was approached by Sonu in Gujar Dharti, Ajmer, Rajasthan for some of the same. | Sonu got angry on hearing that the produce for the day was finished and that he could not have some of the <i>dal-pakhwan</i> . He stabbed Mohan in his stomach with a sharp weapon. The police have not been able to trace and arrest Sonu till date. |

| | Nature of Incident | Nature of Atrocities |
|---------------------------------|---|---|
| 11. | On 14 December 2003, a staunch Dalit activist protected a Dalit woman against harassment by a higher caste man. | The activist was caught and mercilessly murdered in collusion with police authorities. |
| 12. | On 29 January 2004, a Dalit youth was detained by caste police in Uttar Pradesh. | The Dalit youth was subjected to extreme harassment, humiliations and torture. He committed suicide as he could no longer bear the brunt of psychological and emotional pains inflicted on him. |
| 13. | A peaceful protest was staged by the Dalit community against the molestation of a Dalit girl on 7 March 2004 in Punjab. | Police opposed and violently <i>lathi</i> charged the peaceful Dalit demonstrators. They were dragged, beaten and hit, even the Dalit women were not spared. |
| 14. | In Ongole, Andhra Pradesh, the Dalits were protesting against the lack of reparation measures for the victim's families who were killed in a road accident on January 2003. | The family members, relatives and participants of the march were attacked and beaten up mercilessly. They were thus denied access to justice. |
| 15. | The Dalits were protesting against the kidnapping and murder of a Dalit named Vijay Kumar of Ambedkar Colony in Hissar, Haryana on 18 February 2004. | The alleged murderer and his accomplices were given protection by the upper caste and the police. |
| 16. | On 20 July 2004, a Dalit resident named Salikram of Dhanayi village in Siddhaur, Barabanki, Uttar Pradesh filed a petition to the Chief Minister to save his land from being acquired for the construction of a road. | Salikram was locked up in the jail by the police, in collusion with local politicians, for petitioning to the Chief Minister. They also implicated him in a false case. |
| Social Rights Violations | | |
| 1. | On 12 June 1999, in Gajulamandyam, Andhra Pradesh, the dominant Reddy castes attempted to lay a pipeline from a bore-well but the Dalits resisted and thwarted their attempt. | In retaliation the Dalits were socially boycotted by the upper caste Reddys, and were segregated from the high caste Hindus. |
| 2. | In Bihar the upper caste Yadavas of Gangapur destroyed the stairs leading to the railway line from the side of Musahar locality. | Dalits are deprived of free movement. This destruction was designed to block and curtail Dalits from intermingling with the upper castes. |
| 3. | In Karnataka, Dalits asserted themselves and demanded one-cup system to remove the age old practice of social segregation | Trivial squabbles ensued between the Dalit youths and the upper caste hotel owner. What followed was violent attacks and isolation of the Dalits. |
| 4. | A minor quarrel erupted between youth/students of Kolhu Danda, Morena District, Madhya Pradesh in September 2001. | The dominant castes beat Dalit students black and blue. They attacked and seized Dalit hutments with arms. |
| 5. | Dalits demanded to keep the Government allotted TV in the Dalit colony in Senganyam village, Tamil Nadu. | The Panchayat Pradhan got angry and high caste Hindus attacked the Dalit houses and ransacked them in collaboration with the local police. |
| 6. | Dalits protested against draining of water. | Dalits denied access to water. |
| 7. | Caste cleansing by upper castes. | Communal banishment and social disintegration of the Dalits. |
| 8. | Belonging to the Dalit community. | Ostracism of the Dalits - denied access to food and basic amenities. |

| | Nature of Incident | Nature of Atrocities |
|-----------------------------------|--|---|
| 9. | Dalits demand access to land and shelter. | Demolition of Dalit houses. |
| 10. | Dalits take bath in public handpump. | They were abused, their clothes torn apart, were tortured and forbidden access to water. |
| 11. | Dalits social excluded and alienated. | Dalits committed suicide. |
| 12. | Eloping of inter-castes. | Dalit woman stripped of her clothes and abused. |
| 13. | Dispute over common water pump. | Higher castes unleash a reign of caste terror. |
| 14. | Panchayats leaders were questioned on cutting a tree. | Dalit woman Panchayat faced social boycott. |
| 15. | Existence of caste tensions. | Denied access to public water. |
| Economic Rights Violations | | |
| 1. | Alampur Dalits in Andhra Pradesh appealed to Justice Punnayya of the Andhra Pradesh Commission for SC/ST to present their case and concerns. | The Dalits were socially boycotted, denied wage labour, and barred access to fair price shop. |
| 2. | Dalits opposed sexual abuse by a higher caste youth. | The Dalits were socially boycotted, expelled and forced to migrate to other towns. |
| 3. | Forced encroachment of Dalit land under the protection of police. | The Dalits were threatened, attacked and their lands were encroached. |
| 4. | Higher castes encroach Dalit land. | Protestors were threatened with guns. |
| 5. | Dalits denied access to water. | Protestors are attacked and assaulted. |
| 6. | Squabble over animal grazing on common land. | Dalit dwellings are demolished. |
| 7. | Dalits demand minimum wages for beating drum. | They are verbally and physically abused. |
| 8. | Forced occupation of Dalit land. | The higher castes believe that the Dalits have no right to public/common land. |
| 9. | Quarrel over common border cultivated land. | The Dalits are attacked, their dwellings destroyed, they are denied access to common tube-well, roads, shops, grazing lands and rivers. |
| 10. | Nature's wrath destroyed raw bricks. | Dalits are punished for the nature's wrath by being mercilessly beaten up. |
| 11. | False complaints lodged against the Dalits. | They are humiliated and deprived of their dignity and individuality. |
| 12. | Punishment for not paying debt. | Dalit woman paraded naked in public. |
| 13. | Disagreement on land dispute. | Caste Hindus attacked Dalits. |
| 14. | Dalit indebtedness and inability to repay loan. | Dalit lands auctioned, some commit suicide. |
| 15. | Possession dispute over a camel. | Seven Dalits killed and thirteen seriously injured by a high caste mob. |
| 16. | Dalits allotted land by the Government. | Thirty Dalit houses burnt down and four were seriously injured by upper caste mob. |
| 17. | Upper caste threatened and cheated a Dalit. | Self-immolation of a Dalit. |
| 18. | Dalit bonded labourers. | No right to minimum wage for Dalits. |
| 19. | Demand for six months pay. | Dalit carpenter abducted, beaten and forced to eat urine and excreta. |
| 20. | Seeking employment through reservation. | The upper castes believe that they are taking their jobs and unleash terror. |

| | Nature of Incident | Nature of Atrocities |
|---|--|---|
| Political Rights Violations | | |
| 1. | Dalit voters' names deleted from the voters list. | Dalits denied voting rights, thereby politically discriminated. |
| 2. | The rise of a Dalit leader. | Dalit leader attacked and murdered. |
| 3. | Dalit woman elected Pradhan of a Panchayat. | She is discriminated by other members. |
| 4. | A Dalit office bearer asks for receipt request for the submission of a file. | He is abused, beaten and loses some of his teeth in the violence. |
| 5. | Misbehaviour and sexual assault. | Dalit houses are raided. They are beaten and dishonoured. |
| 6. | Dalits do not support the Jats in the elections. | They are social boycotted and forced to migrate. |
| 7. | Dalit functionaries are elected. | They are attacked, beaten and intimidated. |
| 8. | Dalits fail to support motion of no-confidence. | Dalit families are attacked and threatened with murder. |
| 9. | Dalits are asked not to file nominations for reserved posts in the Panchayats. | Dalits filing nominations are intimidated and threatened by higher castes. |
| 10. | Higher caste member wants a fake caste certificate. | He is denied certificate; Dalits are subsequently denied right to vote and elect their representatives. |
| Cultural Rights Violations | | |
| 1. | The Dalits deny playing Dappu (Drum) for the higher castes. | They are attacked, social boycotted, denied employment and access to fair price shop. |
| 2. | Inter-caste love marriage. | Dalit bride is gang raped. |
| 3. | Dalits demand better livelihood. | Their houses are demolished and they suffer from fear psychosis. |
| 4. | Trivial squabble over Holi festival. | The Dalits are physically assaulted. |
| 5. | Skinning of dead animal in a demarcated place. | Dalit loses four fingers. |
| 6. | Dalit using a horse for marriage. | He is insulted and beaten black and blue. |
| 7. | Caste clash on Holi festival. | Dalit youth hacked to death by upper caste Hindus. |
| 8. | Suspicion as supporters of People's War Group. | Five Dalits indiscriminately shot dead. |
| 9. | Love affair with an upper caste girl. | Dalit youth shot dead and cut into pieces. |
| 10. | Skin colour not beautiful. | Dalit woman harassed, tortured and killed. |
| 11. | Mid-day meal cooked by Dalit. | Social segregation and alienation. |
| 12. | Being Dalit caste. | Denied entry into religious Hindu temple, and they also face social exclusion. |
| Abuse and crime against SC women | | |
| 1. | Use of public/common land for ablutions by the Dalit women. | High caste mob attack Dalit villages and parade Dalit women by stripping her of her clothes. |
| 2. | Dalit women walk alone on public road. | Rape and humiliation. |
| 3. | Religious superstitions. | Forced Dalit young girls into religious prostitution (Devdasis). |
| 4. | Dalit woman supports an inter-caste love affair. | She is paraded naked. |
| 5. | Dalit woman falsely accused of stealing ornaments. | She is arrested, jailed and tortured to death. |

Source: Adapted from Thorat (2007)

1.17.11 The implementation of laws abolishing socially degrading practises such as manual scavenging, the devadasi system, trafficking in women and children, etc is even more dismal than that of criminal laws. Lack of political will, inadequacy of legal provisions, indifference of implementation machinery and absence of support to the victims are some of the reasons.

1.17.12 This should be corrected by reviewing the programmes being adopted to implement these laws, ensuring that the law abolishing scavenging law is applied automatically all over the country, providing effective livelihood, housing and emotional support to the victims and ensuring their effective rehabilitation, providing protective gear to those handling filth, garbage, solid waste, medical waste, dead animals, and those cleaning dry latrines, open drains, septic tanks etc., along with social security insurance, bringing Safai karmacharies within the ambit of Minimum Wages Act, establishing residential schools for children of Safai karmacharies, Devdasis, and sex-workers.

1.17.13 An essential measure that has been long overdue is a time bound possession survey of all land under cultivation of SCs/STs culminating in (i) grant of title to those who do not have title, (ii) identification of land alienated illegally, and (iii) restoration of alienated land so identified. The power granted by PESA to the Gram Sabhas to prevent alienation of land should be extended suitably to Scheduled Castes and Scheduled Tribes, beyond the Scheduled areas, as recommended by various Commissions and as is prevalent in parts in some States (Rajasthan/M.P). Provision of a

minimum unit of land to the landless, in particular the SCs/STs, and measures for preventing its alienation are essential steps. This would require lowering the ceiling on agricultural land, a measure which ought to have followed the Green Revolution. Mandatory provision of house sites, along with assistance under IAY for construction of the house, to those in rural areas who have no house of their own is another essential measure.

1.17.14 Labour laws regulate payment of wages and conditions of employment to prevent labour exploitation. The enforcement of these laws has always been tardy after the on-set of economic reforms. It is a matter of common knowledge that officers of the labour departments have unwritten instructions, since the 1990s, not to come in the way of profitable enterprise by insisting 'too much' on compliance with labour welfare laws.

1.17.15 Indebtedness is the chief cause of land alienation and forced labour. Indebtedness among STs is particularly widespread on account of food insecurity, non-availability of production and consumption credit through public institutions and corruption in the public lending agencies. But it is not confined to STs. Laws to check indebtedness and regulate credit through private sources do not get implemented. And public lending institutions are withdrawing from their obligation to the poor and to rural people whose livelihood is governed by vagaries of the weather, by adopting commercial norms of lending for all categories of borrowers. This has resulted in people resorting to borrowing from private sources at usurious rates of interests, a fact that underlies suicides of debt-ridden farmers

in States such as Andhra Pradesh and Maharashtra. But while suicides of landholders does attract public attention if not governmental response, the fate of the landless poor, mainly SCs and STs, who meet the same situation by offering their children in bondage or allow trafficking of their daughters into the flesh market, is less well known and less documented, though it is as tragic if not more. There is a signal failure of governance here, which is again accentuated by the fiscal constraints and tilt towards private markets characteristic of economic reforms. Even minimal measures such as revival and restructuring of the Large Area Multi-purpose Cooperative Societies (LAMPS) and Primary Agricultural Cooperative Societies (PACS), with the specific targets of providing all credit needs of the Scheduled Castes and Scheduled Tribes and weaker sections, has not been attempted.

1.17.16 Reservations in Public Employment Recruitment and promotion has proved to be the most successful instrument of elevating the status and improving the conditions of SCs/STs/OBCs who have benefited from it. But reservation policy has been subverted through different ways by private persons as well as responsible public officials. There are several jobs in professional categories where representation of SCs/STs is either non-existent or negligible. Government-aided institutions, such as Universities, have a very dismal record of implementation of reservation provisions. In addition, the apex Judiciary has been curtailing the ambit of reservation provisions through its rulings. With the withdrawal of Government from the sphere of economic activity and the revaluing of its welfare role, employment in the public sector is decreasing. For this reason

reservation in the private sector has emerged as a strong demand.

Concluding Observations

1.18.1 The development paradigm pursued since independence has aggravated the prevailing discontent among marginalised sections of society. This is because the development paradigm as conceived by the policy makers has always been imposed on these communities, and therefore it has remained insensitive to their needs and concerns, causing irreparable damage to these sections. The benefits of this paradigm of development have been disproportionately cornered by the dominant sections at the expense of the poor, who have borne most of the costs. Development which is insensitive to the needs of these communities has invariably caused displacement and reduced them to a sub-human existence. In the case of tribes in particular it has ended up in destroying their social organisation, cultural identity, and resource base and generated multiple conflicts, undermining their communal solidarity, which cumulatively makes them increasingly vulnerable to exploitation.

1.18.2 In the case of SCs and also tribes, protection against social discrimination is the essential condition for the enjoyment of any development benefits that remain unrealised. The pattern of development and its implementation has increased corrupt practices of a rent seeking bureaucracy and rapacious exploitation by the contractors, middlemen, traders and the greedy sections of the larger society intent on grabbing their resources and violating their dignity. It has invariably happened

that in situations where the interests of the larger community have clashed with the interests of the tribal communities, the former have prevailed to the detriment of the latter. The participation of these communities in the articulation of this paradigm of development is at best symbolic and at worst non-existent.

1.18.3 This concludes our brief review of various disturbing aspects of the socio-economic context that prevails in large parts of India today, and that may (and can) contribute to politics such as that of the Naxalite movement or erupt as other forms of violence. It should be recognized that there are different kinds of movements, and that calling and treating them generally as unrest, a disruption of law and order, is little more than a rationale for suppressing them by force. It is necessary to contextualize the tensions in terms of social, economic and political background and bring back on the agenda the issues of the people – the right to livelihood, the right to life and a dignified and honourable existence. The State itself should feel committed to the democratic and human rights and humane objectives that are inscribed in the Preamble, the Fundamental Rights and Directive Principles of the Constitution. The State has to adhere strictly to the Rule of Law. Indeed, the State has no other authority to rule.

1.18.4 It is critical for the Government to recognize that dissent or expression of dissatisfaction is a positive feature of democracy, that unrest is often the only thing that actually puts pressure on the government to make things work and for the government to live up to its own promises. However the right to protest, even peacefully, is often not recognized by the authorities and even non-violent agitations are met with severe repression. Greater scope and space for democratic activity will bring down the scale of unrest, as it would create confidence in governance and open channels for expression of popular discontent. What is surprising is not the fact of unrest, but the failure of the State to draw right conclusions from it. While the official policy documents recognize that there is a direct correlation between what is termed as extremism and poverty, or take note of the fact that the implementation of all development schemes is ineffective, or point to the deep relationship between tribals and forests, or that the tribals suffer unduly from displacement, the governments have in practice treated unrest merely as a law and order problem. It is necessary to change this mindset and bring about congruence between policy and implementation. There will be peace, harmony and social progress only if there is equity, justice and dignity for every one.

Chapter 2

Extending Panchayati Raj to the Scheduled Areas (PESA)

‘Our system is built on distrust in people:

Trust in people must be substituted for trust in bureaucracy.

Public servants must be servants of the people, not its masters’

— *Mr. Allen Octavian Hume, I.C.S., 1860*

2.0.1 ‘The unfortunate confrontation between the tribal people and the State that has been accentuating ever since independence will dissipate and disappear once the traditional system of the tribal people is taken as the foundation of governance in the tribal areas. The people will be able to perceive the supra structure of administration as continuation of their own system with no traces of antagonistic relationship’. This statement sums up the great expectation of the Bhuria Committee (Feb. 1995) that had been constituted to recommend such ‘exceptions and modifications’ as may be deemed necessary while extending Part IX of the Constitution concerning Panchayats to the Scheduled Areas (SA).⁵

2.0.2 Part IX concerning Panchayats was added to the Constitution in 1993 by the 73rd Amendment Act. *The 73rd amendment was the first ever law after independence which did not cover SA in routine as it was.* Accordingly a high powered Committee comprising select Members of Parliament and Experts was

appointed in 1994 to recommend exceptions and modifications that may be made in Part IX in its application to the SA. The Committee submitted its Report in 1995. The Government of India generally accepted its recommendations. The Provisions of Panchayats (Extension to the Scheduled Areas) Act (PESA) was enacted in 1996. The provisions of Part IX of the Constitution were extended to SA subject to the special features mentioned in Section 4. PESA came into force on December 24, 1996.

