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Adivasiness as Caste Expression and Land Rights Claim-Making in Central-Eastern India

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ABSTRACT

The adivasi population represents a special case in India's new land wars. Strong individual and community rights to agricultural and forest lands have been enacted for this group based on notions of adivasi identities as primeval, but without linking these to economic and political influence. This article interrogates the adivasi land question seen through a caste lens. It does so via case studies in two states to understand the ways in which adivasi identity can be mobilised for its instrumental value and used to demand land rights. In Andhra Pradesh, the Supreme Court's Samatha Judgement has prevented virtually all private mining activities. In Jharkhand, however, similar legislation is seen to be trumped by the national Coal Bearing Areas Act, as well as by former and current land acquisition acts that allow industrial land claims to take precedence over identity-based ones. Available evidence indicates the challenges involved in bringing support for land rights that are premised on a supposedly unchanging adivasi identity when these rights go against dominant interests. This circumstance serves to highlight the possibilities present in caste analysis to understand the plight of adivasis, despite their usually distinct treatment in scholarly analyses.

KEYWORDS

Adivasi; land rights; caste; identity politics; indigeneity; sub-national regions

As Steur (2017) has demonstrated, indigeneity can be a strategic identity many adivasis turn to for its instrumental value in their efforts to secure rights such as land ownership.¹ "Adivasiness" in this view provides an identity to cohere around for social movements and political mobilisation based on citizenship claims. Yet an adivasi identity differs from a caste identity in two key respects: first, it is essentialised as being accompanied by a "backward" trope tied to nature. Second, this identity of backwardness has become firmly established as a basis for numerous pieces of potentially powerful legislation aimed at securing land control and other citizenship rights for culturally stereotypic adivasis, but only in ways that strictly define and limit the meaning of ownership and control over resources. Such reflections have informed scholarship on adivasi issues for a considerable time (see, for example, Baviskar 1995; Prasad 2003). Mindful of such crucial differences, our intent is not to treat adivasis as equivalent to caste groups. Rather, this article examines adivasiness through a caste

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lens to understand how questions of identity square with the manner in which land claims are made and brought to bear in India.

The starting point for our analysis is the ways in which agricultural and forest land rights have been accorded to adivasis based on state definitions of their “backwardness.” Such rights have rarely resulted in ownership on terms comparable to those of the wider economy (Baviskar 2005). Adivasis have also been excluded from management of commons like forests supposedly better handled by “experts” (Kumar and Kerr 2012). In fact, existing legislation in certain cases completely bans the sale of adivasi land to non-adivasis as part of a protective ambit purportedly intended to protect against exploitation by non-adivasis. Land that cannot be sold or mortgaged, however, lacks meaningful economic value if it is forcefully taken away for “development” projects or needs to be sold on other grounds, including a potential need to generate funds for non-farming reasons (Balagopal 2007a). Recent forest legislation proceeds along a similar line when providing community and individual rights to forest for adivasi and other forest-dwelling groups without actual ownership (Kumar and Kerr 2012; Lele 2017). The lack of land value, in a capitalist market sense, does not only yield inadequate compensation for displacement; it also leads to a lack of political clout for adivasis in a democracy where money is closely linked with political influence (Guha 2007). This circumstance is hardly unique to India (see Kitschelt and Wilkinson 2007; Fuentes-Nieva and Galasso 2014).

As land has come to be a defining matter of social and political controversy in contemporary India, adivasi dependence on land is often foregrounded in environmental movements and as part of displacement struggles (Levien 2013; Chakravorty 2013; Jenkins, Kennedy, and Mukhopadhyay 2014; Nielsen 2018). The association between land loss and adivasis is strong to the point where the group has become firmly established as always being the losing side in India’s new land wars as dams and mines expand across the adivasi central-eastern parts of the country (see Balagopal 2007a; Padel and Das 2010; Steur 2017; Kabra 2019). In legislation related to adivasi protection, agricultural land and forests are treated as separate entities. This distinction, however, is not as easily made “on the ground” where resource use boundaries are often unclear and porous in practice. The evolution of land legislation, we argue, can be traced in relation to expressions of adivasiness, and follows a parallel, though often diametrically oppositional, trajectory for agricultural and forest lands.

Frequent rebellions from colonial times, running well into the independence era, and with significant resonance in present-day Maoist insurgency operations, have resulted in wide-ranging rights to agricultural land for adivasis across federal states in central-eastern India (Pati 2013; Bates and Shah 2014). While varying across states, and in the case of Jharkhand state also between territories within the state, the focus of such legislation is to prevent any land alienation, whether by sale, mortgage, lease, inheritance or other means, from adivasis to other groups (Balagopal 2007a; Rao 2008). In certain cases, the state itself has also come to be identified as non-adivasi to prevent it from alienating land, including forest land held by the state (Oskarsson 2013). Crucial in these land legislations across India’s federal states is the sole focus on agricultural land in tribal areas, which has left large swathes of forests firmly under state control.

