

## Report from Jharkand:

# Depriving Adivasis of Their Land

The government of Jharkhand organized a global summit for investment in Jharkhand. On 16th & 17th of Feb 2017 it was organized in Ranchi with full of fanfare and huge expenditure. The state government deployed Police Forces on each and every chawraha & Roads. Since 12th Feb it imposed Section 144 for 3 days and on 15th, 16th & 17th Feb in all over Ranchi city. The people and students have faced so many problems. On 13th Feb under the banners of 'Visthapan Virodhi NavNirman Morcha' and 'Visthapan Virodhi Janvikash Andolan' Jharkhand, the prominent morcha leaders, citizens, & activists were gathered at Albert Ekkachouk Ranchi and protested against the tamasa of summit. In VVNN Morcha, organizations like Marxist-Leninists, Socialists, JP-eite, Gandhian, traditional tribal organizations & few NGOs have participated. All these organizations also opposed the revisions of Santhal Paragana Tenancy Act (SPT Act) and Chhota Nagpur Tenancy Act (CNT Act) which were amended by the state government and awaiting approval from the central government. These two legislations were enacted by the colonial powers with the intent to save the land of tribal and indigenous peoples of Jharkhand. At the end of summit, Govt announced that 210 MoU were signed with the companies. CM Raghubar Das arrogantly told that his Govt will implement all MoUs. According to him there is no shortage of land because Govt has sufficient land (about 20 lacks acres) in the land bank. Jharkhand Govt is not ready to learn a lesson from its past failures to forcibly acquire Adivasi and indigenous peoples land. Over hundred MoUs were signed between the previous governments and various companies for acquisition of lakhs of acres of mostly Adivasi land that would result in the displacement of lakhs of Adivasis. People resisted the forcible acquisition of their land. Most companies had to leave Jharkhand empty-handed. The govt reacted by accusing the activists leading resistance movements as being anti-development, and anti-national and throwing hundreds of them in jail. Police force was used to suppress people's peaceful protests even to the extent of opening fire, killing several persons and wounding many more in deferent districts. State violence has instead strengthened people's intent to protect their rights over jal, jangal, jamin, minerals.

### Illegal to the Core:

Every step taken by the state government to favour the big bourgeoisie is illegal on all counts. The forcible acquisition of Santal land in Pakur district by-passing SPT Act in favour of a private mining company PANEM illustrates this. The Supreme Court declared this company illegal together with over two hundred other mining companies all over the country. Even then the company is still continuing mining activities with the help of state Govt illegally. Many provisions for rehabilitating the displaced people as per the MoU signed by the company were flouted and the people have lost everything and have been reduced to the point of destitution. The govt has government not only looked the other way it also failed to force the said company to fulfill its legal obligation to the peoples.

### Bogey of Land Bank

'Land Bank' is the current novel idea of the state govt to grab Adivasi land for industrialists. It is done by demarcating uncultivated land, either of individual families or of the village community or in the village forest. One specific example of one Block in Khunti district will throw light on the matter:

Thus a grand total of 16,104 acres of 'uncultivated land' is slated to constitute the Land Bank in just one (Torpa) block. Several months ago the CM of Jharkhand announced that 1,75,000 acres are available for Land Bank. The present estimate is any body's guess!

The transfer of Adivasi land into Land Bank is illegal for the following reasons:

1. United Nations Declaration on the Rights of Indigenous Peoples, affirms Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned. [Article 26] And they “shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” [Article 10] The central government and the Jharkhand state government have violated the very UN declaration they have signed. Hence forcible creation of Land Bank is unjust and therefore unacceptable.

2. Violation of the Vth Schedule of the Constitution: insofar as the very composition of the Tribes Advisory Council at present is unconstitutional. As per clause 4 (1) the TAC must consist of twenty members all of whom should be tribals. Whereas during the past two years the Chief Minister, who is a non-tribal, has made himself the chair person, convened the meetings, prepared the agenda and presided over the meetings. Whatever resolutions/ decisions taken during these meetings are unconstitutional and therefore invalid.

3. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 [PESA] stands violated in the enactment of Land Bank in Jharkhand. Because clause 4(d) stipulates that “every Gram Sabha shall be competent and preserve the traditions and customs of the people, their culture identity, community resources and the customary mode of dispute resolution”. Let it be noted that land is part of ‘community resources’. Again, clause 4(i) “the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making acquisition of land [emphasis added] in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in Scheduled Areas”. And again “... State Legislature shall ensure that the Panchayats at the appropriate levels and the Gram Sabha are endowed especially with the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe” [4(m)(iii)]. It is important to remember that PESA is not just an Act of the Parliament but is part of Part IX of the Constitution.

The manner in which Land Bank is being enforced is a clear violation of PESA and the Indian constitution. The fact is the Gram Sabha was not consulted nor its consent sought in the process of identifying and transferring the so-called ‘uncultivated land’ of individual farmers or the village community. Can there be a greater crime than this?

4. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 [Forest Rights Act] has been sidelined by the Land Bank enforcement by which thousands of acres of ‘uncultivated forest land’ has been included in it. It is a serious infringement of Forest Rights Act. The Act stipulates that the village community has the “right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use” [3(1)(i)]. However, the central govt may allow diversion of limited amount of forest land for certain specified facilities namely “schools, dispensary or hospital, anganwadis, fair price shops, electric and telecommunication lines, tanks and other minor water bodies, drinking water supply and water pipelines, water or rain water harvesting structures, minor irrigation canals, non-conventional source of energy, skill upgradation or vocational training centres, roads and community centres provided that such diversion of forest land shall be allowed only if (i) the forest land to be diverted for purposes mentioned in this sub-section is less than one hectare in each case, and (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha” [3(2)].

It shows that pro-people laws are not meant for implementation, it is only for show like the elephant's tooth.

On all counts the enforcement of Land Bank is unconstitutional, illegal and unjust. People are also becoming aware of the cheating game the govt is trying to play with them. They will not be cheated any more. Just as the more than hundred MoUs signed so far have not ushered in the industrialists whose only motive is profit at any cost, this trickery of the govt also will not help 'Momentum Jharkhand'.

In Jharkhand till now from the formation of state hood, 9 Govts formed in 16 years. During this period all ruling class parties were once or twice or thrice they formed the Govt. All Govt did so many MoUs & tried to implement it forcibly. All Govt express their views to revise the SPT & CNT Act, but when any of them sit in opposition they start to oppose the revision. They play same drama on the question of displacement. So there is no hope for the indigenous people of Jharkhand in any ruling class parties. But problem of people are this that there is no any state level party of Jharkhand to lead the anti-Imperialist development policy.

The CPI(ML) & Hul Jharkhand Kranti Dal continuously try to expose the present "development" policy of Imperialism. Which continue in India since the rule of East India Company. Even after 1947 there were no any fundamental change took place. After globalization it is much clear than before that more than investment amount in our country from the Imperialist country are going outside of our country. There are industries almost without employment and it is not sustainable nor eco-friendly. So it is harmful for country in all aspects. Come forward to oppose this Imperialist development policy.

**Land Bank in Torpa Block,  
Khunti Dt., Jharkhand**

**Uncultivated Private Land:**

No. of Plots: 1568  
Total Identified as acquirable: 10,898 acres  
Total transferred to Land bank: 1116 acres  
Total still Available: 9781 acres

**Uncultivated common Land:**

No. of plots: 367  
Total identified as acquirable: 683 acres  
Total already transferred: Nil  
Total still available: 683 acres

**Uncultivated forest Land:**

No. of plots: 354  
Total identified as acquirable: 4523 acres  
Total already transferred to Land bank: Nil  
Total Still Available: 4523 acres

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