The Broad Schema of PESA

2.1 Background

2.1.1 The Fifth Schedule (FS) of the Constitution provides the basic frame for administration of the SA. The canvass of administration in this case is inclusive and comprehensive. The Governor is the supreme legislator for the SA. He enjoys limitless powers under Para 5 of the FS for (i) adapting any law of the State or the Union in its application to

⁵ The Fifth Schedule of the Constitution refers to eight States which have a large tribal population – AP, Bihar, Gujarat, HP, MP, Maharashtra, Orissa and Rajasthan. The Sixth Schedule refers to the north-eastern States, which also have a large tribal population.

the SA in the State or any part thereof, and (ii) framing Regulations *'for the peace and the good government of...a Scheduled Area'*, cutting across the formal boundaries set out in the Seventh Schedule.⁶ Thus, the FS has the great potential for creating a flexible and comprehensive frame of administration dedicated to the protection and advancement of the tribal people. It is a pity that this potential has remained largely unexplored. Instances where Governors have used the powers under Para 5 (1) of the FS for adaptation of any law are few and far between, notwithstanding the accentuating dissonance between the ground reality and the legal frame in the tribal areas.

2.1.2 It is important to note that tribal affairs and SAs are not specifically mentioned in any of the three lists in the Seventh Schedule. Accordingly any law concerning these items can be enacted either in term of specific provisions in the Constitution including 'regulations' under the FS, or under Item 97, 'any other matter...' of the Union List. The various laws enacted by the State Legislatures (SL) automatically cover the SA. Such laws may have even special provisions for the SA. This legal frame has given rise to a milieu of ambivalence about tribal affairs, compounded by indecision and inaction on the part of the executive.

2.2 The Traditional and Formal Systems

2.2.1 The first rendezvous of the traditional system in the tribal areas with the formal system was antagonistic. The policy of 'exclusion'

followed by the British mellowed this conflict. A new facet in this uneasy relationship between the formal and the traditional was added with the State directly assuming leadership role in the arena of economic development and social services. The formal structures especially created for this purpose have generally ignored the traditional system. Such state-sponsored programmes by their very nature can be executed through formal institutions that are accountable to the State. The formal institutions established at the village (or group of villages) level by virtue of their being a part of the establishment of the State, tended to acquire primacy in the governance at that level compared to the traditional system. In sum, the regulatory as well as developmental roles of the State have generally led to erosion of the authority of the traditional system of self-governance, notwithstanding the resistance of the people in countless forms. The present state of traditional systems in the tribal areas is highly uneven. Even within Jharkhand, for example, the traditional system is strongest amongst the Ho people; it is comparatively weak amongst the Santhals and the Mundas and very weak amongst the Oraons. In the latter case, the traditional community structures may be notionally in place. But their role has got largely circumscribed to matters religious, and to some extent social. The crucial aspects of governance relating to management of natural resources, the general economic system, or even quasi-social matters like use of intoxicants, have been appropriated by the formal system. It is in this confused situation that the message of PESA aroused great expectations amongst the tribal people across the country.

⁶ The Seventh Schedule of the Constitution distributes legislative powers between Parliament and State legislatures as per the lists: Union List, State List and Concurrent List of subjects.

2.3 PESA and the State Legislature

2.3.1 PESA for the first time brings the State Legislature (SL) in the picture in matters concerning Panchayats located in SA. Space has been created in the frame of PESA for this purpose. Section 4(m) specifically mentions *‘endowing Panchayats in SA with such powers and authority as may be necessary to enable them to function as institutions of self government’*. This provision is on the same lines as in the general areas. However, the jurisdiction of the State Legislative (SL) envisaged here is subject to the specific provisions of PESA that have been set out in unequivocal terms in Section 4 as the basic ‘features’ of governance in the Scheduled Areas (SA), in keeping with the spirit of the Fifth Schedule (FS). It begins with a mandate, making the features listed therein as non-violable by the State Legislatures.

‘Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features’.

2.3.2 Section 5, in the same vein, mandates the fall out of non-action by the concerned authorities. It envisages that any provision of any law relating to Panchayats which is inconsistent with the provisions of PESA *‘shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiry of one year from the date on which this Act receives the assent of the President’*. Accordingly, all inconsistent provisions in relevant laws *are deemed to have lapsed on 23.12.1997*.

2.3.3 The most distinguishing ‘feature’ of

governance at the village level in PESA is the ‘creation of space’ in the legal frame for the functioning system of self-governance of the tribal people. Moreover, detailed provisions have been made in PESA itself in that regard, leaving no choice with the SL, which is mandated to ensure that the frame of governance is in consonance with the local situation.

2.4 PESA and Panchayats

2.4.1 The provisions about Panchayats, especially the District Panchayat, in the SA in Part IX read with PESA *are transitory*. PESA places special responsibility on the SL with regard to redefining the role of Panchayats at the District level, drawing upon the provisions of the Sixth Schedule in that regard. Section 4(o) of PESA envisages that:

The State Legislature shall endeavour to maintain the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at the District level in the Scheduled Areas.

2.4.2 Accordingly the roles and responsibilities of Panchayats, even at the intermediate level, may undergo qualitative change once a SL turns its attention to this crucial provision. It may be mentioned here that demand for converting FS Areas into Sixth Schedule Areas has been raised ubiquitously.

2.4.3 The basic objective of the special provision in PESA about adopting the pattern of the Sixth Schedule at the district (level quoted) above is to facilitate structural transformation in higher-level Panchayats, once the foundation has been laid at the village

level. There is no point in going into detailed consideration of this provision because the associated structural change at the district level, as envisaged in Section 4(o), in the real sense can be planned on the firm foundation of the system of 'PESA Governance' at the village level. Any attempt to create a superstructure without laying the foundation can prove to be dysfunctional.

2.5 PESA and the Community

2.5.1 The community at the village level was excluded from the general legal frame adopted by the British in India beginning with 1860s. The objective was clear, *viz.*, 'Break the community so that the authority of the Imperial Regime remains unchallenged.' The tribal tradition of self-governance during this period, however, remained largely undisturbed in the face of their dogged resistance against the intruders. This continued till the adoption of the Indian Constitution. The colonial legal frame got inadvertently superimposed, as it was, on the tribal people living in hitherto excluded areas. This inadvertent action of the State has rendered the tribal people totally helpless in dealing with the outside world. This paradigm of governance would have been totally transformed into a non-centralised frame if PESA had been honestly implemented. The Act begins with redefining the village in terms of habitations that comprise a 'community' and accepting 'the competence of the community' to manage its affairs as is clear in the following:

2.5.2 Definition of 'Village':

2.5.2.1 According to Section 4(b) of PESA: *'a village shall ordinarily consist of a habitation*

or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs.'

2.5.2.2 Thus, PESA accepts that the 'village' essentially comprises a functioning 'community'. The members of this community at the village level, *albeit* 'whose names are included in the electoral rolls', together constitute the formal legal entity 'Gram Sabha'. *Thus, in the new frame of governance the formal 'village' of PESA and the organic 'community' comprising the village become congruous.*

2.5.2.3 This special feature of PESA stands out in contrast with the general definition of 'village' in Article 243(g) of the Constitution, which is purely legal and tautological, with no reference to the community living therein - *"village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.*

Thus Gram Sabha (GS) in a village in general areas comprises merely individuals whose names are recorded in the voter list of the concerned Panchayat. There is no mention about the community, if any.

2.5.3 Competence of the Community:

2.5.3.1 There is a basic difference between the Gram Sabha (GS) as specified in PESA for the SA and 'Gram Sabha' in general areas. The provisions in Articles 40 and 243G concerning Panchayats or even in Article 243A in the case of GS in general areas envisage *'endowment of powers as may be necessary to enable*

them to function as institutions of self-government'. There is a paradigm shift in Section 4(d) of PESA. It does not envisage 'endowment of powers' as in general areas, but simply acknowledges the 'competence' of the GS to manage all its affairs in accordance with its customs and traditions. Thus:

'Every Gram Sabha shall be competent to safeguard and preserve the traditions and the customs of the people, their cultural identity, community, resources and the customary mode of dispute resolution.'

2.5.3.2 This provision, without in any way limiting the scope of self governance, specifically refers to two crucial aspects of governance at the village level, namely, (a) management of community resources and (b) resolution of disputes. These two along with the 'competence to safeguard identity' together comprise the quintessence of governance at the village level.

2.6 PESA and the Traditional System

2.6.1 While PESA does acknowledge the centrality of the traditional system, *albeit* with reference to the community at the village level in the form of GS, it makes no provision for or even reference to the place and role of any of the existing traditional institutions at the village and higher levels. For example, command over, and management of community resources and dispute resolution, are two crucial features that have been specifically covered in the frame of competence of the GS. But the community at the village level is not the last arbiter in these matters. The livelihood resources in the village may be shared by the people with other people in the neighbouring villages. Similarly the traditional frame for dispute resolution comprises

not only the concerned village assembly but also institutions at level of a group of villages, and higher levels, for dealing with inter village disputes and appeals against decisions at lower levels.

2.6.2 While the outline of the frame of traditional institutions described above is universal, there are significant variations of detail in this regard amongst different communities in the same area, or even the same village, and also within the same community in different areas. The great diversity of the traditional systems of the extensive tribal areas cannot be captured within the ambit of a single central legislation like PESA that aims to cover only the special 'features' of the governance in the SA. In fact any such attempt would have been dysfunctional. Accordingly, the responsibility for covering these aspects can be deemed to rest with the concerned Legislative Assembly (LAs), in terms of the special jurisdiction that has been endowed on them in PESA with regard to the 'administration' of the SAs. Moreover, wherever necessary, the powers vested in the Governor under Para 5 of the FS can also be suitably invoked, to ensure that the new frame is comprehensive and fully in tune with the spirit of PESA.

2.7 PESA and Its Implementation

2.7.1 The responsibility for preparing the legal frame for governance of the SA imbibing the spirit of PESA rests unequivocally with the concerned State Governments. Nevertheless, the overall responsibility for ensuring that the concerned States act accordingly is with Union Government, in terms of the provisions in Para 3 of the FS.

2.8 States

2.8.1 The adaptation of the Panchayat Acts has been pursued by the States in a routine way. The current review shows that hardly any relevant Acts of the Centre, or even the concerned States, have been amended to make them consonant with the relevant ‘features’ of governance in SA. Madhya Pradesh, including Chhattisgarh, is the only exception, which made a commendable beginning in this regard but left the same halfway through. Jharkhand holds the record of sorts with its claim that PESA has not come into effect in the State because of no elections to Panchayats. Accordingly the ‘Gram Sabhas’ have not been formed. The State Government is oblivious about the nature of governance at the village level in SA as envisaged in PESA. No one in the Union Government has considered this issue worthy of intervention in terms of Para 3 of the FS. Andhra Pradesh has adopted the safe strategy of writing down everything mandated by PESA in its amendment to the State’s Panchayat Raj Act, with the riders ‘to such extent and in such manner as may be prescribed’, and has left what is to be prescribed unprescribed, so that the whip is finally in its rule-making pocket.

2.8.2 The rudderless implementation of PESA, *albeit* partial and perfunctory, faces the first estoppel at the level of defining the ‘village’ that comprises the community, and ‘competence’ of GS to manage the affairs of the community in terms of its customs and traditions. Once these ‘features’ are incorporated in the legal frame, the paradigm of administration at the village level would undergo a total transformation, with community at its centre and in a commanding position.

2.9 Critical Review of PESA Frame Formal Jurisdiction of Gram Sabha

2.9.1 The jurisdiction of GS under PESA is comprehensive. It covers all aspects of people’s life -social and economic, as also their relationship with all other institutions including the State. The ground reality at the moment is that in case a citizen is faced with any problem in life, he is obliged to approach concerned authorities of the State. He has to seek their indulgence, favour or directions in terms of the laws of the land about which ironically he knows virtually nothing. The formal position in this regard stands transformed after enactment of PESA. *If a person faces any problem, the solution is within the community. It is not a favour or special dispensation; it is envisaged as the natural right of the community.* After providing for a comprehensive general frame in Section 4(d), specific features of governance are outlined in other Sections of PESA.

2.9.2 The jurisdiction of GS so defined covers the entire gamut of developmental activities including control over institutions and functionaries as also control over local plans and resources in the village under Sections 4(e), (f), and Sections 4(m) (vi) and (vii). The Panchayat at the village level is unequivocally answerable to the GS and is its executive agency. Further, the State is obliged to consult the GS before acquisition of land and rehabilitation of displaced persons under Section 4(i) and before granting of lease etc of minor minerals under Section 4(k) and (l). The SL is mandated under Section 4(m) that while endowing powers and authority to the Panchayats to enable them to function as institutions of self-government, it must, *inter alia*, ensure that Panchayats *and* the GS are

specifically endowed with powers in relation to matters specifically mentioned therein including all aspects of control over excise, money-lending, managing village markets, ownership of minor forest produce, prevention of land alienation and restoration of unlawfully alienated lands.

2.9.3. Notwithstanding the comprehensive frame of PESA, the developmental activities loom large in the agenda of GSs even in SA. This is particularly so because the agenda of GSs and Panchayats in various States goes by the practice in general areas where the Panchayat system is largely concerned only with development. In contrast, the developmental activities in SA are formally subsumed in the comprehensive agenda of the community in the form of GS.

2.10 Gram Sabha, Panchayats and the State: A Harmonious Construct

2.10.1 According to PESA, there are three partners in governance at the village level in SA, namely, the community in the form of GS, Panchayats and the State. In this frame the position of GS is unique by virtue of the fact that it comprises 'We, the People of the Village' themselves, while other institutions, at best, comprise people's representatives. Therefore all institutions, including Panchayats and the State itself, are expected *to assist* GS, behoving its stature and authority. This would require fine-tuning between the powers and jurisdiction of different authorities. Extra caution has been taken in PESA itself under Section 4 (n) to avoid any confusion about their position. It envisages that the SL, while 'endowing' powers on the Panchayats, has to ensure that

'Panchayats at the higher level do not assume the powers and authority of any Panchayats at the lower level or the Gram Sabha'. The powers of GS under Section 4(d) are plenary and inclusive. Therefore, the powers that a Panchayat at any level may be endowed with, be it the village, intermediate or district, cannot be inconsistent with the plenary character of the powers of GS. They must be construed in such a way that the role of Panchayats is supportive to that of GS.

2.10.2 It may be underlined here that the special provisions for self-governance, especially at the village level in the form of GS in PESA, do not absolve the State of its special responsibility to provide effective protection to the tribal people against adverse elements and exploitation, and also its duty to work for their advancement. The State, however, will have to proceed cautiously and ensure that it does not transgress the limits of a truly democratic polity in the name of protection and development. The role of the State, therefore, has to be strictly supportive.

2.11 Harmonization of the Traditional and Formal

2.11.1 The most crucial task in the implementation of PESA is to redefine the 'village' and redraw the village map on the ground. The existing 'villages' are purely administrative units. The '*village*' as envisaged in PESA is a social unit. The basic unit in this case is a habitation or a group of 'habitations', 'comprising a community and managing its affairs in accordance with customs and tradition'. Our review shows that most of the States have adopted the definition of village as in PESA,

but mechanically. Moreover, virtually no steps have been taken to transform and realign the existing administrative village structure into community-centred village structure.

2.11.2 The 'Gram Sabha' as envisaged in PESA is an assembly of people of a village comprising the functioning community at that level. Unless the 'village' is properly delineated, the assembly of people belonging to an administrative unit known as 'village' cannot be deemed to comprise a GS in keeping with the spirit of PESA. There is open violation in this regard in the Panchayat Laws themselves, as in Orissa and Rajasthan. The GS in Orissa comprises a dozen or even more *pallies*, which in turn may comprise one or more habitations. The assembly that gathers from a dozen *pallies* in the name of GS is not a community but a crowd. Similarly, Rajasthan treats Village Panchayat area as the basic administrative unit. The Panchayat area is mechanically divided into a number of electoral wards. The dividing line between two wards may cut through natural habitations, which according to PESA, are indivisible entities. The Ward Sabha so constituted does not comprise the natural community. In Gujarat the revenue village is treated as the building block of the self-governing system in the SA, ignoring the community centre mandate.

2.11.3 Views and decisions of traditional and customary institutions should be accepted by Gram Panchayats, unless they are overridden by the GS. In other words, the respective GS, in SA have the power to change or override a customary or traditional practice / decision.

2.11.4 Section 4 (a) of PESA mandates that '*State legislation on the Panchayats...shall be*

in consonance with the customary law, social and religious practices and traditional management practices of community resources'. However, it is obvious that the Provisions of the Constitution and individual and community rights provided in other relevant laws of the Centre and states are relevant and their spirit and purpose should have primacy. Justice related issue of criminal, social and welfare spheres would be binding on traditional and customary bodies and also on GS in SA. Human rights and Constitutional values are sacrosanct and nothing that the traditional and customary bodies do or practice shall be against these rights and values.

2.11.5 '*Dispute resolution according to customs and tradition of the community*' is basic to effective governance at the village level. This aspect has been totally ignored by the States and no worthwhile steps have been taken in this regard so far. In some States, such as M.P., *Adalati Panchayats* have been established in general areas for groups of villages, with jurisdiction over a number of penal provisions in the Indian Penal Code (IPC) and also Minor Criminal Acts. This new system has not been extended to the SA in deference to the provisions in PESA about the 'competence' of GS about dispute resolution. Separate mechanisms require to be worked out urgently for resolution of disputes in each state in FS, relating to implementation of PESA provisions other than customary models of disputes, and for appeals / revisions of GS decisions. However, traditional/customary dispute settlements machinery and process should not violate, transgress or offend the established laws of the land.

2.12 Protective Aspects

2.12.1 Self-governance has no meaning unless the Community is competent to protect its resources and the habitat that sustains the community. These aspects are reasonably covered in the plenary powers of Gram Sabha under Section 4(d) discussed above. Nevertheless, the Panchayats at appropriate level have also been brought into the schema of governance, but their role has to be specified in the State Law. State laws have tended to specify the ‘appropriate level’ as the middle tier rather than the lowest tier, thereby increasing the distance from the community. However, in view of the central position of Gram Sabha in governance, the role of Panchayats in the conjunctive frame cannot but be supportive.