The existing tribal land transfer legislation that protects agricultural land may be used in occasional court battles aimed at stopping mines or dams but is not made to concur with



forest legislation, and may often not lead to actual land control but only a prevention of dispossession.² These inconsistencies present obstacles that continue to create significant pressure across federal states to liberalise the laws and further reduce legal protection (see Rao 2003; Kumar, Singh, and Kerr 2015; Balagopal 2007a; *Hindustan Times*, November 3, 2016). In areas of strong social mobilisation, such laws can nonetheless be useful in securing vital agricultural lands for adivasi farmers (Oskarsson 2018). Advances in national land compensation policies have, however, been accompanied by ever weaker general demands for land reform across the country. In line with this, the adivasi claim to land has weakened, and is being substituted by forest claims.

To some extent the historical exploitation of adivasis by the Forest Department has lessened because of the department's weakened economic and legal status (Sareen 2017, 863). An especially important legislative development that has further strengthened adivasi rights is the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 or FRA (Kumar and Kerr 2012, 758–759). However, such positive developments are challenged by recent changes in political leadership and the passage of the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) Act 2016. CAMPA requires all forest land acquired to be compensated with an equal amount of land for new forest cultivation elsewhere but places the new forests outside of the control of forest-dwelling communities. It further allows the Forest Department to access massive funds that the state has been accruing for years and to exert stronger control over land (Lele 2017, 58) – a case of “the empire striking back.” CAMPA thus re-asserts the status of the Forest Department over adivasi forest-dwellers as the scientifically competent and monetarily able body to deal with the establishment of new forests.

These developments cast light on the tenuous nature of land rights legislation for adivasis, as brief case studies in this article of Andhra Pradesh and Jharkhand, states with large adivasi populations, demonstrate. We argue that legislation premised on a pre-defined and essentialised legal notion of adivasiness, continues to drive long-running performances of “adivasiness” to secure land. Existing rights have largely failed to provide safeguards against widespread dispossession, and even cases of upheld rights, all things considered, have not supported generalised socio-economic improvement. The social science literature on adivasis has focussed on many such processes but has tended to treat adivasi identities as largely pre-determined and fixed. In this article we view adivasiness, aside from its socio-cultural significance, as an identity which is at times mobilised for its instrumental value and used to demand, and perhaps even secure, land rights, or to put off land dispossession, as Steur (2017) indicates. Such an analytical tack has been popular in studies of caste (see, for example, Omvedt 1994; Reddy 1989; Srinivas 1996) yet seems to be put aside when it comes to adivasis. Several scholarly works demonstrate the value of deconstructing land-identity linkages (Li 2014; Lund 2017) and scholarship that gives rise to the possibility of treating adivasi land claims in line with similar agrarian caste patterns (S. Guha 1999; Prasad 2003; Steur 2017).

The next section of the article juxtaposes adivasiness and caste in relation to land rights claims and their legislative basis. It argues that adivasi land claims display many caste characteristics in regard to land rights and details how land conflicts and adivasiness interlace. The subsequent section provides an overview of the two case study states in terms of land laws and distinguishes between forest land and agricultural land and

dwells on sub-national and regional variations. Thereafter, the article presents indicative case studies of these issues in Andhra Pradesh and Jharkhand. A concluding section returns to the potential implications of the mobilisation of adivasiness in each state and on whether its manner of representation varies in ways that are coterminous with the legal land framing. The conclusion further interrogates the analytical usefulness of seeing adivasi identity as being akin to caste in relation to land rights claim-making.

Adivasi Land Rights and Caste

Caste and adivasiness are different but have potentially comparable functions drawn on during land rights struggles. The analysis of adivasiness can deepen our understanding of how people turn to their adivasi identity for land rights, much as other groups turn to their caste identity for similar purpose. The “indigenous slot” that adivasis are expected to fit into in order to increase their expectations of successful land claims provides, however, a stark difference compared to caste, in terms of limiting the nature of claims adivasis can make to those that match their definition in legal terms. Land relations are important in contexts where land appropriation takes place in parallel with natural resource extraction, driving land use change in often irreversible ways. Both the states examined in this article have a history of mining; they thus constitute opportunities for unpacking adivasi land relations, and for characterising how the land rights legislation is operationalised in relation to adivasi identity as part of contestation over land affected by extractive industries.

