



**ACT WHICH WILL DESCRIBE THE
CULTURE OF JHARKHAND STATE
(ANALYSING CHOTA NAGPUR
TENANCY ACT)**

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ABSTRACT

This article will mainly focus on the state of Jharkhand, and will examine the social and civil problems of the Adivasis related to the land tenure system. The land-related laws which are there in Jharkhand are Chota Nagpur Tenancy Act, 1908 and Santhal Pargana Tenancy Act, 1949. (This act restricts the transfer of selling or buying of tribal lands to non-tribal in Jharkhand region. CNT and SPTA were formed because many non-tribal people have lured the tribal people in remote areas to buy their lands at cheap price. It was also observed that they were forced by the non-tribal for selling their farmlands and non-farmlands). The issue which is raised above in this article are the problem of the Adivasi who are living in the state of Jharkhand is interwoven and the law which are passed by the legislature has a certain kind of relationship with the customs of the land laws like CNT and SPTA, which restrict the industries to enter into the soil of Jharkhand due to which the Non-Adivasis and the Adivasis living in the state are also facing complications where most of the tribal living in the state of Jharkhand are illiterate (with a literacy rate of 67.63%, below the national average of 74.04%, as per the 2011 Census). Despite of presence of laws which will protect their land resource, because of their asinine they sell their land illegally to the Non-Adivasi, the main reason behind this is that they require money and to earn money

in a blow is to sell their land illegally because most of the land in the state of Jharkhand belong to these tribal groups. As there is an affinity in grasping the opportunity it is very difficult for the tribal to earn their livelihood. It will be demonstrated in this article, through different committee reports of state of Jharkhand through the help of NGOs and the Judgements given by different District Court and High Court of Jharkhand. After a long struggle, Jharkhand came into the existence of which Adivasis were always demanding and therefore a state called 'Jharkhand' was established on 15th November 2000. The state of Jharkhand has a total of thirty-two sub-communities of Adivasis. Among them, Santal, Oraon, Munda, Ho, and Kharia are the major Adivasi. A conscientious outline has been made in this article to interpret the nature of these conflicts, in terms of time and space, and also came out with a set of recommendations for civil society with a view to resolving these problems by democratic means.

Key Words: Adivasi, Land dealings, CNT, SPTA, Tribal, Non-Adivasi

INTRODUCTION

The state of Jharkhand was always demanding a major land tenure act to protect their culture of Adivasis. In the 19th century a numbers of legislations were enacted and the one which was implemented was named as Chotanagpur Tenancy Act (CNT Act of 1908), still one of the important land tenure act in force in the state of Jharkhand. This act provides not only the creation and maintenance of the land, but it has also created a special tenure category which is



known as “Mundari Khuntkattidar”¹ and restricts the transfer of tribal land to non tribals. The CNT Act provides for recording of various customary community rights like water, land and Forest.

Water, Land and Forest when all three ingredient of nature combines together they constitute surrounding in the nature and these are the important source of livelihood for the indigenous communities, but their lifestyle, rites-rituals, culture, customs, folkways and even their whole life vibrates accordingly. The Adivasis worship the natural constituents and ecosystem’s like Village spirits (Hatu Bonga), Hill (Buru Bonga), the sun (sing Bonga) as their gods and goddesses. They show their identity through respective tribes in relation with nature and resources like tete(a bird), ekka (tortoise), kujur (a creeper), lakra (tiger), Xess (rices or Paddy). Therefore, if the outer world will interfere into their lives then that will definitely affect their entire traditional, culture and natural resources. And it is very unfortunate to see that the Adivasis are struggling to save their endangered existence in this capitalistic competitive neo-imperialistic world.

Chota Nagpur Tenancy Act popularly known as CNT Act was enacted in the year 1908. The government has made certain amendment in this act for the Landlord and Tenant and the settlement of rent in Chotanagpur. The CNT Act came into force on the 11th November, 1908. It was first published in the Calcutta Gazette². The

Governor General give its assent on 29th October 1908. The Chota Nagpur Tenancy Act, 1908 prohibits transfer of lands by sale, etc. Without the previous sanction of the Deputy Commissioner³. It also prohibit the use of land for the urban purpose.