2.13 Land and its Alienation

2.13.1 The issue of land is crucial. Experience shows that wherever the traditional system of ‘community ownership and individual use’ is continuing, there is no land alienation. So long as land is treated as property and a commodity it will pass over to the persons with money, especially in the current milieu of liberalisation. The crucial element that renders even the most radical laws in fructuous is the unfamiliar setting of the judicial process, in which the simple tribal simply feels lost. It is in this context that GS has been empowered in PESA for ‘prevention of land alienation as also restoration of illegally alienated land’. However, no worthwhile action has been taken in this regard by the concerned States.

2.14 Labour

2.14.1 There is no specific provision in PESA about handling labour issues. It is well known

that tribal youths, both male and female, are ensnared in labour markets elsewhere, where they are exploited both economically and sexually. GS in PESA areas should be made aware of the prevailing protective laws on the subject, so that the GS may initiate action with appropriate authorities in cases of flagrant violation.

2.15 Excise

2.15.1 Preparation and use of inebriants has been a part of all tribal social customs from time immemorial. The British entered this social arena and commercialised the same with disastrous consequences for the tribal people. The policy continued even after independence, notwithstanding pot-full of good wishes and even some nominal correctives. The commercial vending of intoxicants was prohibited in 1974 throughout the tribal areas as a part of TSP strategy in a bid to eliminate exploitation. The new policy envisaged full community control on all aspects of excise. The gains of total ban on commercial vending of intoxicants were fabulous. But they did not last long because States ignored the advice about community control over intoxicants. Surreptitious brewing, open sale in markets and unbridled consumption became the order of the day. Even the new Policy itself went into oblivion. In this milieu, even the Constitutional mandate about vesting full powers on GS under PESA has been totally ignored.

2.16 Money lending

2.16.1 Rampant usury has been the biggest curse for the tribal people. Even the general measures for effective check on moneylenders

have been half-hearted and ambivalent. All sorts of vested interests in a variety of forms are operating in these areas with virtually no effective legal control. The tribal people are groaning under the heavy debt liability in respect of fake loans, loans already repaid, developmental schemes that may be only on paper, programmes that may have proved to be unrealistic or beyond the capacity of the simple tribal. Nevertheless, 'the power to exercise control over money lending to the Scheduled Tribes' in PESA has remained a dead letter so far, except in rare cases where a GS may invoke its authority and intervene on behalf of the affected tribals. In view of above, it is both desirable and necessary that the GS in PESA area should be made fully aware of the legal authority and responsibility, so that they may initiate appropriate action in such cases, and explore alternative sources of credit.

2.17 Market

2.17.1 The village market holds the key to the entire economy of the tribal people. However, some stray interventions in village markets from above, with no involvement of the people, have been ineffective. Outside forces have functioned as outposts of exotic forces of exploitation. Under PESA however, it is for the first time that the village markets of any description have been accepted as a part of governance at the village level, with power of control in the hands of GS. They should be empowered to exercise the authority given to them under the PESA to ensure the elimination of all forms of market exploitation. No State has taken any measure to implement this provision though it has tremendous potential for elimination of exploitation.

2.18 Forests and Minor Forest Produce

2.18.1 Even with clear provisions about management of community resources, including forest and ownership over Minor Forest Produce in PESA, no action in this regard has been taken by any State. However, special detailed provisions have been made in the Scheduled Tribes and other Forest Dwelling Communities (Recognition of Forest Rights) Act 2006, which will reinforce the spirit of PESA.

2.19 Planning and Development

2.19.1 The provisions in PESA in respect of planning and implementation of developmental programmes at the village level are clear and categorical. Section 4(e) envisages that the GS shall approve any programme before it is taken up by the GP, and shall also be responsible for identification and selection of beneficiaries. The GP is mandated under Section 4(f) to obtain certification of utilisation of funds by GS. These provisions have been incorporated as they are by the States in their Panchayat Acts. However, there is a general feeling that there is a laxity in operationalising these authorities. The State Government should ensure that GSs are endowed with the technical support and funds to discharge these functions .

2.20 Consultation with Gram Sabha

A Resume of Mandatory Consultation

2.20.1 Consultation with 'GS or Panchayats at appropriate level' is mandatory in the case of land acquisition, as also rehabilitation of project affected people under Section 4(i), and in respect of grant of license etc of minor minerals under Sections 4 (k) and 4 (l) of PESA. The

multiple ambiguity in this provision has served to defeat its purpose. What exactly does ‘consultation’ mean, whether both the GS and the panchayat must be consulted, and whether the word ‘appropriate’ leaves the matter to the discretion of the Government, or must necessarily take colour from the legislative mandate of self-governance that defines the contours of PESA, remain matters of contention, with Governments wishing to reduce the process to as much of a farce as possible. Guidelines were issued by the Ministry of Rural Development in 1998 about consultation before land acquisition, and by the Ministry of Mines in 1997 about minor minerals, which were rather ineffective. The State laws have generally ignored GS and provided for consultation with higher-level Panchayats only. This choice, though technically valid, militates against the spirit of PESA. The process of consultation before acquisition of land, as envisaged under Section 4(i) of PESA, has not been formalized in most of the States. The Rules adopted by M.P. (including Chhattisgarh) are, however, in keeping with the spirit of PESA. These Rules envisage *‘consultation with GS before issuing notification under Section 4 of the Land Acquisition Act’* that is informed and transparent.

2.21 Consultation in Leasing of Minor Minerals

2.21.1 The follow-up action about consultation before lease of minor minerals is granted has been rather poor. The Madhya Pradesh (including Chhattisgarh) Rules envisage that *‘quarry permits shall be granted and renewed by the respective Panchayats, after obtaining prior approval of the Gram Sabha of the Panchayat in which the quarry area is situated.’*

But in the case of other minerals in Schedule I or Schedule 2, consultation with Gram Panchayat alone, ignoring the Gram Sabhas totally, has been made obligatory.

Consultation before Environmental Clearance:

2.21.2 Many developmental projects, especially mining and industrial activities, have serious implications for the ecology and environment. Accordingly the opinion of concerned people is sought about the possible impact of such activities on the environment, water regime, livelihood resources and such like through public hearings. *Such hearings in large gatherings, however, have become mere rituals.* They have earned notoriety for a command performance, and for ignoring or even distortion of opinions expressed. The concerned authorities in the Union Government have not even taken note of the provisions of PESA and the role of GS in these processes.

2.22 Consultation in Rehabilitation & Resettlement

2.22.1 Even though consultation before land acquisition and rehabilitation became a Constitutional mandate under Section 4(i) of PESA, there is no appreciation that consultation, without placing a clear picture about their future before the concerned people, has no meaning.

2.22.2 The National Rehabilitation and Resettlement Policy (NRRP) 2007 seeks to involve the people, especially the tribal people, in the rehabilitation and resettlement. The early and vigorous implementation of this Policy together with a proper operational manual would go a long way in strengthening of Gram Sabhas the voice of tribal people in social impact

assessment, and in the administration of rehabilitation and resettlement packages.

2.23 PESA and Central Government

2.23.1 The Union Government took a commendable lead in attending to the crucial issue of administration of SA in 1990s. It culminated in the enactment of PESA. But there was an anticlimax in 1997 itself when the Conference of State Ministers convened for implementation of PESA ended with no clear agenda of action and follow up thereafter. PESA got lost in the bewildering expanse of the Ministry of Rural Development that was formally responsible for handling it. It was a minor item for the Ministry, concerning strange people in the far off lands about whom not much is known. On the other hand, the Ministry dealing with Tribal Affairs has remained totally innocent about PESA, for the simple reason that it was not an item in its duty-chart. The Ministry of Home Affairs (MHA) that deals with SA, according to the Rules of Business, has no concern on this legal front. Even the formation of a separate Ministry in charge of Panchayats has made no difference even though PESA looms large in its agenda. The irony is that the Ministry is still battling with the legal status of PESA and its real scope.

2.23.2 The fact that PESA confers specific powers upon GS in SA has been virtually ignored. Only two ministries cared to issue guidelines to the States in 1997 with regard to two items in PESA. One was about the role of GS in land acquisition by the Ministry of Rural Development, and the other related to its role before granting of leases for minor minerals by the Ministry of Mining and Minerals. There has been total silence ever since about the holistic frame of PESA in the entire establishment.

There is hardly any realisation in the Union Government that implementation of PESA has to be a collaborative effort of almost all Central Ministries, in keeping with the policy that had been formally adopted in early 1970s in the Tribal Sub-Plan Strategy.

2.23.3 This Committee endorses the views of the Ramchandran Committee (Planning at the Grass root Level: March, 2006, New Delhi) about the duties of the Central Government to ensure that PESA is effectively and correctively implemented in the Fifth Scheduled areas. PESA casts direct responsibility on the state legislature but being a central legislation and logical extension of the Fifth Schedule, a duty is cast on the Central Government to see that the provisions are strictly implemented. A critical issue in the implementation of PESA is to harmonize its provisions with those of the Central legislations concerned and also recast relevant policies and schemes of Central Ministries/Departments. According to available information, no integrative exercise has yet taken place to examine the relevance of different Central Laws to Schedule V Areas and to harmonize them with the aims and objectives of the PESA. The Land Acquisition Act, 1894, Mines and Minerals (Development and Regulation) Act, 1957, The Forest Act, 1927, The Forest Conservation Act, 1980, and The Indian Registration Act are among the laws which warrant particular attention in this context. Besides, The National Policy on Resettlement and Rehabilitation of Project Affected Persons, 2007, National Water Policy, 2002, National Minerals Policy, 2008, and National Forest Policy, 2004 would require detailed examination from the viewpoint of ensuring compliance to the provisions of PESA.

2.23.4 Scheduled V of the Constitution and PESA are powerful legislation, which gives considerable power and responsibility to the Union Government, but implementation of this law is weak and ineffective. The provisions of PESA are specific and mandatory and to that extent, they repeal the provisions in state laws. However, this fact has not been fully realized both by the Centre and States, and old procedures continue despite not having legal validity. This situation has to be remedied urgently. As a first step, the Ministry of Panchayati Raj has analysed the state laws and is persuading the State Governments to

implement the Act. The Ministry should immediately finalise and issue the guidelines for implementation of PESA and suggest specific state-related provisions and guidelines. If any state is not implementing the provisions of PESA in letter and spirit, the Government of India should not shy away from issuing specific directions in accordance with its powers to issue directions under provision 3 of part A of the Fifth Schedule. Effective implementation of PESA providing for rightful role of governance to the GS and through it to GP would douse the embers of discontent and disaffected among the tribals in the Scheduled Areas.

Chapter 3

Investigating the People's Discontent and Support For Extremists

3.1.1 The analysis of roots of discontent, unrest and extremism rely upon extensive discussions based on official reports in the past, publications from the extremist groups, reports of human rights groups, books by observers of such developments, and media coverage in the background of field insight and interaction of members of the Expert Group. This has revealed that the causes are varied depending on characteristics of an area; social, economic and cultural background; a history of notworking out solutions to lingering structural problems; and ineffective application of ameliorative steps undertaken since Independence and more so since the mid-sixties of the last century. Dissent movements, including the extremist Naxalite movement, are not confined to difficult hilly and forested areas but cover large contiguous tracts in the plains. They are not limited to dryland areas of recurring crop failures but extend to irrigated commands of major irrigation systems, as in the state of Bihar. The causes are, therefore, complex. The intensity of unrest resulting in extremist methods and effort to resolve issues through violent means as a challenge to state authority is in response to the gathering of unresolved social and economic issues for long durations. It creates the impression that policy making and administration responds to extreme means. The more recent development is in the emergence of CPI (Maoist) after the merger and consolidation two

powerful naxalite streams in September, 2004. This new formation, since its inception, is defining the official understanding of the extremist phenomenon of the level of the state as well as the Union Government. This has appeared in the public perception as a simplistic law-and-order face-off between the official coercive machinery and this more radical extremist political formation. The social consequence results, then, in undermining instruments of social and economic amelioration as well as processes of democratic exchange to resolve persisting issues. This is the crux of the problem.

3.1.2 Perhaps due to the Union Government's attention to the CPI(Maoist) (formed by the merger of CPI M-L (Peoples War) with Maoist Communist Centre (MCC) in September 2004) and its association to the Naxalite phenomenon, that party and its method of functioning have started defining the official understanding of the Naxalite movement. That is neither factually accurate nor adequate for discussing the proper Governmental response to it. There is no need to go into the history and genealogy of the Naxalite movement, but it is necessary to state that there are a very large number of Naxalite groups/parties, and their method of functioning differs in regard to the extent of mobilisation of the people, participation of people in their actions, role of armed underground cadre, etc.,

though all of them owe allegiance to the idea that the Indian State must be overthrown by force as a precondition of revolutionary change in our society. Some of them even have representatives in elected bodies from the panchayats to the legislatures. The unrest this report is concerned about is also not reducible to dramatic incidents such as blowing up or blasting of police stations but encompasses also mass unrest. Mass participation in militant protest has always been a characteristic of Naxalite mobilisation, not only in Bihar, but also elsewhere. The ban placed by many State Governments, and at the national level by the Unlawful Activities (Prevention) Act, on the Maoist party and its mass organizations, and the formal and informal prohibition imposed by the police on such activity in the case of other naxalite groups, has often rendered such mass activity virtually impossible. But that is no reason for ignoring the fact that the unrest this report is concerned with has often had mass character.

3.1.3 In what follows various issues concerning the life and livelihood of the people are discussed wherein the failure, inadequacy or injustice of State mechanisms and institutions created space for naxalite activities. Such a description may help people to appreciate why naxalites derive support. It is the purpose of this report to see how the Government may eliminate the causes of unrest by constitutional and legal means and restore faith of the affected population in the system of governance established by the constitution and law.

3.1.4 However, the fact that the naxalites employ methods of violence in tackling these issues has other consequences, which include injury, fear and disruption of normal life. It is

also a fact that naxalite activity is not confined to solving people's grievances. They are engaged in a violent fight against the State for overpowering and overthrowing it. This fight has its adverse consequences in terms of the injury and disruption it causes. The link between what the report deals with, and what it does not, lies in the fact that it is in the course of providing answers to the people's problems and needs that the naxalite movement seeks to obtain their support from the masses.

Land Related Factors

3.2.1 The origin of the popular slogan "land to the tiller" is in absentee landlordism, where the landlord would merely take the lion's share of the produce without contributing anything to the production of the crop. It was in this context that the freedom fighters demanded that the one who tills the land must own it, and the post independence government was committed to it. Absentee landlords do exist even today, but today's land relations are much more complex. So though the aspiration of "land to the tiller" continues to be given, the focus of the Naxalite movement is on trying to provide land, whether the land of landlords or government land, to the landless. In occupying landlords' land, the Naxalites have not taken law as their reference point. It is not the ceiling-surplus land of the landlords that they have sought to put in the possession of the landless. Rather, they have targeted landholders whose holding is sizeable as they see it, or who are otherwise oppressive or cruel in their conduct, or hostile towards the Naxalite movement, even if they are not big landlords. Such landholders have in many cases been driven away from the villages and their land sought to be put in the possession of the

landless poor. On some occasions, led by armed Naxalite cadre, the poor have sought to march on to the land and plant red flags in it, in symbolic occupation of the land. However, in many cases, the police have intervened, filed criminal cases against such landless poor, including cases under TADA/POTA when those Acts were in force, and ensured that the poor do not enjoy the land on the ground that they are encroachers. Where the landholder feels too threatened to come back and take possession of the land, the land remains fallow. This is the situation in parts of Andhra Pradesh. There is no estimate of the total extent of such land lying fallow in the State, but there is little doubt that it runs into tens of thousands of acres, especially in Warangal, Karimnagar and Adilabad districts.⁷ The erstwhile landlord himself is in many cases willing to let the Government of Andhra Pradesh assign the land to the poor identified by the Maoists provided some of it is left to him, but the Government has resisted this resolution of the problem on the ground that it would sanctify lawlessness. Thousands of acres of land thus remain fallow. Where the landholder is prepared to re-occupy the land, as in much of Bihar, the entire efforts of the Naxalites to redistribute the land fails. But all said and done, considering the central place the slogan of land to the tiller has in Naxalite politics, their attempt at redistribution of private land has been meagre. And even that little has been defeated by the State's determined opposition to letting lawless means succeed, even for the beneficial purpose of giving land to the landless. If the Government can get over these unnecessary qualms, it should be possible to devise legal means appropriate to each instance to ensure that the landless get the

land. Some of the land can probably be taken over under land reform laws and distributed to the poor. Some may have to be purchased or acquired from the landholder. But where the landholder has been targeted by the Naxalites for political reasons and not because he has unconscionable extent of land, it may be the right thing to hand back the land to the landholder. Equity and law require that all lands of the owners having less than ceiling should be handed back to the owners subject to prevailing laws. Excesses of the Naxalites in this regard are not only unjustified but deserve utmost censure.

3.2.2 The Naxalites seem to have had greater success with Government lands. Though no precise estimates are available, it is a fact that in some cases the Naxalite movement has succeeded in helping the landless to occupy a substantial extent of government land whether for homesteads or for cultivation. In Bihar all the Naxalite parties have attempted to assist, in their respective areas of influence, the landless Musahars, the lowest among the dalits, to take possession of a sizable extent of such land. But the poor remain without title to the land because the administration again feels that giving them title or even a conditional assignment (in which the assignee can use the land and pass it on to the heirs but cannot sell the land) would sanctify law-breaking and strengthen the Naxalites. Such qualms appear reasonable only if they are divorced from the reality that the Government has the power to distribute such land to the poor, but has failed to do so. To defuse social tension government may regularise these occupations if the occupiers are otherwise eligible.

⁷ Committee of Concerned Citizens (2002).