Writings on the environmental history of forests, including Bates and Shah (2014) and S. Guha (1999) and social movement agitation in India by Baviskar (1995) and Kumar and Kerr (2012) have sought to clarify how adivasis came to be seen as connected to land and the environment. It is clear that land rights have been fought over for centuries, resulting in remarkable strength on paper (Arnold 1984; Bates and Shah 2014; Pati 2011). In practice, however, there remain significant gaps (Oskarsson 2018). Rights adopted during the colonial period were largely continued at independence as adivasis were both “exoticised and patronised and seen as requiring longer term protection and development” (Shah 2010, 13). Unabated attempts across federal India to change existing provisions have led to some recent amendments that weaken land rights provisions, but throughout the post-colonial period land rights legal provisions have endured (Oskarsson 2018).

Bates and Shah (2014, 2) ask if there is something specific about adivasi insurgencies and why these have come to be characterised as separate to other protests made by farmers and forest-dwellers who are not part of this group. Something in adivasi identity, in addition to impressive protest movements, continues to generate substantial, albeit scattered and poorly implemented, legal support. At the same time, it is now well understood that a complex set of hierarchies, not all that different from those of castes, exists between and among tribes, who are “differentiated and stratified by gender, geography, education, employment, piety, and many other social factors” (Moodie 2015, 5). The homogenous image of the tribe continues to be challenged by literature detailing a “tribe-caste continuum” (Shah et al. 2018) with specialised professions, traditional leader tribes, vast disparities in land ownership and other classical class issues (see, for example, Chandra 2015; Sundar 2016; Moodie 2015; Steur 2017).

Bates and Shah (2014, 2) pry open the possibility that “state-making processes and colonial governmentality in ‘tribal’ areas may have produced different processes of subject-making amongst those labelled adivasis than those deemed ‘untouchable’ castes, the Dalits living in the throes of Brahminical Hindu society.”³ Such processes have become well-ingrained in governance practices but may nevertheless represent different entry points into subjectivity and rights around land. Steur’s work makes it particularly apparent that, as Sareen (2018, 2) explains, “prevalent problematisations of categories such as indigeneity, caste and communism in academia sit uneasily with the explanations people put forward for mobilising, typically to secure land rights through the most effective means available to them.”

Given the supportive legislation, it is noticeable that more and more groups clamour to become adivasis, while very few ever leave the government list of groups identified as Scheduled Tribes (Middleton 2013). In national and state-level policy, however, the image of tribes is firmly presented, similar to indigenous people in other parts of the world, as unified and internally egalitarian, as instantiated in, for example, the FRA. Intra-tribe issues are rarely discussed and yet it has been highlighted that “well-intentioned transnational discourses around indigenous rights might unwittingly be reappropriated within a rural class structure that further marginalises the poorest” (Shah 2007, 1823). Land rights for tribal women, for instance, remain severely lacking, with tribal societies showing distinct gender inequalities in land ownership along the same lines as for other agricultural groups, in spite of tribal society being purportedly more gender egalitarian (Rao 2007, 2008; Moodie 2015).

By contrast, drawing on a trope that understands adivasis as backward is the idea that they cannot properly protect or replenish forests (Suykens 2009). The forest bureaucracy has consistently opposed adivasi control over forests by insisting on scientific forestry and by controlling forest development funds (Sareen and Nathan 2017; Springate-Baginski and Blaikie 2007). This primacy to the role of expertise confers an advantage upon state agencies vis-à-vis communities. There is, then, a tension on the one hand between the historical identification of being a nature-dependent adivasi and lower- or non-caste person and, on the other hand, being seen as backward and unable to comprehend science. How these questions of identity square with land claims and the ability to bring them to bear, and whether there is a parallel with how caste identity is mobilised, are central in this article. When applying a caste lens to adivasi land claims it is possible, along with Steur (2017, 10), to see “indigeneity not as a category outside of a capitalist world system but precisely one produced in as well as against it and hence in many ways continuous with other such categories.”

The wide-ranging experiences of tribal land alienation and continued failure to address resettlement support special legislation for tribes across India. Ironically, part of the response to continued land rights legislation that apparently operates against the interests of dominant groups is the remarkable circumventions of the legislation to dispossess tribal farmers and forest-dwellers. In many areas with special adivasi land rights, land is in practice controlled, if not owned outright, by non-adivasi farmers and moneylenders, the state and private sector enterprises (Rao, Deshingkar, and Farrington 2006; Oskarsson 2013). Recent legislation like the FRA, despite being a very important piece of legislation that builds on adivasi rights to agricultural land to include forests, does not appear to change this.