But in the case of **Mathura Singh v. Tetli Dom**⁴ the Hon’ble Court held “*that the provision under section 46(1) was not ultra vires and the transfer being without permission was not valid. Section 46 is completely immune from attack of violation of Article 19(1)(f) in view of its inclusion in IXth Schedule item no 209*”.

The state of Jharkhand is popularly known for its enormous natural resource. For the poor tribals, the basic survival and dignity is associated with their land. The CNT Act was placed under schedule 9 of the constitution of India and schedule 9 is beyond any judicial review. But this act has been widely violated since it has been passed. The prime reason for the violation of this act are the ruling parties of the state of Jharkhand due to which the poor tribals are exploited.

A petition filed by **Salkhan Murmoo**, in Jharkhand High Court on 25th January 2011 in which the Hon’ble High Court said that “*the court are very strict in implementation of land reforms laws and in the protecting the interest of the downtrodden and particularly the persons who are members of scheduled castes and scheduled Tribes as the members of other backward class*”⁵.

¹ Section 8 of Chotanagpur Tenancy Act, 1908 defines Mundari-khunt-kattidar means a Mundari, who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family.

² Section 1 of the Chota Nagpur Tenancy Act, 1908

³ The Chota Nagpur Tenancy Act, 1908 Bengal Act 6 of 1908

⁴ 1996 (2) BLJR 1116

⁵ Shalkhan Murmoo v. State of Jharkhand & ors, W.P (PIL) NO. 758 of 2011



Section 49 of the Chota Nagpur Tenancy Act, 1908 says that “Tribal land can be sold to non-tribals too but only for the purpose of putting up industries or for agriculture work-but in this case the permission requirement has been changed. Rather than deputy commissioners (as provided in the original act), permission is needed from the revenue department”.⁶

HISTROY BEHIND THIS ACT?

The British Government passed this Act in the year 1908. The main objective of passing this act can be figure out through the statement of Mr. Slacke who moved the Chota Nagpur Act in 1903 and later he was appointed as the commissioner of Chota Nagpur Mr. Slacke said: “Owing to the non-recognition of their rights, the Mundaris for more 3/4th of the century have been in a state of agitation, which from the time has culminated in outbursts. In 1822 a horde of middlemen was let loose over the country by then Maharaja of Chota Nagpur. These persons were up countrymen. They were ignorant of and oblivious to the rights and customs of the aborigines, among whom naturally much discontent arose. This found a vent in the great Munda rebellion of 1832-1833, the immediate cause of which was an attempt by the Thakur of the Sonpurgarh to destroy Khuntkatti rights in Bandgaon and Kochang in the district of Ranchi. The attempts to destroy the Khuntkattidars’ rights did not cease, and they were the cause of the disturbances between the Landlords and Tenants in that district in the year of the Mutiny. Both sides took advantage of the disorder that then prevailed – the landlords to oust the khuntkattidars who were holding at low permanent rentals, the khuntkattidars

who were holding at low permanent rentals, the khuntkattidars to recover the khuntkatti lands which the landlords had previously succeeded in making Rajhas or Manjihahas, i.e., Rayati or Sir. Eventually the Chota Nagpur Tenures Act of 1869 was passed and effected some improvement. But it omitted to deal with the all the privileged lands, as it took no notice of instant khuntkatti villages. This omission left such villages at the mercy of the spoliator. The destruction of the khuntkatti tenancies went on, and the discontent thereby created brought about the outburst of 1888, when what is locally known as the Sardari-Larai began, and has not yet ceased. Utilizing the bitter feeling of the Mundaris, some of their fellow-clansmen-they came to be known afterwards as Sardars-persuaded the people that the Hindus had no right to the lands that the lands belonged to the Mundaris, that no rent should be paid, and that the Sovereign had given a decree to this effect. The outburst that occurred at the time was put down, but it again broke out in 1899-1900 under the leadership of Birsa, who styled himself as God.”