3.2.3 In the case of forest land, occupation by the adivasis with the encouragement and assistance of the Naxalites, has taken place on an extensive scale in Andhra Pradesh, Chhattisgarh, the Vidarbha region of Maharashtra, Orissa and Jharkhand. In fact much of it is not fresh occupation but re-assertion of traditional usufructory rights declared by the law to be illegal. Properly conducted forest settlement proceedings should have protected at least the pre-existing rights, but much of forest settlement proceedings has taken place behind the back and over the head of the adivasi forest dwellers.

3.2.4 The Government's statistics show that 39% of what is called forest encroachment in the whole country has taken place in the above region. Much of it, as said above, is not encroachment but occupation that far pre-dates forest reservation and forest laws. Prior to 1980 the various State Governments would off and on acknowledge this fact by regularising the occupation, thereby giving back what has been unilaterally taken away. But the Forest Conservation Act, 1980 put an end to such regularisation, and put the forest dwellers perpetually on the brink of eviction from their own habitat. This enabled the naxalites to step into the vacuum to espouse the popular cause and secure popular support. The fear of naxalite armed resistance deterred the repressive and depredatory moves of the authorities.

3.2.5 However, this occupation has remained a major bone of contention between the adivasis and the State. While the forest department is inhibited by the threat of the Naxalites or the Naxalite-supported militancy of the adivasis, the police see in the affected areas a 'Naxalite' in

many a tribal and subject them to considerable harassment. A feeble attempt at providing a right of regularisation of at least pre-1980 occupation was made by the Union government in 1990 following the recommendations of the 29th report of the Commissioner for SCs and STs, but that remedy remained on paper – because the proof of occupation the claimant had to produce was onerous, and in any case no effort was made to educate the likely beneficiaries about the policy. But now with the enactment of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2007 (Act 2 of 2007), it should be possible to resolve the issue by giving formal recognition to such rights. One can envisage some difficulties such as proof of occupation as on 13 Dec 2005, and if they are not dealt with imaginatively, the imaginatively drafted law may not deliver all that it promises. But it still holds a promise of a better deal for such forest dwellers.

3.2.6 In the matter of tenancy rights, in Bihar, the form of tenancy has over the years shifted to sharecropping in the areas of Naxalite influence. Perhaps a comprehensive registration of sharecroppers on the lines of the registration of bargadars in West Bengal would consolidate this gain.

3.2.7. The High Level Committee constituted by the Planning Commission to review the National Mineral Policy (2007) has made several far reaching recommendations on simplification and streamlining of the procedures for granting mineral leases with a view to provide an impetus to mineral development. The Government has considered these recommendations and, by and large, adopted them. Considering that mineral

resources are largely located in the predominantly tribal tracts in the country, it is important that mineral exploration and development activity is carried out in such a way that (i) it is consistent with and non-intrusive of the rights and privileges conferred on the tribals under the Fifth Schedule and (ii) it causes least disturbance to the ecology that surrounds the tribal habitats. In this regard, it is necessary to keep in view the guidelines laid down by the Hon'ble Supreme Court in the Samata case (referred earlier). The local tribal communities, through their Gram Sabhas, should be fully involved in any decision taken on mining in the first instance. Even if mining were to be taken up in exceptional cases, as already referred to, the Constitutional rights of the tribals in regard to ownership of the land and its resources should be fully protected.

Displacement and Forced Evictions

3.3.1 Internal displacement caused by irrigation/mining/industrial projects, resulting in landlessness and hunger, is a major cause of distress among the poor, especially the adivasis. It is well known that 40% of all the people displaced by dams in the last sixty years are forest-dwelling adivasis. Other forms of distress have added to this unconscionable figure. The law and administration provides no succour to displaced people, and in fact often treats them with hostility since such internally displaced forest-dwellers tend to settle down again in some forest region, which is prohibited by the law. The Naxalite movement has come to the aid of such victims of enforced migration in the teeth of the law.

3.3.2 Adivasis displaced by irrigation projects

in Orissa have migrated to the forests of Visakhapatnam district of Andhra Pradesh in large numbers. They would have been evicted from there by the forest department of Andhra Pradesh but for the presence of the Naxalite movement. However, the perceived support of the Naxalites for these immigrants has led to harassment caused to them by the police. They have been repeatedly arrested and jailed for sheltering the Naxalites. Over the years, the administration too has come to accept the presence of these internally displaced adivasis. And the recently enacted Forest Dwellers Act of 2007 may now put an end to the State's confrontation with them. However, a legal problem remains. The Presidential order issued under Art 342 of the Constitution declares the list of Scheduled tribes State-wise. A tribe that migrates from one State to another where it is not habitually resident would not be a Scheduled tribe in that State and would get none of the protection the law offers. The immigrants from Orissa were initially identified as the Samantha tribe, which finds no mention in the list of Scheduled tribes in A.P. The recognition that they are Kondhs has resolved the problem for these people, but such a situation could repeat itself. Unless the law declares that at least insofar as Central legislation or administrative orders are concerned, a Scheduled tribe recognised as such in any State is eligible for the benefits all over the country, internally displaced adivasis who have crossed State borders will remain without any protection in law. Since non-inclusion of a tribe in a State's list only means that the tribe is not found there, and not that it lacks tribal characteristics in that State, such a prescription would do no harm to the purpose of identification of Scheduled tribes under the Constitution. Indeed there is no

reason why the same rule cannot be adopted for State legislation too. A group of adivasis recognised ST in any State should be recognised all over the country in respect of their legal and other developmental entitlements.

3.3.3 But displacement caused by major projects is not the only cause of migration. Landlessness, extremes of poverty and social oppression can also be causes of displacement. Landless adivasis mainly of the Muria or Gothi Koya tribe of Chhattisgarh have long been crossing over into the forests of Khammam district of Andhra Pradesh in search of land, with the support of the Naxalites. Again, both the forest and police departments came down heavily on them and set their hamlets on fire in incident after incident from 1989 till about 2002. But due to the interventions of civil society bodies the immigrants have stood their ground and today their presence is informally accepted by the administration. The same Act of 2007 can come to their rescue but Muria is not a recognised Scheduled tribe in A.P., and the issue whether its other name, Gothi Koya, is the same as the Kottu Koya found in the A.P list of Scheduled tribes is as yet unresolved.

3.3.4. In many places local inhabitants formed resistance groups when the Naxalites severely interfered with their traditional life style. However these resistance groups were converted into vigilante groups sponsored by the authorities over a period of time. In Chhattisgarh, the group is called Salwa Judum. Some members of this group are appointed as Special Police Officers (SPOs). Some of them are given arms training and are provided with fire arms. Often these vigilante groups fight with armed naxalite groups making the tribals fight the tribal. As a principle

of good governance such a situation is not desirable.

3.3.5. These vigilante groups, inhabitants of tribal villages, who had moved out are put in camps along with some arterial roads. Such migrants have left behind their agricultural land, some of their livestock and other means of production and livelihood. Most of them do not like their camp life which has discipline and constraints.

3.3.6. Moreover, through this process of forced migration, many tribals have left their villages and even State and migrated into neighbouring States. This involuntary displacement and migration has caused further distress among the tribals and created administrative problems for the host State. In the State of Bihar, through social oppression, many dalits had to move from their traditional habitat and moved elsewhere. They were victims of upper caste atrocities. New habitats of such migrant dalits have become a source of further social tension. It is, therefore, time to think about a comprehensive policy frame in which such internal displacement of different groups of population, whether tribal or dalit, does not take place and in case it happens there should be a government policy to take care of such a situation. Through this process of forced migration large mineral areas got vacated where the mining corporate lessees are starting operation. Often the displaced persons look on hopelessly and sometimes they seek support of the naxalite groups. Such situations create space for naxalite interventions.

3.3.7 In Bihar there have been many instances where dalits suffering social oppression, and in

recent times victims of the massacres perpetrated by the caste senas such as Ranbir Sena, have had to flee their hamlets and settle elsewhere. Indeed, prevention of the depredations of the caste Senas is the state's duty in the first instance. It has failed not only in that but also in providing protection to the victims so that they are not forced to migrate, or at least shelter and livelihood at the places where they have migrated to. The victims have received that help from the Naxalites. The trauma of displacement for which the state does not provide succour creates space for violent movement.

3.3.8 Considering the widespread phenomenon of internal displacement in the country, it is time the Government devised a policy to provide minimal security to such displaced populations. Their immediate problems are shelter and livelihood. In the absence of any policy in this regard, they are prey to all manner of exploitation. The Muria (Gothi Koya) immigrants from Chhattisgarh have, in their desperation, been a source of extremely cheap labour in building construction and civil works of all kinds in the parts of A.P that they have migrated to.

3.4 Livelihood

3.4.1 The Minimum Wages Act remains an act on paper in much of rural India. Agricultural labour is governed by the Act but the minimum wage rates under the Act are not implemented, except where the prosperity of the farmers and the demand for labour makes it unavoidable. In the areas of their activity, it is reported that Naxalites have ensured payment of decent wage rates, though they have not usually gone by

the statutory minimum wage rates. The rates they have ensured are sometimes higher and sometimes lower than the statutory rate. Their orientation to rights is in general not governed by statutory entitlement but what they regard as just and fair, taking all factors that they believe to be relevant into consideration.

3.4.2 There are also large areas of labour not governed by the Minimum Wages Act. This includes categories where there is no discernible employer, which is for this reason included in the category of self-employment. Since the Naxalites are in any case not bothered whether or not there is a law governing the right they are espousing, they have intervened and determined fair wage rates in their perception in all labour processes in their areas of influence. This includes wages for washing clothes, making pots, tending cattle, repairing implements, etc. Naxalites have secured increases in the rate of payment for the picking of tendu leaf which is used for rolling beedies, in the forest areas of Andhra Pradesh, Chhattisgarh, Orissa, Maharashtra, and Jharkhand. This was a very major source of exploitation of adivasi labour, and while the Government knowingly ignored it, the Naxalites put an effective end to it. The exploitation was so severe that the rates have over the years increased up to *fifty times* what the tendu patta contractors used to pay before the Naxalites stepped in. It is therefore necessary for the State to provide for Minimum Support Price (MSP) for all types of minor minerals and forest produce and institutionally efficient procurement systems.

3.4.3 For quite some time the Central Government has been toying with the idea of

an umbrella legislation for unorganised labour, and in general for all forms of labour left out of labour welfare legislation. The Second National Labour Commission's recommendations are with the Government. Perhaps soon we will see a law made, but quite apart from the adequacy of the recommendations made by the said Commission and indeed the suitability of the very notion of a single umbrella legislation to provide a cushion in times of need rather than detailed entitlements, any such law will be of little use unless effective measures are taken to see that it is implemented. Otherwise, such law will meet the same fate as the Minimum Wages Act. The Report of the National Commission For Enterprise in the Unorganised Sector, August, 2007 recommends a legislation for the workers of this sector and also provides a draft of the proposed bill.

3.4.4 Enjoyment of common property resources as a traditional right by cattle-herds, fishing communities, toddy toppers, stone workers, has become vulnerable due to the appropriation of these resources by the dominant sections of society or by the others with their support. The Naxalites have tried to ensure the protection of this right wherever they are active. This is an area where there is in general no legislative protection at all of traditional rights, though some States have some policies which tend in that direction. Legislative protection of an umbrella nature should be considered by the Central Government.

3.4.5 The Equal Remuneration Act which mandates payment of equal wages for men and women for work requiring the same skill and effort is another law that is observed exclusively in the breach. The Naxalites too

have not paid much attention to ensuring payment of equal wage for the sexes but it is without doubt a source of discontent.

3.5 Social Oppression

3.5.1 The fight against the social oppression that the dalits and the lower among the OBCs have been regularly subjected to is perhaps the most significant among the issues used by the Naxalite movement. Besides taking up and resolving individual issues, the movement has given confidence to the oppressed to assert their equality and demand respect and dignity from the dominant castes and classes. Impolite forms of address that the dalits were subjected to, and the prohibition in the matter of wearing clean clothes and footwear in the presence of upper castes, or while passing through their localities, and the compulsion to address them as *dora* or *malik* and other such oppressive practices, have by and large been brought to an end in their areas of work. The everyday humiliation and sexual exploitation of labouring women of dalit communities by upper caste men is another form of oppression that has been successfully fought. Forced labour (*begari* and *vetti chakri*) by which the toiling castes had to provide their caste obligations free to the upper castes was also put an end to in many parts of the country, especially the Telangana districts of Andhra Pradesh.

3.5.2 This is an area where the duty of the State is laid down unambiguously by the Constitution. The task of putting an end to social discrimination should not have required the threat of Naxalite-inspired militancy. Discrimination on grounds of caste, sex, religion, etc is barred by the Constitution in Articles 14

to 17. Positive enactments for penalising discrimination have been legislated in the case of the Scheduled castes and Scheduled tribes. The SC & ST (Prevention of Atrocities) Act, 1989 is not merely a penal law. It envisages the setting up of an elaborate system for prevention of such atrocities. The law has, however, been seen as merely a penal law which the victims have to set in motion. Its full potential has not been actualised by the administration. Instead much time is spent discussing its misuse.

3.5.3 'Begar', or forced labour in all its forms is also prohibited by the Constitution in Article 23. The Bonded Labour System (Abolition) Act was enacted in the year 1976 to give concrete form to this prohibition. The Act is, however, concerned only with debt bondage and not all forms of forced labour. There is no law penalising forced labour in other forms. Therefore it flourished in the most medieval forms in the Telangana district in Karimnagar, and it took a major upsurge led by the Naxalites in the late seventies and early eighties of the last century to put an end to it.

3.5.4 Apart from the concrete issues undertaken by the Naxalites against social oppression, the fact that the cadre and also most of local leaders of the Naxalite organisations consist of poor villagers of castes looked upon as lowly has endowed the oppressed with much strength. A sense of powerlessness is a characteristic of the psychological make up of oppressed classes. The typical Naxalite cadre, however, is a confident (most probably gun-wielding) teenager from those very classes. To see young boys and girls of their own villages and their own

class/caste active in the Naxalite movement, and wielding power over the 'big' men of the village and the high and mighty tahsildar has given a sense of empowerment to the oppressed that has inestimable value. This indeed was one of the benefits that the Panchayat Raj system was expected to give the oppressed communities, but with the empowerment of the local bodies as envisaged by the 73rd amendment to the Constitution remaining a mere promise in most States, and with the cooptation of the leaders generated by the Panchayat institutions in the corrupt political system, the hope has been largely belied. A very genuine empowerment of the local bodies and of the representatives of the oppressed communities within the system alone can fill this need.

3.6 Issues arising out of non- or mal-governance

3.6.1 Dissatisfaction with improper and often mal-governance created anger among the suffering population. The Naxalites exploit the situation for their own political gain by giving the affected persons some semblance of relief or response. Thereby they tend to legitimise in the eyes of the masses their own legal or even illegal activities.

3.6.2 In the initial stages, the Naxalite movement took advantage of the presence of forest department personnel in the adivasi areas, and gave some relief to the adivasis. The uncertain existence of adivasis in the forests has resulted in tremendous power of harassment in the hands of forest department personnel. It is permissible to pick edible forest produce but not to undertake cultivation of the

same produce in the forests. It is permissible to gather dry twigs and logs of uprooted trees but not to cut standing timber. It is permissible to graze cattle in the forests, but it should be ensured that the cattle do not nibble at the nurseries of the forest department. In some States timber can be gathered for house construction but not for any other purpose. Quite apart from the injustice of the restrictions, the dividing line between what can be done and what cannot is often so slight that there is considerable ground for arbitrary action by the enforcer of the restrictions. Wherever there is a basis for discretion on the part of government officials, forest personnel have had to be appeased in different ways to avoid harassment. It was only after the Naxalites entered the picture that the adivasis got protection from this harassment, which was well known to the administration but was normally ignored.

3.6.3 But after the initial impact on extortionate practices of the forest department officials, the Naxalite movement's impact on official corruption has been slight. The level of corruption in the Naxalite affected areas is not noticeably less than elsewhere. It may be due to the understanding that corruption is an internal affair of the administration. Or that it cannot be rooted out within the present political-economic system. Whatever the reason it leaves the corruption intact and, therefore, the dissatisfaction among the people intact, unlike in a situation where, for instance, the minimum wages not ensured by the administration are ensured by the pressure exerted by the civil society. Cooption of some elements of Naxal movement into the corrupt system was a fact.

3.6.4 On some occasions the Naxalites have

been able to put pressure upon lower level administrators to perform their job effectively. The pressure exerted by the Naxalite movement has had some effect in ensuring proper attendance of teachers, doctors etc., in Andhra Pradesh, Maharashtra and Chhattisgarh, but it is also true that such employees have made the presence of the Naxalites an excuse for not attending to their duties properly in the interior areas. In the matter of physical infrastructure like roads, school buildings, etc., the Naxalite movement has on certain occasions exerted pressure for its improvement, but in many places they have themselves obstructed the laying of roads for the reason that it would increase police and paramilitary raids. In Chhattisgarh they have demolished pucca buildings such as schools so that the police and paramilitary may have no shelter in the forests. All said and done, it cannot be said that there has been any general improvement in the administration in the areas of Naxalite influence.

3.6.5 The fact is that the Naxalites do not see it as their job to reform the administration, but to supplant it where possible and debunk it otherwise. Similarly, their hostile attitude towards the electoral process has meant that they have not had much effect on the political system and the functioning of the local bodies. Instead they have concentrated on establishing their organisations as alternatives. But since these organisations of parallel administration set up by them cannot replicate all the functions of the Government, the gap remains and so does the dissatisfaction.