When it comes to caste it is understood as not just embedded in everyday productive relations but has ritual overtones of purity and belonging, which work to separate people from one another (Omvedt 1994). Caste is thus simultaneously about identity and class. The Scheduled Castes (Dalits) have tended to be included in the lower rung of the village with a history of severe labour and social repression. They have, therefore, been more inclined to join the project of modern India and to take up formal jobs in the city (see Lerche 2013; Balagopal 2007b). The demands for Dalit land rights have consequently never become as strong as those of the tribes, even if pro-poor land reform did constitute a major demand following independence (Deininger, Jin, and Nagarajan 2009, 501). To Omvedt (1994, 7), caste should be seen as present-day inequalities resting on historical antecedents where “relations of exploitation are interwoven with community/tribal/kinship features in pre-capitalist systems.” The ancient system of caste as it is known today is an interplay between historical social formations on the South Asian subcontinent, with the particular form of colonial modernity with which the British organised, formalised and systematised social relations (Dirks 2001, 5). This view emphasises the co-creational processes that have turned caste into what it is today.

While caste as a system appears to be a set of rules and practices with deep implications for society overall and more specifically for the land relations that comprise the focus of this article, the converse may also be said: economic and societal changes continue to shape and reshape caste, as the extensive literature on caste and society shows (see, for example, Thorat and Krieger 2012; Agarwal and Levien 2019; Das 2019). In this perspective, the portrayal of the unchanging nature of adivasis in much current scholarship can appear highly limiting for the range of lived realities of different adivasi groups across the country. This leads us to return to the association of adivasi identity with land in a manner that is not similarly emphasised between caste and land. This association is especially seen in the literature on forest land as the romanticised abode of adivasis, even as many adivasi communities live on land that cannot rightly be called forest and is sometimes not even located on the forest fringe. Many of the new environmental movements supporting adivasis in the 1980s and 1990s were championed by middle-class, non-adivasi people inspired by Gandhi and lacked attention to internal differences within rural communities seen as unitary villages. The literature on environmental movements and ecofeminism had, as Omvedt (2011, 86) points out, “a tendency to idealise Indian traditional culture” and to some extent to even find ecological or social reasons to rationalise existing hierarchies between adivasi and non-adivasi (see, for example, Gadgil and Guha 1992; Shiva 1988).⁴

While state policy and social movement agitation have come to dominate legal texts and support for adivasi rights, multiple alternative understandings of adivasi identity continue to exist (Middleton 2013). One such theme is the violent adivasi, who is part of Maoist and other rebellious groups (R. Guha 1999). Another is the adivasi as a lost and backward Hindu, with support from many in the present Bharatiya Janata Party-led government (Shah 2007, 1816). These understandings are not merely contained in government definitions, however. As Kaur and Hansen (2016, 269) explain, government-backed portrayals can take on the status of powerful imaginaries and become embedded in the mindscapes of hundreds of millions of Indians. Such emotive essentialisms – adivasis as rebels, misguided or lacking a sense of self-identity – are mobilised by various actors to different ends. This also includes adivasi portrayals of themselves,



much as castes mobilise around other legislation and popularly held assumptions that concern them (Middleton 2013; Moodie 2015; Steur 2017). In conjunction with Lund (2017), we argue that popular support, appeals to social assumptions of morality, political pragmatism and favourable legislation coalesce as spatiotemporal advantages within complex conjunctures in the making of land claims for specific groups of people including adivasis.

Adivasi Land Legislation

It is well-known that adivasis have been, and continue to be, disproportionately displaced – 70 million in Fernandes' (2009) count, cited in Cernea (2016, xii). Over the centuries, adivasis living in the Fifth Schedule Areas have faced land dispossession by the state, which has claimed most forests across hilly landscapes. Non-adivasi farmers and moneylenders have taken control of much of the high-quality agricultural land in valleys and across flatter terrains (Balagopal 2007a; Guha 2007; Singh 1986). In more recent decades, industrialisation, including dams, industries and mines, has moved into adivasi regions across central India. Here, the state has used its power to acquire land for its own purposes or for those of private companies (Lahiri-Dutt, Krishnan, and Ahmad 2012).

Since the 1830s, land laws have been adopted to regulate land possession and expropriation for adivasi. These allow the state to acquire land, while providing compensation and also offering significant protection against dispossession and usurious money-lending practices. Two separate bodies of legislation have developed in relation to agricultural land and forests, following the dual administrative setup of state governments where revenue departments manage agricultural areas and forest departments administer forests. Since adivasis live in mixed agro-forestry landscapes, both forest and (agricultural) land laws are closely connected to adivasi land relations.