As a result, of dissatisfaction which led British Government to have a survey of whole Chotanagpur region. Mr. Slacke further said, “But if steps are not taken to safeguard by legislation the rights of those people and to secure the finality of the record-of-rights, the latter by itself will not suffice to quiet the agitation. As long as 1839 it was reported that unless those people are protected in the possession of their lands, we never can be certain of the peace of the country. Once the necessary facts have been obtained, as is now the case, such legislation

⁶ Section 49 of The Chota Nagpur Tenancy Act, 1908 Bengal Act 6 of 1908



cannot be delayed, because the attacks which have been made on these rights so pertinacious and for so long a time will be carried on with a greatly increased vigor, owing to the need of acting before the law can intervene”

The ownership of the land which were wasted in the hand of the Government were added under the Indian Forest Act VII of 1882 during 1893-94. In Singhbhum as in Palamau and Manbhum the forest settlement operations were launched and all the measures were taken to determine the rights of the Adivasis. The villages among the forests were marked off in the blocks of convenient size consisting not only of village sites but also cultivable and waste lands khuntkatti villages. The Colonial intervention bought number of enemy of the tribal culture. Penetrating into their identity, lifestyle and spirituality. The concept alien to the tribals such as ownership of land, accumulation of power, wealth and money began cropped up. The British Colonial Government tried to end the dissatisfaction among the large population of Chota Nagpur plateau by passing the CNT Act of 1908. This Act build peace in the region of Chota Nagpur plateau.

SITUATION AFTER THE INDEPENDENCE

Chotanagpur Tenancy Act (CNT) restricts the transfer of selling or buying of tribal lands to non-tribal in Jharkhand region and ensures the ownership of advises over their land for the protection of their culture and **Khuntkatti**⁷ areas. The forest which the landlords (zamindars) took illegally has to give their possession to the Munda

⁷ Section 8 of Chotanagpur Tenancy Act, 1908 defines Mundari-khunt-kattidar means a Mundari, who has acquired a right to hold jungle land for the purpose of

community. But, after the establishment of the Bihar Forest Act, 1948 the scenario changed the khuntkatti land were transformed into private forest as a result the Munda has to leave the ownership and management upon their forests. Due to which the Munda started protesting against the state government to give back the possession to their land to the community. But, government didn't change his decision and rested with the forest Department.

The Adivasi community wants their ownership over their lands because the landlords and the land mafias were using their land illegal according to their own interest. The main reason to bring CNT and SPTA to protect the identity of the tribals. The tribals get their education in mother tongue including the tribal language because of that they are not so adequate to know about their rights related to lands. So, for that reason, the CNT and SPTA came into existence. But after the establishment of the Bihar Forest Act, 1948 the exploitation of the huge asset of the forest land by the forests officials due to which the primary forest cover was almost destroyed the Adivasi community started asserting their rights over the forests.

A new act was passed in 1969 known as the Bihar Scheduled Areas Regulation Act the main reason to bring this act was to restrict the transfer of selling or buying of tribal lands to non-tribal. *“For this a special regulation court was established and the Deputy Commissioner (DC) was given special rights regarding the sell and transfer of Adivasis land. According to this Act, an Adivasis cannot sell or transfer land to another*

bringing suitable portions thereof under cultivation by himself or by male members of his family.



*Adivasi without the permission of the Deputy Commissioner (DC). When this court started functioning, a huge number of cases were registered”.*⁸

According to the report of Ministry of Rural Development of the Government of India which was published in 2004-05. Jharkhand topper the list of Adivasi land alienation in India with 86,291 cases involving 10,48,93 acres of land. Which clearly indicates that cases of illegal land alienation is increasing rapidly⁹.