3.6.6 In the matter of resolution of disputes among the people and finding redressal, the

contribution of the Naxalite movement has been significant. There is in general no administrative or judicial mechanism in our country for resolution of day-to-day conflicts and disputes. The people have been traditionally taking these disputes to local dispute-resolution mechanisms. In the best case the entire community sits and hears the dispute. This is usually the case in tribal villages. Outside the tribal areas, a dispute within a caste is usually – at any rate among tightly knit communities – decided by the caste panchayat. The caste panchayat itself may function democratically or under the dictates of a group of elders. Disputes between persons of different castes are decided by the two sides getting their respective caste elders (or persons they trust) to sit together. In some places disputes are commonly taken to the dominant person or persons in the village, whether or not justice is done. Sometimes there is a compulsion that all disputes must be brought to the village landlord, where the dispensation of justice is usually in favour of the strong. All told, the need of a quick, fair and effective dispute resolution mechanism remains.

3.6.7 The Naxalite movement has provided a mechanism (usually described as a ‘Peoples Court’) whereby these disputes are resolved in a rough and ready manner, and generally in the interests of the weaker party. It has the two elements of speed and effectiveness. Justice and fairness are however often disputed. In particular, use of force disproportionate to the issue involved is fairly common. Those who are not loyal to the Naxalites often do not attend the Peoples Court at all. It is attended only by loyalists who agree with the conclusion indicated and the resolution proposed by the Naxalites. Many times the consultation with the

people is a mere formality. It is the Naxalite armed squad that decides the matter. While some sort of justice is attempted to be done in disputes arising from economic inequalities/exploitation, decisions in other matters (particularly the matrimonial disputes for instance), have often been characterised by a degree of crudeness, highhandedness and even brutality.

3.6.8 Nevertheless these People’s Courts, however imperfectly, have met some unmet demands of the community. Society must evolve a tradition of resolution of disputes by the local community in full knowledge of all the tangible and intangible, the express and the implicit aspects of the problem, and in a manner that inspires faith in its impartiality. Elected Nyaya Panchayats may be an alternative which should be explored with diligence and sincerity.

3.7 Policing

3.7.1 Efficient and impartial policing is an important requirement of good administration. But the fact is that the weaker sections of the people do not have much faith in the police. They have no faith that justice will be done to them against the powerful. Nor do they trust that the police will take interest in doing their duty where the poor alone are involved, because the poor do not have the wherewithal to make it worthwhile. Often it is as frustrating an experience to go to the police station as a complainant as it is fraught with danger to go as a suspect. Women who go to a police station to complain of sexual abuse or domestic harassment are made painfully aware of this fact. Here lies one of the attractions of the Naxalite movement. The movement does provide protection to the weak against the

powerful, and takes the security of, and justice for, the weak and the socially marginal seriously. Even-handedness may still be a problem since instances where one party to an offence has influenced the Naxalite cadre are not unknown, but at least they have the satisfaction of being taken seriously. The other problem when the Naxalites interfere in providing security for one against another in society is that the level of violence they use tends to be on the high side. They tend to resort to severe corporal punishment, including capital punishment.

3.7.2 However, the Naxalite movement itself brings further police repression on the poor as a matter of State policy. Any agitation supported or encouraged by the Naxalites is brutally suppressed without regard to the justice of its demands. In such matters, it becomes more vital in the eyes of the administration to prevent the strengthening or growth of Naxalite influence than to answer the just aspiration. Often any individual who speaks out against the powerful is dubbed a Naxalite and jailed or otherwise silenced. The search for Naxalite cadre leads to severe harassment and torture of its supporters and sympathisers, and the kith and kin of the cadre. What is to be pointed out here

is that the method chosen by the Government to deal with the Naxalite phenomenon has increased the people's distrust of the police and consequent unrest. Protest against police harassment is itself a major instance of unrest, frequently leading to further violence by the police, in the areas under Naxalite influence. The response of the Naxalites, at least the Maoists, has been to target the police and subject them to violence, which in effect triggers the second round of the spiral. Rural policing under the Panchayat system in the pattern of the old Bengal Rural Police Act 1913 might be tried in these areas.

3.7.3 The rights and entitlements of the people underlying these issues find expression in the Constitution, the laws enacted by the various Governments and the policy declarations. The administration should not have waited for the Naxalite movement to remind it of its obligations towards the people in these matters. But at least now that the reminder has been given, it should begin rectifying its own deficiencies. It should be recognised that such a responsibility would lie upon the Indian State even if the Naxalites were not there, and even in regions where the Naxalite movement does not exist.

Chapter 4

The State's Response

4.1. Historically the first instance of a positive state response was the attempt made from within the First United Front Government of West Bengal in 1967 to handle the first phase of Naxalite movement, which was christened as 'spring thunder' by People's Daily of Beijing. Shri Hare Krishna Konar of the CPI-M was the Revenue minister. He cited Mao Zedong's 'fish in water' theory. Fish were the militants and the disgruntled peasantry constituted the water. So long as there was dissatisfaction among the peasantry, militants could operate freely. Hence, the policy proposed by him to the United Front government was to wean away the angry peasantry from militancy by a massive programme of vesting of ceiling-surplus land of the big zamindars and landowners. This programme resulted in vesting in the Government of a million acres of good agricultural land belonging to the erstwhile zamindars and jotedars. When the peasantry found that the large areas of land would be distributed amongst them, their loyalty shifted from the Naxalite militants to the normal political process. By and large by 1973 the Naxalite movement disappeared in West Bengal.

4.2 In the early 1970s, Bihar witnessed an acute social and agrarian unrest arising out of widespread social discrimination against the dalits and exploitation of agricultural workers and tenant farmers. It manifested very sharply in the areas inhabited by the Musahars in Muzaffarpur district. Jai Prakash Narayan

himself took the initiative to meet this militant movement almost alone, by mobilising Musahars for occupation and cultivation of Bhoodan land and some benami lands of very rich landowners of the area.

4.3 When rural unrest spread from West Bengal to areas in undivided Bihar as well as the agency areas of Andhra Pradesh, the Central government responded to it by producing a document on the causes of agrarian discontent, highlighting the failure of implementation of land reform laws and minimum wages act. In 1971, the then Prime Minister Mrs. Indira Gandhi convened a meeting of the Chief Ministers to address the problem of growing agrarian unrest in different parts of India. In this meeting, the then Home Minister Mr. Y.B. Chavan made the now famous statement that the Government of India would not allow the Green revolution to become a Red revolution. Under the guidance of Indira Gandhi, the Government of India issued a series of guidelines to implement land reforms laws and plug loopholes in the existing laws. Among the measures suggested were imposition of family ceiling, thereby substantially reducing the ceiling on individual holding, some relief to the tenants where tenancy is recognised, further implementation of Minimum Wages Act for the agricultural workers, and the like. Such measures, however imperfectly implemented, did have some good impact. Rural unrest waned for a while.

4.4 From early 70s to the middle 80s, the Central government and the Planning Commission recognised the basic principles enunciated in the Preamble of the Constitution and the major points under the Directive Principles of State Policy. The Plan documents used to reiterate the commitment to reduction in inequality of income and wealth among and within different sections of the community. With the paradigm shift of economic policy from 1991 all these other values of egalitarianism, equity, control of exploitation, social and economic and political justice lost their earlier priority.

4.5 The Ministry of Home Affairs (MHA)'s Annual Report for the year 2006-2007 mentions the spread of Naxal movement across 12 states of the Union. The profile of violence during the last few years has been as follows:

| Head | 2003 | 2004 | 2005 | 2006 |
|-------------------------|------|------|------|------|
| No. of Incidents | 1597 | 1533 | 1608 | 1509 |
| No. of Civilians killed | 410 | 466 | 524 | 521 |
| No. of Policemen killed | 105 | 100 | 153 | 157 |
| No. of Naxalites killed | 216 | 87 | 225 | 272 |

Source: The Ministry of Home Affairs (MHA), *Annual Report, 2006-2007*, Government of India.

The Prime Minister has described the Naxalite movement as the single biggest threat to the internal security of the country.

Government of India's Policy

4.6.1 The salient features of government policy to deal with the Naxal problem, as outlined in the Ministry of Home Affairs Status Paper brought out in May 2006, are summarized below:

- (i) deal sternly with the Naxalites indulging in violence;

- (ii) address the problem simultaneously on political, security and development fronts in a holistic manner;
- (ii) ensure inter-state coordination in dealing with the problem;
- (iv) accord priority to faster socio-economic development in the Naxal affected or prone areas;
- (v) supplement the efforts and resources of the affected states on both security and development fronts;
- (vi) promote local resistance groups against the Naxalites;
- (vii) use mass media to highlight the futility of Naxal violence and the loss of life and property caused by it;
- (viii) have a proper surrender and rehabilitation policy for the Naxalites; and

- (ix) affected states will not have any peace dialogue with the Naxal groups, unless the latter agree to give up violence and arms;

4.6.2 All these constitute ingredients of internal security which the State should address by appropriate sectoral ameliorative measures. The removal of other insecurities like land insecurity, livelihood insecurity, food insecurity and security against economic and social oppression were not being properly addressed. These issues have to be responded to fairly and justly.

4.7 Like the earlier West Bengal experience, Andhra also had a experience in dealing with problems. N.T. Ramarao described Naxalites as *deshbhaktalu* (patriot) and *annalu* (elder brother). But this attitude often oscillated from Naxalites being called patriots to being termed the enemy of the state. The response of the States also varied accordingly.

4.8.1 The naxal problem has to be tackled in a multipronged approach. Some of the ameliorative measures like National Rural Employment Guarantee Act (NREGA), 2005, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, National Rehabilitation & Resettlement Policy, 2007 have been introduced and mentioned elsewhere in the report.

4.8.2 Sincere efforts have to be made to ensure that these pieces of legislation would not merely embellish the statute book. These should be effectively implemented to achieve the objectives for which these laws have been enacted. Doubt arose because the draft rules circulated for the Forest Dwellers Rights Act, on 19th June, 2007, clarified certain difficult points, for instance, “other traditional rights”, “primarily reside in and dependent on forest or forest land”, “Rights to minor forest produce” etc. to remove any ambiguity or ambivalent nuances and for easy implementation for benefit of the target groups. But they were summarily deleted in the final notification of the Rules published on January 01, 2008. Unless the original clarifications as contained in the draft Rules of 19th June, 2007 are restored fully, the Act would fail to achieve its objective of removing “historical injustice to forest dwelling

Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem”. Moreover, disaffection and dissatisfaction among them would grow, thereby aggravating social dissension and unrest.

4.8.3 The National Rehabilitation & Resettlement Policy, 2007 is a significant step in dealing with discontent, unrest and tension arising out of widespread forcible displacement. There is an urgent need to implement it justly and with empathy to all by requiring authority / agencies / bodies to remove the trauma suffered by displaced person. The sad experience of a similar policy announced in 2003 that was never implemented should not be repeated. It is hoped that this progressive policy would be fully implemented.

4.8.4 The National Rural Employment Guarantee Act (NREGA) is an important element in providing livelihood support and protection to the poorest of the poor. However, the experience so far suggests that in backward and remote districts with poor administrative structures the implementation is not at all satisfactory. There has been inadequate focus on systems, mechanisms and capacity in these areas, which need to be strengthened so that NREGA fulfils its promise to enhance livelihood support. Evidence from the backward and tribal areas of Orissa, Jharkhand, Chhatisgarh demonstrates that greater focus on better administrative support is required to extend the reach of these programmes. So far the evidence indicates that militants have not interfered with the implementation of this programme in these areas.

4.8.5 It has to be recognised, however, that no State could agree to a situation of seizure of power through violence when the Constitution provides for change of government through electoral process. Hence strengthening and reorientation of the law enforcement apparatus is a necessity to ensure justice and peace for the tribal for this and other reasons. The law enforcement machinery in the affected areas would need to be strengthened. Some of the suggested measures could be:

- (i) Additional police stations / outposts in the affected areas;
- (ii) Filling up the police vacancies and improving the police-people ratio;
- (iii) Sophisticated weapons for the police;
- (iv) Personnel to be given training including in matters relating to Fundamental Right of the citizen and Human Rights;
- (v) Incentive allowance for staff posted in affected areas;
- (vi) Leadership of a high order for the forces deployed; and
- (vii) Specific ban on extra-judicial killings and “encounter” killings.

Along with these measures both development administration and magistrates require to be strengthened for providing good governance in these areas.

4.9.1 There are remote areas in the country where there is hardly any governance. Abujmarh in Narainpur district of Chhattisgarh is one such area. Abujmarh literally means ‘Unknown Highlands’. The area has a tribal population of 27,000 inhabiting some 260 far-flung villages over a sprawling area of 4000 sq. kms. The tribals here are primarily the Maria; they are the most backward tribals between the rivers

Ganga and Godavari. Abujmarh has a difficult terrain which remains cut off from the rest of the civilized world for about six months a year. The Expert Group was appalled to be told that the area has not been surveyed to date and that it has hardly any revenue or police presence on a regular basis. No wonder, the Naxals have made it one of their strongholds. Even in areas which are not so much in the interior, the absence of adequate public intervention, especially in education, health and employment has allowed the non-state actors to push their agenda among the people.

4.9.2 Transparency in the functioning of the government is an essential requirement of good governance. The initiative taken by the Government in enacting the Right to Information Act of 2005 and will go a long way in promoting transparency, provided the factors that impede its enforcement are removed, especially in so far as its use by the weaker sections is concerned. The procedures presently in place of a person seeking information under the Act are time consuming and expensive. Unless the constraints in the implementation for the Act are identified and reviewed, the benefits of the Act will not reach the disadvantaged sections. The Government in consultation with the appropriate communities and the civil society should arrange convenient mechanisms for reaching out to weaker sections and helping them in taking full advantage of RTI.

4.10 However, the Naxalite movement has to be recognised as a political movement with a strong base among the landless and poor peasantry and adivasis. Its emergence and growth need to be contextualised in the social conditions and experience of people who form

a part of it. The huge gap between state policy and performance is a feature of these conditions. Though its professed long term ideology is capturing state power by force, in its day to day manifestation it is to be looked upon as basically a fight for social justice, equality, protection and local development. The two have to be seen together without overplaying the former. Its geographical spread is rooted in failure to remove the conditions which give rise to it.

4.11 Since the goals of the movement are political it has to be addressed politically. Negotiation is the only political instrument of such a response in a democracy. An ameliorative approach with emphasis on a negotiated solution helps to generate greater confidence of alienated people in governance. This approach is used the world over to tackle insurgencies democratically. It will cause the least possible injury to the people caught in the conflict. Special fund allocations are justified by a huge lag in development and inequality in distribution of resources and benefits. Though belated, it would rectify a historical wrong.

4.12 In May 2004, yet another opportunity for talks arose, with the coming into power of the Congress Party which had made a promise in their election manifesto of having talks with Naxalite parties, treating the issue as socio economic. With the help of the Committee of Concerned Citizens, modalities were arrived at, including ground rules for ceasefire, and a tentative agenda. The ban on CPI (ML) – Peoples War and its allied organisations was also lifted in order to facilitate the talks. A team of agreed mediators was also agreed upon.

4.13. The peace talks between CPI (ML) – Peoples War (which with the merger of Maoist Communist Centre) came to be known as CPI (Maoist) and CPI (ML) – Janashakti on the one side, and the State Government on the other, took place for four days from 15th October to 18th October, 2004. While the Naxalite parties were represented by their State leadership, the State Government was represented by the Home Minister along with some other Ministers and leaders. Out of the eleven items of the agenda, two items i.e. creation of democratic atmosphere and more important, the land issues were discussed in detail.

4.14. While the first round of discussions ended with the hope of further rounds of talks, the subsequent atmosphere of violence and mutual distrust led to the announcement of withdrawal from talks by CPI (Maoist) and Janshakti parties on 17th January, 2005. Nor did the Government show any serious interest in the continuance of ceasefire or talks after the completion of the first round. A historic opportunity to ‘heal the wounds’ was thus lost.

4.15 The government’s Status Paper on the Naxal problem appropriately mentions a holistic approach and lays emphasis on accelerated socio-economic development of the backward areas. However, clause 4 (v) of the Status Paper states that “there will be no peace dialogue by the affected states with the Naxal groups unless the latter agree to give up violence and arms”. This is incomprehensible and is inconsistent with the government’s stand vis-à-vis other militant groups in the country.

4.16 The government has been conducting

peace talks with the Naga rebels of the NSCN (IM) faction for the last nearly ten years, even though the rebels have not only not surrendered their weapons but continue to build up their arsenal. What is worse, the NSCN (IM) have taken advantage of the peaceful conditions to consolidate their hold and establish what could be called almost a parallel government. In relation to ULFA also, the government is

prepared to have a dialogue without insisting on the insurgents surrendering their weapons. In J & K, the government has more than once conveyed its willingness to hold talks with any group which is prepared to come to the negotiating table. Why a different approach to the Naxals? The doors of negotiations should be kept open.

Chapter 5

Recommendations

5.0.1 Various aspects and roots of popular discontent were discussed in the preceding pages. The Naxalite movement is principally a political action for armed conquest of State power. It functions to this end through various organisations and by various means. There are also armed cadres, usually organised as squads (Dalams). Violence or the threat of violence by the armed cadre invariably accompanies the solutions the Naxalite movement offers to popular grievances.

5.0.2 When the State undertakes its response it cannot replicate this process. It is required to function through the law. Therefore recommendations are in terms of modifications to the law or effective implementation of the law, and State interventions to remove the basic causes of discontent, disaffection and unrest. It cannot be denied that Naxalite movement does have popular support in many areas.

(I) Effective Implementation of Protective Legislation

5.1.1 The State's response to continued unrest and social dissension in areas predominated by scheduled castes and tribes was to formulate three protective laws and a major policy decision. These three Acts are the Provisions of the Panchayats Extension of the Schedule Areas Act 1996, the National Rural Employment Guarantee Act, 2005 and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and

the National Rehabilitation & Resettlement Policy, 2007 (for which a Bill has been put up before the Parliament). It is necessary to build up an impregnable protective shield of the State, against multi-faceted exploitation of these communities. This should be done by effective implementation of the existing constitutional provisions, protection of civil rights and SC/ST (Prevention of Atrocities) Act laws and programmes in place for this purpose.