Land transfers involve national land acquisition and compensation policies, but must be read together with state-level adivasi land transfer and control legislation. The national framework on land is based on the constitution including the Fifth Schedule with specific protection for adivasis. It further includes environmental protection legislation. In addition to direct legislative power the central government wields extensive financial influence via its ability to distribute central project funding to different parts of the country. State governments control land and forests within their territory with specific legislation and have developed and implemented independent policies across the states that make up the Scheduled Areas. A further development since the 1990s is the constitutional devolution of powers to local councils below the state level, but again operationalised through separate state laws (Kumar et al. 2005; Oskarsson 2018).

Based on frequent adivasi rebellions, particularly in the colonial period but also since independence, stringent laws were adopted to prevent tribal dispossession. Colonial era tribal land transfer regulations maintained currency at independence and were given added strength with the adoption of the Fifth Schedule of the Indian Constitution, which emphasises the need to support those classified as tribal and their land holdings. Both the Land Acquisition Act of 1894 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 seek to create more uniform approaches to land and compensation across the country

(Nielsen and Nilsen 2015, 204). Just as the Fifth Schedule areas open up spaces of exception to national land transfer legislation based on specific identities, the land acquisition regulations include exceptions for particular forms of land use, not least various extractive practices justified as in the national economic interest (Lahiri-Dutt 2016, 2). This sets up a dialectic as different interests make land claims – being adivasi versus being in the national interest.

While significant concessions have been made to protect adivasi agricultural land, however poorly implemented, forests have remained under the complete control of state governments until recently. Initial settlement by the British relied on claiming wide swathes of land without detailed survey of residents and land uses (Singh 1986; Springate-Baginski and Blaikie 2007). This process has only started to be rectified after the FRA was adopted in 2006. For the first time, the FRA put primacy on adivasi and other long-term forest-dwellers managing their customary areas, whether directly for forestry or for a number of other uses including pastoralism, medicinal plant collection and also recognised spiritual significance.⁵ It is clear, however, that the law continues to see adivasis as primordial beings. One aspect of this is how the FRA, while providing forest rights as a way of undoing historical wrongs, fails to provide tenure or ownership. The more recent CAMPA Act of 2016 is based on Supreme Court intervention and focuses on the economic value of forests. According to this Act any large-scale acquisition of forest lands needs to pay for not only the value of the land but also of the forest. Large funds are being collected across the country to support the raising of new forests. Compensatory afforestation from the viewpoint of adivasis represents a return of power to the Forest Department, since it is the forest bureaucracy which controls the newly planted forests.

Andhra Pradesh and Jharkhand

The Scheduled Areas of Andhra Pradesh have remained an unsettled place for centuries with continued widespread dispossession (Balagopal 2007a). Numerous rebellions broke out in the area as forests were settled with the British colonial administration and its local intermediaries from the early nineteenth century. Increasingly strong rights to agricultural land became enacted starting in 1917, with The Agency Tracts Interest and Land Transfer Act 1917 (Madras Act 1 of 1917), with amendments until the present law which dates to 1970 (Atluri 1995; Arnold 1984). The present version of the law applies to all Fifth Schedule Areas of undivided Andhra Pradesh and prevents any land being taken from an adivasi.⁶ Crucially, it also prevents land owned by the state from being transferred into non-adivasi hands. This has become vital in court struggles as the state has attempted to transfer forest lands to private mining companies but has, as we will see below, not enabled major improvements to land and forest-based adivasi livelihoods.

In Jharkhand, there are similar historical legislative developments. The Kolhan Government Estate in the state's West Singhbhum district, for instance, is not only a Fifth Schedule area but also has documentation of its historical governance practices, enabling rights to inhere in traditional village chiefs in some adivasi communities in specific ways that include the governance of land. This is, however, complicated by overlapping legal jurisdictions across authorities such as the Forest Department and



land revenue authorities, within a state context of relative political instability with frequent changes of state government during its initial years of statehood and para-military conflict with insurgent groups. Land acquisition for mining, land revenue and forest land regulation all overlap, sometimes without adequate clarity to sort out jurisdictions and with patchy access to maps that could help settle matters at points of land contestation (Sareen and Nathan 2017, 1362). Based on the Chotanagpur Tenancy Act of 1908 and the Santhal Pargana Tenancy Act of 1949, what seems like strict adivasi land tenure has been consistently trumped by other legislation that enables coal mining or other interests of the state (Lahiri-Dutt, Krishnan, and Ahmad 2012). This has been further complicated by frequent changes in state-level political leadership.