PRESENT SCENARIO

The Non-tribal group applied various kinds of tricks to take the land of the tribal illegal. For that, they use many ways such as:-

- I. The most popular trick that the non-Adivasis uses to buy the Adivasi lands is to get married to an Adivasi girl and transfer the land in her name.
- II. Due to the lack of money, the Adivasi surrender their land to the money lenders. After Adivasi are been trapped by them through the loan.
- III. False documents of the land is also used to acquire the Adivasi land illegally.
- IV. The Deputy Commissioner (DC) also plays an important role in the illegal transfer of land as Non-Adivasi commissioner gives the authority to transfer tribal land illegal due to which the Adivasis has to suffer a lot.

As we know that the state of Jharkhand is rich in natural resources and the state government found many difficulties in extracting those natural resource in 1947 the state government

planned to amend CNT and SPTA act for the purpose of Urbanization, industrialization and for development projects. Due to which a huge destitution was caused to the Adivasis. After the amendment done by the state government in CNT and SPTA. The Adivasis started thinking that the state government has planned to destroy their natural heritage.

The main reason for the establishment of the Chota Nagpur Tenancy Act, 1908 was to prohibits the sale and transfer of tribal land to the non- tribals. But we can clearly witness that due to the certain decision which was taken by the state government which snatched the land of the tribal forcefully. The state government has never gave emphasis on schedule V of the Indian constitution for the scheduled areas and the extension of the Panchayat act, 1996 they have never been implemented in true spirit.

Social Issues India in an article, “*Status of Implementation of Chotanagpur Tenancy Act*”

(<https://socialissuesindia.wordpress.com/2012/09/18/statusof-usage-of-the-Chota-Nagpur-tenure>) uncovered some interesting facts. As indicated by the Ministry of Rural Development’s yearly report 2004-05, Jharkhand beat the rundown of Adivasi land alienation in the country, with 86,291 cases including 10,48,93 acres of land. After freedom and up to 1990 more than 26 lakh, individuals were dislodged in the Jharkhand due to “Development” projects, for example, dams, industrial projects, etc. Majority of them were tribal land. It has been assessed that around 22,00,000 acres of tribal land been lost since independence. These statistics

⁸ Secion 2 and 3 of Bihar scheduled area regulation Act, 1969

⁹ Ministry of Rural Development of the Government of India [Online].

Available:http://mohua.gov.in/upload/uploadfiles/files/13AnnualReport_2004_05.pdf



talks obviously that the CNT act has failed to secure the interests of poor tribes.

In fact, the CNT Act has to pass through amended in 1947 to allow “development” projects. Besides, there are other laws such land acquisition Act of 1894 and the Indian Forest Act conflict with the soul of the CNT Act. Therefore, the CNT Act has failed to provide any meaningful protection to the tribal community. The Bari Cooperative society case can be cited here to understand how the builder’s lobby tries to manipulate the CNT Act in their favour. “Tetulia” is an Adivasi village situated nearby the steel city of Bokaro in Jharkhand is a typical example of land alienation through tricks and breach of the laws. Forty-five Santhal families had been living in the town. They were fooled into parting with their properties. Presently the town has totally lost its character and has come to be known as Bari Cooperative where 250 posh buildings have replaced the mud house of non-Adivasis. Few of the tribal land owner still live in the mud houses outside of the cooperative area.

The '**Bari Cooperative Society**' was set up in 1980 by two property sellers, who moved toward the Adivasis with a proposition to build up a garment factory and provide jobs through paying them Rs 1000 per acre for land, they procured 50 acres of land from Adivasis for the sake of Bari Cooperative however at that point supported on their guarantee. Strikingly, the garment factory was closed within a day and a posh colony was built and the houses were sold at the market rate to the non-tribals. When the matter was brought out into the light, the deputy commissioner of Bokaro investigated it in 2005 and found the infringement of the CNT Act. However, no action took place

against the Bari Cooperative. The displaced tribal families are without justice even after more than three decades. One Kari Manjhi had 9.26 acres of land of which 4.26 acres of land were taken by the Bari Cooperative. He filed a suit in the Bokaro Civil Court against the Bari Cooperative in 2006 yet nothing has occurred till now. The predicament doesn't end here. The disposition of the administrators towards the execution of CNT is a sad story.