5.1.2 The affected groups experience violence in their daily lives- SCs due to the caste based social order and STs due to cultural dominance of the larger society. The incidence of atrocities is on the increase and the deterrence envisaged in the laws specially enacted for this purpose is not in evidence. This is because the implementation of important criminal laws – the Protection of Civil Rights Act and the SCs & STs (Prevention of Atrocities) Act – has been dismal.

5.1.3 There are many custodians of interests of schedule castes scheduled tribes and marginalized groups viz; (i) Tribes Advisory Council in States with Scheduled Tribes, (ii & iii) National Commissions for SCs under Act 338 and National Commission for STs under 338, (iv) National Human Rights Commission, (v) the National Commission for Women, (vi) the National Commission for the Rights of Children (vii) National Commission for Minorities and (viii) National Commission for Safai

Karmachari There is neither clear focus nor dynamic coordination among all these venerable institutions. Their studies, reports and recommendations languish without any interest whatsoever. The neglect by Parliament of their work and recommendations is a matter of deep regret. The Expert Group seriously urges consultation among all these bodies and launching of joint initiatives for concerted and compulsory action on their joint recommendations, which should become mandatory for Chief Ministers. There are counterpart commissions in the States. In addition there is a standing Parliamentary Committee on SC & ST.

5.1.4 Without any disrespect for any of the high powered Commissions, it is felt that they themselves feel inadequate to deal with the subjects assigned to them. To make these Commissions effective, they should be given power of investigation and to pass orders which they could enforce. This is because the recommendations are not carried out by different authorities. So, National Commissions on SC & ST and National Human Rights Commission would have to be given powers to make them effective in cases of violation of laws.

5.1.5 Usury and indebtedness are the chief causes of acute distress and exploitation, like land alienation and bonded labour. Indebtedness among STs is particularly widespread on account of food insecurity, non-availability of production and consumption credit through public institutions, and corruption in the public lending agencies. Laws to check indebtedness and regulate credit through private sources do not get implemented. This should be corrected by the following measures: All debt liabilities of

weaker sections should be liquidated, in cases (i) wherein the debtor has paid an amount equivalent to the original principal amount and (ii) wherein the intended benefit for which the loan was advanced has not accrued to the borrowers. The onus to establish that such benefit did accrue will be on the lending agency. The processes should be completed within six months after the notification.

5.1.6 The Budget (2008-09) announcement of debt relief does not address the root causes of indebtedness. It covers only farmers having land and provides relief for overdues. Any meaningful debt relief should cover not only small farmers but other such poor persons like small encroachers, small artisans, small fisherfolk, etc. who go to moneylenders for credit. The Government should specifically prohibit banks from putting tribal lands for auction to realize overdue debts.

5.1.7 The revival and restructuring of the Large Area Multi-purpose Cooperative Societies (LAMPS) and Primary Agricultural Cooperative Societies (PACS), with the specific targets of meeting all credit needs of the Scheduled Castes and Scheduled Tribes and weaker sections, should receive highest priority. Similarly, the cooperative banking structure which is the most accessible to the poorer sections should be urgently revamped and revitalised in the light of multitude of recommendations made in this regard, and the Central legislation to enable member-controlled and member-dominated cooperative societies. There is also need for widespread provision of Grain Banks managed by Gram Sabhas in tribal areas. Special provision of long-term loans for purchase of land by assetless poor and

resourceless families who are dependent upon agriculture for their livelihoods should be arranged. NREGA should be intensively implemented in the indebtedness prone areas.

5.1.8 Forest produce should be provided a protective market by fixing minimum support price for various commodities, upgradation of traditional haats, and provision of modern storage facilities to avoid post harvest losses. At the same time, the public distribution system should be specially designed for the specific requirements of the forest dwellers. In this respect the existing Tribal Development Corporations and cooperative marketing organizations such as Girijan Cooperative Corporation, Orissa Tribal Cooperative Corporation and Trifed in Government of India can play an effective role just like the Food Corporation of India in regard to rice and wheat for ensuring support price to procurement and professional marketing support. The State should support the expenses relating to the infrastructure, administration and operation of these corporations and they should not have monopoly rights to procurement.

5.1.9 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a very significant step in recognizing and vesting the forest rights and occupation in forest land in forest dwelling, scheduled tribes and other traditional forest dwellers who have been residing in such forest for generations but whose rights could not be recorded. It provides for a framework for recording the forest rights so vested. The Act has addressed this issue of long standing insecurity of tenurial and access rights of forest dwelling scheduled tribes and other traditional

forest dwellers including those who were forced to relocate their dwelling due to state development interventions. This Act needs to be strictly operationalised in letter and spirit. The clarifications in the draft rules circulated for this Act on 19th June, 2007 for certain difficult points like “other traditional rights”, “primarily reside in and dependent on forest or forest land”, “Rights to minor forest produce” etc. for removing any ambiguity and for easy implementation, which were summarily deleted in final notification of the Rules published on January 01, 2008, should be fully restored.

5.1.10 All petty cases registered under forest related legislations against the Tribal people and other poor persons should be withdrawn.

5.1.11 With the implementation of economic policy reforms labour had been at the receiving end. The social security recommendations for workers in the unorganized sectors recommended by the National Commission for Enterprises in the Unorganised Sector, which have been on anvil for last couple of years, should be implemented urgently by Central and State Governments with high priority in disturbed areas. Other segments of society similarly affected by the reforms through physical and occupational displacement would require appropriate special schemes for the relief.

(II) Land Related Measures

5.2.1. Efforts at implementation of ceiling laws have stopped about two to three decades ago, as if there is no possibility of identifying ceiling surplus land hereafter. This is not a fact. A serious effort must be made to continuously implement the land ceiling laws, so that the ceiling surplus land thereby obtained is made

available for distribution amongst the most vulnerable sections of the landless poor. The various loop holes in the respective state to ceiling legislations have resulted in bogus claims aimed at evading the law. Such loopholes should be done away with and all cultivable land, irrespective of the legal form in which it is held, should be brought under ceiling laws. The ceiling limit of lands which were earlier un-irrigated but have become irrigated after the coming into effect of ceiling laws should be redetermined as per their existing status.

5.2.2. In view of the increased land productivity under the impact of the new technology and improved agronomic practices, the ceiling limit should be refixed and implemented with retrospective effect.

5.2.3. Land Tribunals or Fast Track Courts under Article 323-B of the Constitution be set up for expeditious disposal of the ceiling cases. Old cases should be unearthed and fresh inquiries be conducted. Since land owners have already got decades to manipulate, create false documents, no cut off date for reopening the old cases should be prescribed. Any transaction or transfer of land, beyond the ceiling limits, done with the intention of benefitting the transferor and / or members of his family with the intention of evading the ceiling laws, should be subject to scrutiny and annulment after due process.

5.2.4. The definition of 'personal cultivation' in the state tenancy law should be modified to eliminate absentee landlordism. The rights of tenants cultivating land of absentee landlords should be secured as per the prevailing provisions in the law.

5.2.5. Despite a ban on agricultural tenancies in most States, the incidence and problems of tenancy are increasing. Nearly 40% of land in irrigated and non-irrigated areas is cultivated by tenants, who do not have access to institutional credit and markets. Tenancy laws have failed to protect interests of tenants in most States except Kerala, West Bengal and Maharashtra. With the onset of economic reforms, incidence of reverse tenancy is increasing. So there is an urgent need to review tenancy laws to protect the interests of tenants cultivating land of land owners on oral leases by providing them security of tenure and fare share of produce etc. At the same time interest of small and marginal farmers and tribal peasants would have to be protected against reverse tenancy. All types of agricultural tenancies should be recorded and rights of tenants should be secured and the rights of such tenants should be fully secured through enforced land to the tiller policy and ensure accessibility of tenants to non-land inputs. A policy and legal frame work should be put in place to enable small and marginal farmers to lease-in land with secure rights on a formal basis and at the same time to protect them against reverse tenancy of medium and large farmers and corporate agencies.

5.2.6. Correct and updated land records are crucial for the security of land rights. Failure to maintain proper records and ensuring land rights has led to proliferation of disputes and deprivation of legitimate rights of landholders resulting in discontent. Modernisation of the land administration system, including a crash programme of updating of land records, computerisation of textual & spatial records, and integration of the registration office should be taken

up on priority basis. Government of India should provide necessary funds for this purpose.

5.2.7. In many cases where land has been assigned to the landless poor under ceiling and bhoodan laws and government lands, possession over this land has not been delivered. Where possession was delivered, many beneficiaries have been dispossessed from their land. Where dispossession has taken place after possession was delivered, land should be restored to the allottees and proper entry made in the land records. Criminal cases should be filed against persons who had dispossessed them. Where possession was not delivered after allotment of land this must be done without any delay and this must be entered in the land records. Financial assistance should be provided to allottees for cultivation of land. Where litigation has been responsible for loss of rights, free legal aid of beneficiary choice should be provided to the allottee to defend his rights. Several landless poor have been subsequently alienated from their lands. These lands should be restored to them and proper entries should be made.

5.2.8. Landless poor in occupation of Government land should not be treated as encroachers and should not be evicted ordinarily. All eligible occupants should be regularized. In case of eviction alternative sites should be provided. Such provisions should be given statutory force. Often land assigned to the poor is illegally grabbed by the powerful. The government should restore possession to the poor. If there are lacunae in the law, these should be removed.

5.2.9 Comprehensive record of rights showing

possession, ownership, etc. of all lands under cultivation should be prepared and made accessible to the people. Some States have made laws to this effect but their implementation is not satisfactory. Some States have no such law. The responsibility of the state to regularly update land records should be backed up by a law involving participatory and transparent mode of implementation.

5.2.10 Laws prohibiting transfer of adivasi lands to non-adivasis and acquisition of land by non-adivasis in Fifth Schedule areas, where such laws exist, suffer from numerous loopholes besides tardy implementation. These loopholes are adequately documented state wise but states have not amended their laws to remove them and strengthen protective measures against alienation of tribal land. This must be done as a priority national programme and action taken regularly to monitor its progress. Thereafter, all cases decided against all tribals must be reopened and disposed of afresh. Meanwhile, pending cases should be decided expeditiously and all alienated lands should be restored to Adivasis in a time bound manner. The provisions of PESA relating to the power of the Gram Sabha in this regard must be fully incorporated in existing legislation. States having sizeable adivasi populations and not included in the Fifth Schedule shall enact suitable laws/ amend existing laws for the protection of Adivais in the same manner as in the Fifth Schedule. The land holdings of Scheduled Castes should be similarly protected against alienation of their land.

5.2.11. The entire Tribal Sub Plan area should be brought under the Fifth Schedule. A policy decision in this regard taken as far back as

1976 should be implemented without any further delay.

5.2.12. Whenever Government assigns land to the landless, or when pattas are given under some settlement regulations, such assignment deeds and patta shall be jointly given in the name of the husband and wife, in order to effectively protect land rights of women. Where land records are been updated, the rights of women members of the family must be recorded along with those of male members.

5.2.13. Wherever any occupation group like fisherfolk, graziers, honey gatherers and the like had customary rights over Common Property Resources and other natural resources, such rights should be statutorily protected and properly recorded and user pattas should be issued jointly for husband and wife and for female headed households.

5.2.14. Lands and/or natural resources initially occupied by eligible persons through people's action should be statutorily regularised and owners should be compensated, wherever legally due.

5.2.15. Secure and sustained access to land is central to the dignified survival of the poor. Land Reform Laws provide for such access to the poor through redistribution of land. But land reform laws have been poorly implemented. The intended objective has not been achieved. The effective implementation of these land laws should be prioritised through following measures:

5.2.16 A time bound survey is needed of all land under cultivation of SCs/STs culminating

in (i) grant of title to those who do not have title, (ii) identification of land of STs alienated illegally, and restoration through Gram Sabhas under powers vested in them under provision of Panchayat Extension to the Scheduled Area) Act 1995) and in an analogous manner in non-Scheduled areas. This protective shield should be extended suitably to Scheduled Castes in all areas and Scheduled Tribes beyond the Scheduled Areas, through appropriate legal provision as recommended by various Commissions and as is prevalent in parts in some States (Rajasthan/M.P). Any move to relax or dilute existing protective measures in respect of these communities should be strongly opposed.

5.2.17 The Bhoodan land still in the possession of donors or their heirs should be taken possession of as per procedure prescribed in the concerned state laws for distribution to eligible beneficiaries as per priority laid down in the national land reforms policy. Temple and other endowment lands beyond ceiling should be taken over by the state for redistribution. Lands abandoned by mining projects or any other industrial activity should be restored as agricultural land and utilised for redistribution to eligible categories. All homeless families should be given house sites of at least five cents along with financial assistance for constructing a livable house. There are eight million families that are without a homestead; urgent action is needed so that they are given priority in the allocation of not just a house under the Indira Awas Yojana, but also a piece of land on which that house is to be constructed. The existing laws which confer secure rights to landless persons living on the lands of land owners should be vigorously implemented.

5.2.18 Declare all small landless poor encroachers of government land as seemed to be having pattas on as is where is basis.

(III) Recommendations relating to Land Acquisition and Rehabilitation & Resettlement

5.3.1 Acquisition of land has emerged as the single largest cause of involuntary displacement of tribals and turning them landless. Indiscriminate land acquisition should be stopped and land acquisition for public purpose should be confined to public welfare activities and matters of national security. The proposal of amendments contained in the Land Acquisition (Amendment Bill, 2007) however, fail to achieve this objective. These proposals need to be further revised to minimize displacement and secure the rights of affected displaced persons.

5.3.2 'Public purpose' as defined in the amended Land Acquisition Act (amendment currently with Parliament) should be revised further and restricted to projects taken up for national security and public welfare implemented directly by the government 'Public purpose' should not be stretched to acquisition for companies, cooperative and registered societies. Whether under the garb of infrastructure or any other activity considered essential by the state, minimum land determined by independent experts should form the basis for deciding on the quantum of land to be acquired. Lands of those already displaced earlier should be excluded. The definition of 'person interested' should include occupants of government and panchayat land eligible for regularization under state policy, and informal tenants and share croppers etc. Adequate safeguards should be

built into the law to protect poor and vulnerable sections in case of direct procurement by companies. There should be mandatory provision for rehabilitation and resettlement of persons whose lands are procured by companies or other private interests. Acquired land remaining un-utilised should be restored to erstwhile land owners. The definition of land should be amplified so as to include government, public, forest, panchayat land and community property resources, so that loss of use rights can be compensated. The determination of compensation should be based on replacement value based on market value.

5.3.3 Responsibility shall lie on acquiring authorities to ensure free and informed consent of the Gram Sabha in the acquisition of land. The consent of the Gram Sabha obtained through misinformation, misinterpretation, fraud or force should be deemed to be void and should attract criminal action against the perpetrators.

5.3.4 Government of India has already notified the National Rehabilitation and Resettlement Policy, 2007 to guide the rehabilitation and resettlement processes where large areas of land are acquired and people are involuntarily displaced. While implementing positive aspects of the policy, the serious inadequacies should be addressed. The objective should be to minimize displacement. This exercise must be done in consultation with affected persons and not merely with the requiring agency. Only the minimum area of land commensurate with the purpose of the project should be acquired based on expert assessment prior to initiation of land acquisition proceedings. The effected persons must have a right to express their views on this

assessment. As far as possible, projects should be set up on wasteland, degraded land or unirrigated land but users of those lands must also be compensated for loss of access where such lands are not privately owned. Acquisition of agricultural land for non-agricultural use should be kept to the minimum through a land use policy with statutory backing. Social impact assessment should be strictly done in all cases to ensure that the impact of the project on the affected families is assessed in holistic anticipatory and transparent manner and ameliorative measures built into the rehabilitation plan. Loss of livelihood must be compensated along with loss of land. There should be no restriction relating to the size of displacement for applicability of rehabilitation and resettlement benefits. The policy should be applied to all displaced persons not rehabilitated in the past. Also there should be clear and assured provision of either land or employment. For tribal displaced persons land allotment should be mandatory. Land allotment should not generally be conditional on availability of government/waste land. Amendatory provisions for provision of training, apprenticeship for all displaced persons and preparing them for employment in accordance with the needs of the market. Until their employment is secured, minimum wages should be paid to them as subsistence allowance. Gender rights should be built into the rehabilitation of land. The rehabilitation and resettlement efforts should continue until the impoverishment is neutralized. Updating of land records should ensure that rights recognized during the process are taken in to account for compensation.

5.3.5. In the case of all major projects that cause displacement, advance action should be

taken to appraise the socio economic and cultural impact on the families likely to be displaced and upgrade the skills of the members of those families so as to ensure that they are in a position to take full advantage of the livelihood opportunity provided by such projects.

5.3.6 One of the main causes of rural poverty identified in the report was disappearance of Common Property Resources (CPRs) through which poverty stricken households used to supplement their livelihood and incomes. The Planning Commission should consider devising a programme for restoration of CPRs for the purpose of sustenance of the poverty groups.

5.3.7 Panchayats have to be empowered for effective management of CPRs with requisite autonomy, legal backing, adequate resources, provision of expertise and capacity building. A model legislation may be drafted incorporating above and other relevant aspects of CPR management which can be suitably adapted by states for their purpose. Incorporate within the law a provision for summary eviction of ineligible encroachers of CPRs .

(IV) Livelihood Security

5.4.1 SCs and STs are the two groups that have truly taken advantage of the employment being offered under NREG. The SCs account for only 14% of the population, but their share in households that received employment under NREG in 2006/7 was 27%; the corresponding shares for STs are 8% share in population but 32% share in employment. In other words, the NREG is even more important for the STs than it is for the SCs. Therefore, we would recommend that resource depleted areas with high incidence of involuntary migration and

malnutrition be identified for saturation under NREGA as the first priority. We also need to ensure that the norms for manual work for different items are worked out to ensure that the workers, especially women are entitled to the minimum wage for seven hours of reasonable effort. NREG should be implemented in a “mission mode” to do away with the dilatory and restrictive procedures of the secretariat.