Other Fifth Schedule States, like Odisha, Chhattisgarh and Madhya Pradesh, follow the overall legislative approach outlined here but also have specific socio-legal complexities, which we do not detail here. Suffice to say that the national framework must be translated into state policies for implementation and these often markedly different across states. The reasons for variance are often historical, sometimes based on regional definitions (such as adivasi-populated Scheduled Areas), and in some cases as part of a targeting strategy under a particular programme – for instance development funding to districts identified as being affected by left-wing extremists. For our purpose, it is sufficient to indicate this sort of variation, ground its nature in factors such as the ones we have cited, and hereafter turn to specific narratives in both the states, as we do next.

Comparative Evidence from Two States

Empirical material from two states is used in this article to show how legislation that is similar around tribal land rights has come to be implemented in quite varied ways. In Andhra Pradesh (and Telangana since the bifurcation of the state in 2014), Supreme Court intervention means that all private industry is banned from operating in the Scheduled Areas. In Jharkhand, the picture is mixed, with protection in some areas while other areas remain open to land transfers to both large-scale extractive industries and to non-adivasi farmers.

Extensive fieldwork across both states was carried out by the authors from 2005 to 2013 in Andhra Pradesh and from 2012 to 2016 in Jharkhand as part of PhD fieldwork for the authors and in follow-up research projects. This research is combined here with a close reading of recent policy and court documents.

Andhra Pradesh: Banning Private Mining, Permitting Public Mining

In Andhra Pradesh, continued civil society vigilance at the state level upholds a protected area for adivasis against private sector land transfers but excludes public sector mining while providing highly limited actual control over land and forest resources for adivasis. This highly uneven state of affairs has developed via legal activism by civil society groups, primarily the so-called “Samatha” Supreme Court Judgement in 1997 named after the non-governmental organisation (NGO) which filed the case. This verdict, hailed for promoting indigenous rights, initially looked to have national ramifications given its reliance on constitutional protection of adivasis and similarly strict tribal land legislation across other states in central-eastern India. On appeal, however, it has come to be limited to a ban on

private, industrial activities in Andhra Pradesh, with no relevance to other states given that their land transfer laws are different to the one in place in Andhra Pradesh. The Samatha Judgement remains important to prevent adivasi displacement from mining. A closer look reveals, however, that restricted private mining is insufficient to support adivasi livelihoods. This is since forest and agricultural land have been vested with the state government since colonial times.

The present 1970 version of the Andhra Pradesh land transfer law might never have been implemented had it not been for public interest litigation, including that on mining, when an NGO brought a case that finally came to the Supreme Court in the mid-1990s and was able secure a positive judgement in 2000 (Oskarsson 2018). The crucial point in the Samatha Judgement was that no land could be owned by a non-adivasi, nor could the state pass this land to a non-adivasi. Consequently, private mining companies were not allowed to operate in the Scheduled Areas of the state. Public operations, seen somewhat simplistically by the Supreme Court judgement as always operating in the public interest, continue in the area. The result has been that the operations of the major coal mining company Singareni Collieries with over 45 open pit coal mines in present-day Telangana state have been able to expand dramatically and Telangana state's Polavaram dam is under construction despite major protests against the displacement of adivasis. Large-scale activities are thus allowed to expand on adivasi land if run in the public sector.

Over the years, the “ban” has resulted in different government responses to private industry and mining, from attempting to amend the constitution to changing state laws (Reddy 1988; Balagopal 2007a). When these attempts failed due to strong civil society and political party opposition at the state level, and significant protest by adivasis threatened by displacement in the affected areas, new efforts were made to circumvent the law by having a state company mine on behalf of private companies (Oskarsson 2013). Bauxite mining and refining projects in Andhra Pradesh have resulted in long-running controversy with much protest followed by delays in implementation. As a result, no mines have yet gone into production, leading an investor in one of the proposed projects to sue the national government since a failure to administratively clear mining had caused the related industrial investment to fail (Bhutani 2017, 28–29). Consecutive state governments of different party affiliations have proposed new mining upon re-election, only to later find that strong political protests make this impossible (see Oskarsson 2018; *India.Com*, November 24, 2015).

In the areas on or close to proposed bauxite mines in Visakhapatnam district, villages have, for the past 20 years, been able to remain in place in spite of repeated attempts to bring mines into production; these areas remain highly unsettled locations. The state, together with private partners, regularly propose mining projects, but the rejection of these mines has not resulted in stronger local tenure. The main way of asserting rights is via FRA legislation. Yet, asserting forest rights has proven challenging due to bureaucratic provisions, and even when successful might not offer significant improvements. The successful struggle to prevent mining at state level has thus not been a sufficient condition to support improved adivasi tenure in the hills where small-scale agriculture, including coffee production, continues but without the infrastructural support, including irrigation and market linkages, that could meaningfully transform the area. The commencement of mining is likely to result mainly in displacement and



pollution in the area rather than jobs and much-needed infrastructural improvements given reduced local education (Oskarsson 2018, 105–106).