"Ranchi Land Scam" draws out the dull reality. In 1995 the Jharkhand Vigilance Bureau uncovered a land scam wherein a coordinated effort with certain civil servants and land mafia had sold in excess of 200 acres of land of tribal and Government land at prime areas in Ranchi, which was worth over Rs 400 crores.

These plots of land were unlawfully moved to private housing co-operative societies in gross violation of the CNT Act. "Deoghar Land scam" years back to 2011 when it was found that about 800 acres land of non-transferable private and government land worth over Rs 1000 crores were sold or moved wrongfully.

This was continuing throughout the previous three years by forging the original land records the land-mafia has figured out how to snatch these basauri (residential category) plots in Deoghar.

CONCLUSION

This act was introduced by the British government in the year 1908 for the protection of tribal land and tribal culture in the Chota Nagpur region. This Act restricts the transfer of selling or buying of tribal lands to non-tribal in the Jharkhand region. *The CNT Act is effective in North Chota Nagpur,*



*South Chota Nagpur and Palamau division, including different districts*¹⁰. Up until now, the CNT Act has been amended multiple times, recently in 1995. *This act is been listed in the Ninth Schedule of the Constitution, so this act is beyond any judicial review. The state legislature can only make amendments in this act.*¹¹ At present more than 20,000 cases are pending which are registered under CNT act in the state of Jharkhand.

In the wake of experiencing the arrangements and investigation given above it turns out to be certain that the different laws sanctioned for the tribal and for securing their land to them are very adept. They are basic for giving the tribal a directly over their land and for guaranteeing that their properties right are not disregarded.

Keeping in view the tribal life which is predominantly forest-based, to deny them of the advantages of the forest would be sheer bad form, where a large portion of the individuals are yet living in the forest area and subject to the forest produce for their living. In such circumstances, it is significant that rigid laws must be there for keeping the privileges of the tribal maintained.

Each ideological group has its own say with respect to the CNT, the vote bank politics, the mollification factor all work in total for these gatherings in encircling their opinion. Differed assessments encompassing the CNT have exacerbated things for definitive recipients. And furthermore, the destiny of CNT remains dwindled. An all-encompassing advancement of the state and tribals in specific requests a more uniform methodology towards the much discussed

Act, the paramount interest of the tribals ought to undermine all basic political contrasts.

In this way, demand for an amendment to existing laws to the extent privileges of tribal must not be engaged. Incorporation of section 76 which read as “*that the local custom will prevail in the absence of any written law of the land*”¹². In this way, remembering all these angles that the current laws need firm execution with no amendment for the government assistance of the tribal society. However, pundits frequently refer to certain provisions in the Act as acting against the enthusiasm of the tribal communities remembering the changing situation of the general public. The banks in the state refrain from offering loans to tribes’ people because of legitimate arrangements in both the CNT and SPTA banning transfer of immovable assets of tribal to the non-tribal group.

The banks dread the arrangements to keep them from selling the sold property of a tribal. Recently, at the 50th regular gathering of the state-level bankers committee, Chief Minister said the government would before long actualize the proposals of the Tribal Advisory Council to ease the CNT and SPTA norms. He said even education and housing loans were not being disbursed to tribals’ people. The CM said the administration would soon create a corporate social responsibility trust in which organizations would be asked to deposit 2% from CSR fund share in the trust. The trust will execute the plans of the government.

¹⁰ Section 2 of the Chota Nagpur Tenancy Act, 1908

¹¹ The Chota Nagpur Tenancy Act, 1908 Bengal Act 6 of 1908

¹² The Chota Nagpur Tenancy Act, 1908 Bengal Act 6 of 1908