5.4.2 The government should saturate the entire rain-fed and dry farming area with Participatory Watershed Development Projects for conservation of soil and water and development of natural resources with suitable changes in cropping pattern under the common guidelines issued by Ministries of Agriculture and Rural Development for National Watershed Development Projects for Rainfed areas. The common guidelines for watershed development under consideration by NRAA constitute an excellent base for participatory institution building, capability development and convergence of all activities pertaining to land and water.

5.4.3 Given that most of the rural poor, SCs and STs are dependent upon agriculture, the focus on agriculture in the 11th Plan is appropriate. This requires strengthening subsidiary and supportive activities in animal husbandry, fisheries, horticulture, sericulture and poultry through establishment of quality infrastructure, supportive technical services and efficient market linkages at the village or a cluster of village level. It also requires establishing sub-systems essential for intensive agriculture, such as (a) the research system, (b) extension system, (c) seed/feed/sapling supply system, (d) credit system and (e)

marketing system.

5.4.4 Intensive capacity building is needed in modern advances in agriculture and allied sectors for selected young farmers, especially women in every village with Krishi Vigyan Kendras acting as nodal agencies for quality training and for dissemination of knowledge and skills.

5.4.5 Outside of agriculture, there is need to intensify state investment in skill development of educated unemployed youth without employable skills for promoting regular employment or self employment among them.

Three New Programmes

5.4.6 There are a half dozen programmes relating to Rural Development Division for alleviation of poverty. The Ministry of Rural Development (MORD) administers them from the Centre. At the field level there is often a large disconnect among these programmes, though they have the same objective, namely to mitigate poverty of people.

5.4.7 It is evident from the report that, excluding ideological goal of capturing State power through violence, the basic programmes of the Extremists relate to elimination of poverty, deprivation and alienation of the poor and the landless. The Government of India in the Ministry of Home Affairs have identified 460 police stations spread over 12 States covering roughly 125 districts as ‘Naxal-affected’. Basically, these districts suffer from lack of proper governance and appropriate implementation of poverty amelioration programmes. To reduce the anger of the people,

it is necessary that they should feel that they are a part of the mainstream of Indian society and not an external element to be looked down upon by others. What is necessary is to saturate these districts with the proper implementation of the existing programmes by ensuring their convergence both at the Planning Commission level and at the implementation level, whether at the District, Block or the Gram Panchayat stage.

5.4.8 Currently, there are two major programmes of the Planning Commission, namely Backward Region Grant Fund (BRGF) and National Rural Employment Guarantee Programme (NREGP). All the 'Naxalite affected' districts, are included in BRGF and NREGP. The BRGF is being administered by the Ministry of Panchayati Raj and NREGP by the Ministry of Rural Development (MORD). Though at the ground level Gram Panchayat/Block are involved in implementation, because of the verticality of these programmes, they do not often converge at the implementation level. As a result of such non-convergence their beneficial impact does not have the criticality they deserve. Hence, it is recommended that for these districts, both these programmes should be merged into one single programme and with two focii should be administered by one Ministry through the instrumentality of three tier panchayat system. The Planning Commission should keep the power of directly monitoring the effects of the implementation of these programmes, so that it could give proper guidance to the implementation agencies at the ground level, to make deep penetration in the areas which remained uncovered because of the activities of the armed violent groups. In fact, attempts should be made to have deep penetration of

such un-reached areas so that the potential beneficiaries do not feel isolated, alienated or being left out.

5.4.9 One of the major causes of rural poverty identified in the report was disappearance of Common Property Resources (CPR), through which poverty stricken households used to supplement their livelihood and income. Over-time these CPRs got 'privatized' by the land grab mafia of the area. Thus, there has been total disappearance of CPRs, and whatever have remained have lost their productive capability. The Planning Commission should consider devising a programme for restoration of CPRs for the purpose of sustenance by the poverty groups. Old revenue records in many States would clearly show the areas of CPRs. So the programme should be to identify these CPRs, removing encroachment particularly by the rich and restore their productivity through afforestation, pasteurization, rainwater harvesting, etc. The programme could include protective measures to prevent the upgraded CPRs being grabbed again by powerful people in those areas. Restoration of upgraded CPRs for common use by the poor may help in reducing their anger against the authorities.

5.4.10 The new legislation i.e. the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2007 conferring forest rights on the Scheduled Tribes and other Non-Tribal Forest Dwellers is a step in the right direction and will serve to reverse the 'historical injustice', and thus reduce the disaffection of millions of forest dwellers. Apart from this, a large part of the land termed as forest consists of degraded land. The Planning Commission may consider devising a

programme to raise tree cover on these lands, by the local poor people, with an equitable sharing of benefits. This would also be in consonance with the government's general policy of upgradation of bio-diversity and increasing the density of tree population in the forest areas. These programmes should be implemented by the panchayat bodies wherever they exist or through legally constituted beneficiary committees, where Panchayats do not exist.

(V) Universalise Basic Social Services to Standards

5.5.1 The area affected by extremists movement in central India has concentration of tribal population, hilly topography and undulating terrain. The area has much less density of population than the plains. The failure to provide infrastructure and services as per national norms is one of the many discriminatory manifestations of Governance here. These disparities therefore result in non-available/poorly provided services. Universalisation of basic services to standards among the people in this area should be given top priority to remove this disparity..

5.5.2 If poor SCs and STs are to take advantage of the opportunities being opened up by rapid economic growth, they need to acquire a modicum of education and be healthy. Market-based development is characterized by the survival of the fittest; neither the SCs nor the STs constitute the fittest in the society.

5.5.3 Disparities in availability of physical, developmental and social infrastructure should be removed by speedy creation of infrastructure in Naxal-affected districts as per national norms within the XI plan for which adequate allocations

have to be provided for. Existing infrastructure should be rejuvenated and modernized with provision of adequate funds for their maintenance and upgradation. Fully functional services on par with the developed areas with personnel, equipment, facilities and funds for contingent expenditure should be created and provided for.

5.5.4 The elementary education infrastructure would need strengthening, by providing fully qualified and trained teachers in every school per suitable norms of pupil-teacher ratio; providing quality technical/vocational training facilities for a cluster of 10 secondary schools offering training in a wide variety of local/specific needs; providing at least one residential high school each for boys and girls in these districts under the pattern of Navodaya Schools, together with Bridge school facilities for slow learners and out of school children. Existing 'ashram' schools should be upgraded to standards. 'Eklavya' schools should be established in each block in these districts. Thus a structure of the follow kind would emerge: 'ashram' and vocational schools in a cluster; 'Eklavya' schools in a block, and navodaya schools in a district.

5.5.5 There is need for a universal public health and nutrition system that is functional at the primary level of care. A first requirement in this task is to discontinue commercial vending of liquor and other intoxicants in terms of the excise policy for tribal areas (1974) and institutionalize control of the Gram Sabh over the preparation and use of traditional drinks. It is also important to ensure accredited functioning health facilities as per national norms, namely (a) Health Sub Centres (one for every 3000 population in hilly/tribal districts and

one for 5000 population in other districts), (b) Primary Health Centres (one for every 20000 population in hilly/tribal districts and for every 30000 population in other districts), and (c) Community Health Centres for curative and referral services for every 100000 population. The districts where naxalite movement is active are located in states which have the worst social infrastructure in general, and SC and ST hamlets tend to get excluded when location for such social infrastructure is being decided. The 11th Plan allocations should be used for filling this gap.

5.5.6 All sanctioned posts should be mandatorily filled in by trained professionals/para professionals on regular/contractual/adhoc basis and there is need to address the problem of chronic shortage of staff, if necessary through provision of special allowances and local recruitment. Only then can we ensure (a) universal full immunization (DPT, BCG, Polio, Typhoid) of all children, (b) guaranteed safe deliveries through accredited health providers/skilled birth attendants and (c) management/treatment of communicable diseases together with supply of essential drugs, up to health Sub Centre level with full utilization for untied funds of Rs. 10000 per annum per health centre.

5.5.7 It was noted that SCs and STs have worse nutritional levels than others. Anganwadi centres will increase during 2008-09 to at least 12 lacs from the current level of 10 lacs in the country as a whole. Anganwadis should be provided on demand to SC and ST hamlets, which are the worst provided in terms of anganwadi centres in the country. Further, ICDS is to be restructured during the 11th Five Year Plan, and it is necessary to establish an

identifiable and effective nutrition chain (a) for all pregnant women and nursing mothers in rural areas (comprising of nutrition equivalent to 500 calories and 15 to 20 grams of protein), (b) for all mal-nourished children in the age group of 3-6 (comprising of nutrition equivalent to 600 calories and 20 grams of protein per child) and (c) for all children in the age group of 0-3 (comprising of nutrition equivalent to 300 calories and 10 grams of protein per child) and (d) for all children studying in Government schools, Local Body schools, aided schools upto class V hot and cooked mid-day meals (comprising of nutrition equivalent to 300 calories and 8 to 12 grams of protein per child).

5.5.8 As part of the NHRM, every village/large habitation should be provided with a Female Accredited Social Health Activist (ASHA), who is trained at least as an ANM, chosen by and accountable to panchayat to function as an interface between the community and the public health system.

5.5.9 Rural electrification has to mean households actually receive electricity, not merely an electric pole with a line going to BPL households, as specified under the Rajiv Gandhi Grameen Vidyutikaran Yojana. If RGGVY money is used for building poles and laying lines to BPL households, without the actual supply of electricity, experience shows that both the poles and wires are stolen; at the very least, it is wasted investment, since there is no electricity flow for years after the investment in transmission lines. Therefore, we recommend that electrify all villages and habitations through creation of Rural Electricity Distribution Backbone in each block and village electrification infrastructure with at least one

distribution transformer in each village/habitation or Decentralized Distributed Generation (DDG), where grid supply is not feasible, together with electrification of all unelectrified below poverty line households.

5.5.10 Research in India, China, and other developing countries has demonstrated that one of the most cost-effective ways to reduce poverty is to ensure rural roads connect to markets. Therefore the central and state governments need to commit to connectivity through all-weather roads to all villages habitations with a population of 500 (250 in the case of hilly and tribal areas) in the next 4 years.

5.5.11 In four years of the 11th Plan, there is need to commit to provide safe drinking water to all habitations as per national norms of coverage, i.e. (a) 40 litres per capita per day (LPCD), additional 30 LPCD for cattle in DDP areas, (b) potable water source within 1.6 km in plains or 100 mtrs elevation in hilly areas and (c) one hand pump/stand post for every 250 persons. Without this action, there is little likelihood that health indicators will improve significantly, even if the public health system was to become functional.

5.5.12 Finally, houses as per Indira Awas Yojana Guidelines to all houseless persons, giving high priority for SCs/STs, have to be ensured by the end of the 11th Plan.

(VI) PESA

5.6.1 A comprehensive regulation should be made to the effect that no law having a bearing on the provisions of PESA, read with the Fifth Schedule and other provisions of the

Constitution concerning tribal people, shall extend to the Scheduled Area, until it is approved for extension there in full or with such exceptions and modifications as may be notified by the Governor, in consultation with the Tribes Advisory Council of the State.

5.6.2 The Annual Report of the Governor to the President about the Administration of the Scheduled Areas under Para 3 of the Fifth Schedule should be comprehensive, and cover all aspects of governance, especially the provisions of PESA. A high-powered small group may be established under the Union Cabinet with mandate for continuous review of the state of administration in the Scheduled Areas.

5.6.3 In view of the fact that governance in the Scheduled Areas with regard to many a vital aspect of tribal life is without any authority of law, the concerned Governors should issue a notification under Para 5(1) of the Fifth Schedule (to be referred hereafter in brief 'Para 5(1) Notification') to the effect that 'Notwithstanding any thing in the Constitution, the Panchayat Act or relevant Acts of the Parliament or the Legislature of the State for the time being in force, the provisions of PESA shall prevail.' This is necessary to ensure that there is no ambivalence or contradictions in the frame of governance at the village level as a result of diverse legal provisions made from time to time and extended to the Scheduled Areas in routine.

5.6.4 The definition of 'village' in PESA is in terms of its natural community-centric character. It is at variance with the general definitions of 'village' in vogue in different laws that are essentially administrative. It must be ensured

that all Panchayat Raj Acts of States having Scheduled Areas adopt the PESA definition of 'village' with no change there in of any description whatsoever.

5.6.5 The scope of the clause 'resolution of disputes' in section 4(d) of PESA should mean Nyaya Panchayats are constituted for Fifth Schedule area. Each State law should clearly indicate the types of disputes (civil, criminal, social marriages, etc). which Nyaya Panchayats should deal with.

5.6.6 The PESA authorises Gram Sabha to restore all unlawfully alienated land to the rightful owners. However, in none of the States the original jurisdiction of GS under PESA to exercise this important power has been conferred on them. In case of non compliance of the orders of GS, the support of revenue authorities to implement the orders has not been clarified. Only when this is done will this power of GS become operational. This would go a long way in mitigating land related discontent in tribal areas.

5.6.7 It should be made obligatory for all concerned with management and working of forests to consult the Gram Sabha resulting in consent before taking up any operation in the geographical boundary of the village as defined above.

5.6.8 It shall be the duty of the State to ensure that the full value of the minor forest produce is made available to the primary collector with out any cuts of any description whatsoever. The entire marketing and transportation cost from the collection centers, which shall not be beyond half-a-day march from the Gram Sabha, shall

be borne by the State as a charge on the welfare activities in the Scheduled Areas.

5.6.9 The residents of habitations located on the periphery of a reservoir shall have full rights to use the water body for fish-culture and for fishing for the common good of the entire community, subject to honouring the livelihood rights of those traditionally engaged in fishing. This collective right, however, shall be exercised through a cooperative or other instrumentality that is exclusively and wholly answerable to the concerned GSs, in accordance with a scheme that may be adopted by the concerned GSs.

5.6.10. Displacement of tribals in areas notified under the Fifth Schedule should be avoided, as it tends to deprive the tribals of the rights conferred on them under the Fifth Schedule. If the setting up of a project in these areas is considered to be in the national interest, even then, the prior consent of the tribal Gram Sabhas should be made mandatory. The Government should evolve a suitable institutional mechanism to ensure that the tribals retain their ownership rights in respect of the land and resources associated with it.

5.6.11 The Mineral Rules should be amended transferring all quarries with annual lease value up to Rupees 10 lakhs to the Gram Sabha and Panchayats at different levels. This dispensation should cover all minor minerals. Provisions should, inter alia, cover the following (5.6.12-15):

5.6.12 Consent of concerned Gram Sabha before awarding a lease to be made mandatory as per the directions of the Ministry of Mines and Minerals dated 26th December 1997;

5.6.13 Discontinuance of the practice of outright purchase of mineral bearing land by the Mining Companies as the Mining Act envisages only a lease. All the deals of any description whatsoever should be converted in the form of leases for which Governor may provide through 'Para 5(1) Notification'.

5.6.14 A condition for restoration of the leased lands, as far as possible, to their original status as a part of consultation with the Gram Sabhas; and

5.6.15 Making good all damage to the ecology etc on account of the neglect of the State and the concerned parties according to a time bound programme, and provision of special funds to the concerned Gram Sabhas.

5.6.16 A clear and categorical provision should be made in the Panchayati Raj Act or the Excise Law through 'Para 5(1) Notification' to empower the Gram Sabha in all aspects mentioned in Section 4(m)(i) of PESA, and State Government should not intervene.

5.6.17 It is unfortunate that despite powers defined in section 4(m) of PESA, several States have not issued the notification under para 5 (1). To facilitate the state governments, Government of India should prepare model provisions for endowing these powers which will make provisions of PESA real and operational.

5.6.18 Any plan or programme of the state government or any parastatal organisation should require that the GS be consulted before it is taken up in its area.

5.6.19 All Utilisation Certificates pertaining to all projects should be validated by GS.

5.6.20 In many states the provisions under section 4 (i) of (PESA requiring GSs or the panchayats at the appropriate level be consulted before land acquisition or rehabilitation under such projects) are not being followed, or there are several instances of coercion from higher authorities in seeking this consent. The consultation under this provision should include concurrence with them, as provided for consultation with the Supreme Court.

(VII) State Response

5.7.1 The public policy perspective on the naxalite movement is overwhelmingly preoccupied with the incidents of violence that take place in these areas and its ideological underpinnings. Though it does concede that the area suffers from deficient development and people have unaddressed grievances, it views the movement as the greatest internal security threat to the country. Accordingly, the attention of the Government is concentrated on curbing violence and maintaining public order to achieve normalcy. While area development is also being speeded up, the security-centric view of the movement accords primacy to security operations. The contextualization of this violence is missing from this perspective. The scale, intensity and approach of security operations cause considerable collateral damage leading to greater alienation of common people. The strategy of security forces to curb violence has also encouraged formation of tribal squads to fight naxalites, with a view to reducing the security force's own task and risk. This has promoted a fratricidal war in which tribals face the brunt of mortality and injury. Those tribals

who are unattached to either the naxalites or those opposing them, become victims of violence by all agencies – Naxalites, squads formed to fight them and the security forces. This approach to the movement is devastating the local tribals and causing hopelessness and despair. A change in policy perspective and strategy to deal with the movement is essential to create a positive image of the Government in the local people, remove their sense of alienation and wean them away from its influence.

5.7.2 Encouragement of vigilante groups such as Salwa Judum and herding of hapless tribals in make-shift camps with dismal living conditions, removed from their habitat and deprived of livelihood as a strategy to counter the influence of the radical left is not desirable. It delegitimizes politics, dehumanizes people, degenerates those engaged in their 'security', and above all represents abdication of the State itself. It should be undone immediately and be replaced by a strategy which positions an empowered task force of specially picked up responsive officials to execute all protection and development programmes for their benefit and redress people's grievances. This is the best strategy to eliminate the influence of radical left groups.