A social analysis of the peoples of the Scheduled Area of Visakhapatnam district reveals that although the population is almost exclusively adivasi, as many as 14 different adivasi groups with origins both within Andhra Pradesh and in Odisha inhabit the area. Among these, some have caste-like identities relating to land control and leadership while others, typically termed Particularly Vulnerable Tribal Groups, are the most marginalised and rarely ever in control of their fields and forest areas. Forest rights have to some extent been implemented in recent years, but most of the land supposedly under tribal land rights protection remains under the control of the state government (Oskarsson 2018, 105–108). Experiences in Andhra Pradesh indicate that while the existing legislation has been upheld at the state level to prevent overall displacement, it has offered only limited support for adivasis to claim individual and community tenure.

Middling Outcomes in Jharkhand

Jharkhand's resource rich West Singhbhum district is part of the Chotanagpur area, and consequently falls under the Chotanagpur Tenancy Act. This area is populated by the Ho, who have adivasi land rights that are pressured and impinged upon by iron ore mining. This means that FRA-based actions are not always prioritised by the state but treated as subservient to other priorities by public authorities (often involving the Forest Department). The authorities move mining projects forward and occasionally secure further clearances based on expertise expressed through environmental impact assessments that are rarely publicly challenged (Sareen 2016).

Large swathes of land are routinely taken over by paramilitary forces for extended periods, often in conjunction with counter-insurgency projects purportedly seeking to bring development to the local population or to create a secure environment for extractive industries to operate in by nullifying Naxalite groups. These groups operate from forested regions in the Red Corridor, a term used nationally for districts adversely affected by Maoist insurgent groups. Some of the development interventions take the form of large road-building projects that ostensibly have little to do with the needs of local villagers who often lack even bicycles for transport. Rather, they seem targeted at developing a “legible” landscape and one laid open for extraction. To illustrate, one of the authors, on a field visit through such a landscape, was threatened by the deputy manager of an iron ore mine despite not having crossed any signs indicating private property. Imagine, then, the predicament of an inhabitant ousted from such land, often unable to read or talk in Hindi, and with little recourse to authority or even the claim of incontestable knowledge of one's rights, being so confronted.

In fact, the mining landscape of West Singhbhum is littered with examples of displacement and dispossession. Where Ho villages existed, mines have developed and have displaced the erstwhile inhabitants, employing some of them as temporary labour and even putting a few better-off ones in charge as ad hoc “managers.” A “model village” with metal roofs and closely built shacks, with a nearby medical facility comprising little more than a rusted metallic structure, bears testimony to the limited imagination of the government regarding the lives and ways of the Ho. Or perhaps the *realpolitik* informing their

understanding comprehends that such token gestures – including the unused, culturally uninformed “toilets” installed in the model village without even a water supply – are all that is required to tick boxes for “relocation and rehabilitation.” An infamous example of gross neglect of obligations with impunity by powerful mining actors is a former asbestos mine, which was never properly closed and continues to release carcinogenic effluent into the farming fields of a nearby village close to the district headquarters at Chaibasa (Kumar and Maiti 2015). Such instances underscore the inability of adivasi land rights in their current, strictly defined form to enable adequate safeguards against land use changes both in instances of displacement and dispossession, as well as in other cases where adivasis are adversely affected.

Less stark are operations involving claims under the FRA. These have the nicety of paperwork, meaning that hope is maintained for the adivasi claimants, and that some semblance of legal procedure and the role of the state as represented through bureaucracy is visible. In practice, however, the bureaucracy tends to simply pass the buck, between the Kolhan Superintendent, who is legally supposed to represent Ho interests, the Forest Department, that is supposed to play its role in processing land claims made under the FRA, and the District Commissioner who is supposed to head the final tier of a three-tier committee that must consider and approve FRA claims. The first tier is premised on local-level bodies known as village assemblies, but is often somewhat dysfunctional. Village inhabitants are uninformed and easily misled and the few claims that are processed are approved as a result of top-down political interest rather than any smoothly functioning system that eventually moves papers along to informed decisions based on information from the ground. This is similarly reflected in forest rights adjudication elsewhere in Jharkhand over the years (see Corbridge and Kumar 2002). Here, adivasi claims simply have a hard time gaining currency in the face of other more powerful interests that manoeuvre bureaucratic loops more adeptly.

In this regard, it is significant that the first non-tribal government since Jharkhand became a separate state in 2000 when a Hindu caste chief minister came into power in December 2014. It has passed amendments to key provisions of Jharkhand land protection. The provisions have been strongly challenged in the streets and the governor has opposed them. The impacts of the changes are important. What initially appeared to be a straightforward amendment of the state tenancy laws has now come to seem increasingly difficult to implement for the state government (*Hindustan Times*, November 3, 2016; *India Today*, June 29, 2017).

Despite seemingly strong national safeguards to ensure legal protection and affirmative action for adivasi land rights, Jharkhand continues to witness the erosion and bypassing of these rights. While statehood was granted in 2000 in recognition of the large proportion of adivasis that make up its population, the state does not seem to prioritise adivasi land rights in practice. Instead, it puts its weight behind other activities such as mining that fit more easily with national visions of development. Adivasis have to navigate a translucent set of institutions and power relations that limit their ability to make effective rights-based claims even as legal rights provide a basis for such claim-making. This brings us back to our initial statements about the strength of well-entrenched legal protection for adivasis on the one hand, which is apparent in both states and opens up room for local agency, and the spartan traces of actual implementation in adivasi villages on the other hand.



Conclusion: Malleable Adivasi Land Rights in the Face of Unchanging Indigenous Identities

This article has argued that the way that land rights have been established for adivasis is crucially informed by the particular ways in which adivasis' caste identity has been constructed partially at the bottom of, and partially beyond, the social hierarchy of caste in India. Adivasi land rights as they exist in the agro-forestry landscapes of central-eastern India lock this very broad and variegated grouping of peoples into reductively specific places far from the main economic and political centres of the country. It is only in these places that their land rights exist, and moving or being relocated elsewhere implies, in a sense, no longer being adivasi, or at least giving up the limited form of privileged land access that goes along with this designation. Thus, a pertinent challenge concerns the way in which existing rights for this group of supposedly backward people have been conceptualised, in places removed both in a physical sense, and also as an imaginary, from the monetary economy that they are assumed to have no use for.

The strength of mobilising along the lines of other indigenous peoples around the world may be significant, and even in India it has resulted in extremely important legislation, particularly the FRA, which offers significantly better protection compared to what other groups can avail themselves of. This article, however, highlights the significant downside of adivasiness, namely that the result is not only all-too-frequent dispossession when lands are forcefully taken away for more prioritised purposes like mining and reduced possibilities to take part in expert-led management committees like those in forestry. Adivasi mobilisation has achieved significant success, but as policymakers and many activists continue to argue that adivasis do not need money, and cannot cope with living elsewhere, limited alternative opportunities exist or arise for adivasis (Chandra 2013; Sundar 2010; 2016). This sits uneasily with the right to life and freedom to shape one's own life that the constitution of India promises all its citizens. As we have tried to show, caste analysis can be helpful in this regard, especially as it can help unpack how adivasiness is at times mobilised as a pragmatic identity, both by the state seeking to promote a certain vision of development and by adivasi citizens trying to leverage the legal rights afforded to them based on definitions of adivasiness. Based on this study, in our view it is only by deconstructing the reified identity of adivasiness into its constituent elements that we can appreciate the contingencies and vulnerabilities of adivasi lives, but also the possibilities for realigned identities and new alliances that might be able to address systemic marginalisation through affirmative action. Such initiatives have much to gain by studies of caste able to unpack and interrogate the meaning of identity claims made on land. This is of chief importance before the state rampages over adivasi land rights again, as it so often has in the past.

Notes

1. Adivasis, the original people, is a collective name for a group of approximately 100 million people identified in the Indian Constitution as Scheduled Tribes. They are also referred to as tribals.
2. For example, in the 1997 Supreme Court "Samatha" Judgement all private mining and industry in the tribal areas of undivided Andhra Pradesh state was banned.

3. People in the official category Scheduled Castes have, like adivasis, a number of names. Dalit (the oppressed) is common nowadays but other terms can be *shudra* (untouchable) or *harijan* (children of god; Mahatma Gandhi's preferred term).
4. A position close to but not the same as a romanticised notion of adivasi identity is what Steur (2017) refers to as a strategic essentialist approach. This view considers adivasi identity as a social fact based on a shared history of marginalisation and ways of living rather than a non-changing indigenous identity.
5. In the FRA, "long term" is defined as three generations. It is only non-adivasis who have to prove this long-term dependence on forests. Adivasis living in forest areas prior to 2005 are allowed to make claims according to the Act.
6. Since 2014, the state is divided into Andhra Pradesh and Telangana states.

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