5.7.3 Authorities should encourage civil society groups, having knowledge of, and sympathy with, local tribals in assisting this task force for wider participation of people in implementation of the strategy outlined above.

5.7.4 There are reports of civil society groups on the numerous human rights violations by authorities. The government should take cognizance of these reports and enquiries into these episodes should be constituted so as to inspire confidence in victims and faith of the public in the rule of law.

5.7.5 It is not desirable to insulate the area and people from civil society groups, media, and political organizations and penalize those who seek to establish contact with affected people to gather information about the action of naxalites and state agencies, and speak or write about their observations. Besides being undemocratic, it is counter-productive as well. Reverse this trend. Rather, seek cooperation of civil society organizations with good track record in providing credible information on the impact of the movement and of state action on the affected people, which may help in critical appraisal of the policy pursued by the state.*

5.7.6 Mobilising the support of the people is also absolutely essential to weaken the support base of the Naxals. The political parties are not playing their role in this regard. The representatives of major political parties have virtually abdicated their responsibility.

5.7.7 A strategy of constructive management of conflict requires two key measures. At its present stage, priority should be accorded to search out creative policies that bridge gaps between state interests and those of tribal communities. Tribes are not opposed to

* Sarvashri Prakash Singh and Ajit Doval expressed a contrary view in support of Salwa Judum in their paper submitted to the Expert Group, which is being incorporated in Volume II of the report.

development. All that they want is to control its pace and influence, its pattern and direction so that they are enabled to prevent its damaging effects and enjoy some of its benefits. The autonomy and control over natural resources which tribal communities seek is consistent with national development. It requires dedicated interlocutors to work out its parameters in consultation with communities. PESA (1995) has made a beginning in this direction and provided a broad frame work.

5.7.8 Ensuring a life of respect and dignity for the dalits, adivasis, women, and the poor in general, is not a task that can be left to the working out of a few laws. A concerted effort through the education system and the cultural media needs to be taken up. The education system should not shy away from speaking to the undemocratic practices that abound in our society. And purposive cultural interventions are very much needed. But the first pre-requisite at the level of the administration is that the administrators should be sensitised to these realities and their unacceptability. Government personnel exhibiting an attitude of indifference towards this issue must be deemed to have committed misconduct and proceeded against accordingly.

5.7.9 Mere provision of reservations for the SCs, STs, OBCs and women in the local bodies does not amount to empowerment. Consequential steps need to be taken to ensure that they are actually able to exercise the responsibilities placed upon them, and that their powers are not appropriated by the dominant sections. In situations where the elected representatives from these communities are threatened or subjected to violence they should

be ensured full and adequate protection by the administration. It should be the responsibility of the Panchayat Officer at the District level to ensure that the police do provide such protection. Cooperation of the administrative personnel in the exercise of the authority of such elected representatives should also be mandatorily ensured.

5.7.10 While condemning occasional bursts of wanton violence by the extremist groups, a government constituted by law and mandated to maintain rule of law can not commit any illegal act in countering rural extremism. Government should strictly prohibit extra judicial killings by its security forces. Such acts of illegality by the authorities tend to legitimise extremist violence in the eyes of millions of non-committed on-lookers.

5.7.11 Security forces should undergo rigorous training not only on humane tactics of controlling rural violence but also on the constitutional obligations of the state to protect the Fundamental Rights, including human rights, of Indian citizens and implications and implementation of progressive laws in favour of the poor. Excepting casualties suffered by both sides in actual fire fights, there should be no killings, either by the security forces or any vigilante groups, covertly or overtly sponsored and supported by the Government. Every such killing should be followed by a judicial enquiry to reinforce the faith of the ordinary masses in the rule of law.

5.7.12 There is a distinct feeling both within government institutions and outside that reports of National Commissions for SCs/STs do not carry any weight. Parliament finds no time to

discuss them. Government has shown little seriousness in making meaningful use of them and initiating corrective measures. The commissions are also not being effectively used as instruments for grievance investigation and redressal mechanism where official agencies have failed or faulted. The commissions are primarily used to provide symbolic representation to members of the SC communities to deflect political criticism about neglect of these groups. The commissions have considerable potential in bringing to the notice of government the simmering discontent of the communities, and giving them a voice where bureaucratic and political structures have fail to respond. But they need to be restructured and strengthened to command attention from official agencies for discharging this responsibility. Appropriate measures may be worked out by the government.

5.7.13 The law enforcement machinery in the affected areas would need to be strengthened. Some of the suggested measures could be: additional police stations/outposts in the affected areas; filling up the police vacancies and improving the police-people ratio; sophisticated weapons for the police; personnel to be given training in counter-insurgency including protection of fundamental rights and human rights; incentive allowance for staff posted in affected areas; and leadership of a high order for the forces deployed and ban on extrajudicial killing and “encounter” killing.

5.7.14 Both the central and the state governments should have an open mind about having peace talks with Naxalites without any prior conditionality.

(VIII) Strengthening the Planning System

5.8.1 The original power of panchayats at each tier is in the preparation of plans for economic development and social justice (Article 243 G of the Constitution). Sub clause vii of clause M of section 4 of the PESA-1996 empowers panchayats in the Fifth Scheduled areas to have control over local plans and resources for such plans, including Tribal Sub-Plan. Thus there are adequate legal provisions for democratic decentralized planning process. Unfortunately the District Planning Committees under Article 243 ZD has not been properly activated and not created in line with the provisions of PESA. As a result what we have as state plans are nothing but aggregated departmental plans, with hardly any linkage with District Plans or the plans prepared under the PESA. All the central and state schemes should build in enough flexibility to allow panchayat bodies to reshape them to suit their objective conditions. The State Plans should clearly reflect how much of the district plans have been incorporated in it. Preferably up to 40% of the money allocated should go to district plans.

5.8.2 Panchayats at three tiers should have powers and authority to hold officials accountable for the subjects devolved to panchayats. Similarly, they should have powers to review performance and working of all departments in their areas. It raises the main issue of state’s unwillingness to part with power and functions and to share them with panchayats. The fact that writs of the state do not run in as many as 125 districts in the extremism-affected areas makes it clear that the State bureaucracy had abjectly failed in delivering good governance in these areas. Hence empowerment of the panchayats

would be practically the only way out for effective governance of these areas. Therefore panchayats should have authority to hold officers of the state working there accountable for their acts of omission and commission. That apart, strong financial and social audit systems be placed on the ground to prevent leakages of funds.

5.8.3 National Commissions for Scheduled Castes/Scheduled Tribes /National Commission for Women /National Human Rights Commission should be provided with some powers and authority for generating greater accountability in official agencies operating in these areas. A massive awareness programme should be taken up (on the pattern of rural labour camps of the 1970s and 1980s) to build up pressure from affected communities for improved performance of official agencies. Information Kiosks should be set up managed by SC/ST individuals and organizations at Panchayat level for information, education and communication. Individuals and NGOs should be encouraged and supported to take up RTI as a campaign among SCs/STs for enhancing transparency of governance.

5.8.4 Mechanical monitoring on the basis of physical targets achieved or funds spent should be upgraded for impact assessment by independent research institutions, universities and other academic institutions. People at the ground should also feel that activities around them are being watched instantly by political masters. This would mean demonstration of political will for the uplift of these communities and areas. Institutional arrangements should be made at state capitals as well as at the centre to involve the chief ministers and the Prime Minister in this process.

(IX) Governance Issues

5.9.1 The areas in Central India where unrest is prevailing covers several States (like Andhra Pradesh, Orissa, Chhatisgarh, Madhya Pradesh, Jharkhand and part of Maharashtra) are minimally administered. State interventions both for development and for law and order had been fairly low. In fact there is a kind of vacuum of administration in these areas which is being exploited by the armed movement, giving some illusory protection and justice to the local population. The basic steps required in this direction include establishment of credibility and confidence of government; keeping a continuous vigil for fulfilment of people's vision; effective protection, peace and good governance; rejuvenating tribal economy including social services; sustainable development with equity in tribal areas; holistic planning from below in scheduled areas; and negotiating crises by focussing on ending of confrontation.

5.9.2 The area affected by extremist movement is the region of central India with concentration of tribal population, hilly topography and undulating terrain. The area has much less density of population than the plains. The failure to provide infrastructure and services as per national norms is one of the many discriminatory manifestations of Governance here. These disparities result in non-available/poorly provided services. The removal of these disparities should be among the top priorities to convince people living in these areas that they are equal citizens and that they matter in national life.

5.9.3 Reorganisation of the administrative arrangement should aim at supplanting the current non-accessible bureaucracy by the three

tier panchayats bodies, with level to level correspondence with the current administrative structure. Bureaucracy at each level should be directly accountable to the corresponding tier of elected panchayat bodies. The Gram Sabha will have the right to question the functioning of any officer or staff about their performance and activity. These panchayats bodies should have the power to clear schemes and projects up to a certain financial limit. The district panchayat will have no such limit in respect of schemes, projects and programmes earmarked for the districts.

5.9.4 Panchayats at each tier should be strengthened by posting of appropriate level of general service and technical service officers. Regulatory functions like revenue, police, forest and labour should be directly accountable to PRIs for their actions and performance.

5.9.5 One major deficiency of existing administrative arrangements is the absence of a Justice Administration system in rural areas. The current system is expensive, dilatory and complicated. Barely 20% of the population is able to access it. SCs/STs get involved in the system as accused and defendants rather than seekers of their rights and entitlements. Even in cases of atrocities where the state takes up their case, the experience has been depressing. The situation is no better in cases relating to social welfare, labour and land related laws. A system of justice and grievance redressal which is simple, inexpensive, responsive to their needs and within easy reach of these sections should be an integral part of governance, but it has never received the priority and attention it deserved. A beginning can be made in this direction by quickly enacting the Nyaya

Panchayat Law by the Centre with enabling provisions for the states to adopt. A model of dispute settlement mechanism and justice administration consistent with PESA, 1996 in Fifth Schedule areas should be worked out. In the scheduled areas gram sabha should act as Nyaya Panchayat in matters relating to customary law prevalent in the community.

5.9.6 The procedures for receiving applications under RTI Act from the members belonging to the weaker sections should be simplified and summary processes of disposal of applications and adjudication of appeals should be institutionalised.

5.9.7 A mechanism should be set up at the state level to periodically review cases in which SCs/STs are involved, recommend withdrawal of cases in petty offences, release of undertrials on bail where they are unable to find a bailer, arrange effective legal aid to defend them in other cases, and issue directions for speedy trial in cases pending for long.

5.9.8 The Government of India must start forthwith an annual review of the state of administration in the Scheduled Areas in terms of its responsibility under the first proviso to Article 275(1), with a clear goal to raise it to the level obtaining in the rest of the State within a period of five years.

5.9.9 The issue of public resource management for equitable development in this context has two aspects. One concerns distribution of available public resources proportionate to the needs of the area and the communities. The other relates to the efficient utilization of whatever resources are allocated.

The existing financial arrangements have neglected them in both ways. SCs have the lowest human development status as per national norms; STs are worse than SCs in this regard. Not only this, the gap between them and the rest of the population is large and is, in fact, widening. Instead of monitoring expenditure indicators to monitor outcomes should be devised to ensure that tangible benefits flow from regulatory and development programmes initiated for SCs/STs. The gap in socio-economic conditions of SCs/STs with the rest of the population should be bridged by the end of the 11th plan. Special Component Plans for Scheduled Castes and Tribal Sub-Plans for Scheduled Tribes should be prepared with an outlay of not less than the population proportion of SCs/STs to overall plan outlays, as an integral part of the State Plans. These resource allocations should be made non-divertible and non-lapsable. Intensive review and monitoring of these Plans should be provided for at the district level to ensure their effective implementation. Under utilization, diversion and misuse of resources under TSP and SCP should be avoided with provision for result based financial management. States fulfilling mandated

tasks in the unrest affected areas and meeting entitlements of people located therein should get some financial incentive.

5.9.10 There are seven National Commissions for different segments of disadvantaged marginalized sections of the community. Similarly, there are the same set of Commissions at the State level. There is no co-relation among them either at the Centre or at the State. Nor do they have any mandatory authority to enforce their recommendations. It is time that a Rights Commission with appropriate divisions should be set up at the Central level with legal power to enforce its decisions arrived at through due process. Any one aggrieved with decisions of the Rights Commission would have right to go to the Supreme Court. Similar Rights Commissions should be set up at the State level with the right of the aggrieved to approach the State High Court. Till this is done the Centre should devise an effective institutional mechanism for bringing about coordination among all these National Commissions and take administrative steps to give effect to their recommendations.

Epilogue

6.1 The last plenary meeting of the Expert Group took place on March 14-15, 2008. Prior to this meeting a letter was addressed to all the members (sent along with the final draft of the report), requesting them to send their written comments to the Member Secretary of the Group. Some written comments came. Some other members gave their written comments in the course of the final meeting. Most of the written comments were incorporated after appropriate editorial changes. The group worked together with a sense of urgency. It sought to compose whatever differences existed. This report represents a broad consensus. Members appreciated the gravity of the problem and the pressing need for action.

6.2 During the last meeting a view was strongly expressed that this report which covers various aspects of social, political and economic development of the country requires to be debated very widely at the regional, state and central levels to arrive at a consensus on a policy package to tackle the basic socio-economic malaise that often vents itself in violence. There is no denying that what goes in the name of “naxalism” is to a large extent a product of collective failure to assure to different segments of society their basic entitlements under the Constitution and other protective legislation. There is also no denying that the

nation is now caught in a vicious circle of violence and counter-violence. Only a commitment of the nation on an unprecedented scale can shape a future compatible with the ideals enshrined in the Preamble of the Constitution, and the rights and entitlements incorporated in the parts on Fundamental Rights, Directive Principles of State Policy and Duties of the Citizen of the Constitution. There is an urgent need to generate a will to ensure that every man, woman and child gets his / her legal rights and entitlements in order to make each one feel that he or she is an integral part of the Indian nation.

6.3 In this context, it is relevant to mention that the United States suffered from ugly race riots in the late sixties of the last century. The then US President Lyndon B. Johnson established a National Advisory Commission on Civil Disorders with the express mandate: “let your search be free ...as best you can find the truth and express it in your report..... this matter is far too important for politics”.⁸ This Commission produced an extraordinary document which portrayed graphically what lay behind this civil disorder, very candidly and courageously. In its summary of the report the commission clearly put the agenda of action for American society: “Our nation is moving towards two societies – one black, one white – separate

⁸ US Riot Commission, *Report of the National Advisory Commission on Civil Disorder*, Bantam Books, 1968.

and unequal...Discrimination and segregation have long permeated much of American life; they now threaten the future of every American ...The alternative is not blind repression or capitulation to lawlessness. It is the realization of common opportunities for all within a single society...violence cannot build a better society. Disruption and disorder nourish repression, not justice, they strike at the freedom of every citizen. The community cannot – it will not – tolerate coercion and mob rule. The violence and disruption must be ended” (pp.1-2).

6.4 It continued: “The main recommendations of the Commission had three basic principles:

- To mount programmes on a scale equal to the dimensions of the problem;

- To aim these programmes for high impact in the immediate future in order to close the gap between promise and performance;
- To undertake new initiatives and experiments that can change the system of failure and frustration that dominates and weakens our society.

These programmes will require unprecedented levels of funding and performance, but they neither probe deeper nor demand more than the problems which called them forth. There can be no higher priority for national action and no higher claim on the national conscience” (p. 2).

6.5 These conclusions are equally valid in respect of the widespread rural violence that is being witnessed in India today.

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2. The Terms of References of the Expert Group will be as follows:-

- 1) Identify specifically the processes and causes contributing to continued tensions and alienation in areas of unrest and discontent, such as widespread displacement, forest issues, insecure tenancies and other forms of exploitation like usury, land alienation and imperfect market conditions and suggest specific steps to reduce the tensions and causes of discontent.
- 2) Identify causes for persistent and abysmally low social and human development indicators and suggest steps for bringing these on par with the rest of the country in a time bound manner.
- 3) Examine and suggest an appropriate strategy for ensuring peace and life with dignity and for resolution of conflicts in areas of chronic unrest.
- 4) Suggest measures to upgrade the levels of governance and strengthen public service delivery in these areas, through suitable administrative and institutional reform and mechanisms for prompt redressal of grievances.
- 5) Suggest measures for ensuring time bound achievement of livelihood security, health and nutrition security, food security etc. and also suggest changes in Central and State Legislations impeding the achievement of these objectives.
- 6) Suggest measures for strengthening the implementation of Panchayat Extension to Scheduled Areas Act (PESA) and the functioning of Autonomous Councils in the Sixth Schedule and other areas to ensure empowerment of the communities and their representative & participatory institutions in the design of developmental activities and their implementation.
- 7) Any other Terms of Reference that may be decided by the Expert Group.
 3. The Chairman of the Expert Group may set up sub-groups / task forces, if necessary for undertaking in-depth studies and formulation of the proposals.
 4. The Expert Group may co-opt non-officials/experts/representatives of other agencies, if required.
 5. The expenditure of the official members for attending the meetings of the Expert Group will be borne by the respective parent Department/Ministry/Organisations as per the rules applicable to them. The expenditure regarding TA/DA of non-official Members will be borne by the Planning Commission according to the appropriate rules and practices.
 6. The Expert Group will submit its final report to the Planning Commission by 15th August, 2006.

(Rupinder Singh)
Deputy Secretary to the Government of India

To
The Chairman and Members of the Expert Group

Copy to :

1. PSs to Deputy Chairman/ MOS(Planning)/Members/Member-Secretary, Planning Commission.
2. All Ministries/Departments of the Govt. of India
3. Chief Secretaries of all States/UTs
4. Prime Minister's Office
5. Cabinet Secretariat, Rashtrapati Bhavan, New Delhi

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