

## RGICS BRIEF

November 24, 2016

### **Tribal Protest and Government's Oppression over Proposed Amendment to Tenancy Laws**

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## Tribal Protest and Government's Oppression over Proposed Amendment to Tenancy Laws

### Key Messages

- Going against the demands of tribal communities, the Jharkhand government has amended the Chhota Nagpur Tenancy Act, 1908 (CNT) and Santhal Pargana Tenancy Act, 1949 (SPT).
- Tribal Communities have been protesting against amendments moved by the government, saying that amendments to these two laws dilute various protective provisions meant for prevention of land alienation among tribal communities in Jharkhand.
- Amendments to CNT and SPT Act removes restriction on transfer of tribal land and allow transfer of tribal land for commercial purposes.
- The state government has been brutally suppressing Adivasi's outrage against amendments to CNT and SPT Act by misusing state's power and authority and by communalizing the whole issue.
- Amendments to these tenancy laws will increase land alienation among tribal communities and legalizes illegal land transfer in the past.

## Tribal Protest and Government's Oppression over Proposed Amendment to Tenancy Laws

### Introduction

The Adivasi protest in Jharkhand against the proposed amendments to Chhota Nagpur Tenancy Act, 1908 (CNT Act) and Santhal Pargana Tenancy Act, 1949 (SPT Act) has grown in last few weeks. The BJP ruled state government has recently issued two ordinances to amend the CNT Act and SPT Act and forwarded them to the President of India for his assent. The purpose of these amendments is to allow the government to acquire land owned by scheduled tribes (ST) for commercial purposes. As of now transfer of land owned by ST community is not permissible under these two laws. Adivasis in the state have been arguing that these two pieces of legislations not only protect land alienation amongst impoverished tribals but also protect the diverse ethnicity, identity and customs of the tribal communities residing in the regions of Jharkhand. In this context the two ordinances that have been recently issued by the state government have been opposed by tribal community as these amendments dilute various protective provisions meant for prevention of land alienation among tribal communities in Chota Nagpur and Santhal region of Jharkhand. Ever since the announcements have been made by the government, the tribals affected by the changes proposed in the law are demonstrating across the state. Tribal people have been arguing that their ancestors fought the British government for these two laws where as now a democratically elected government want to deprive them of these crucial land rights through newly proposed amendments. The state government has withdrawn both of these ordinances after serious objection raised by National Commission for Scheduled Tribe. However, in last one month it has converted both ordinances into Bills. Without losing time the recently convened state assembly on 23<sup>rd</sup> November 2016 has passed amendment Bills to CNT Act and SPT Act amid unprecedented violent protest by opposition legislators.

The conflict between Adivasis and the state government on this issue has been increasing. Despite state wide protest by Adivasis, the government is firm on its decision to go ahead with its ordinances. The state government has been using force to suppress the unrest by using state power against them. On October 22, the state police opened fire on a group of Adivasis protesting against government's ordinance in Khunti, 50km from state capital Ranchi. The police firing took life of one protestor and injured many others. In response, various Adivasi groups and political parties in opposition in Jharkhand had called for a daylong state wide *Bandh*. To defuse this statewide protest the government on 24<sup>th</sup> October 2016 detained more than 5500 activists and political leaders. It is apparent that the government in order to enact these two anti tribal land ordinance is suppressing tribal outrage by misusing state power. Despite state oppression, tribal communities in various parts of the state are protesting. Jharkhand has a considerable tribal population; various tribal groups' together account for more than 23% of state population and these two land laws directly affects entire tribal population of the state.

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### The Chhota Nagpur Tenancy Act, 1908

The tribal region of central part of India is known for its diversity, ethnicity and customary self-rule. Several tribal communities in the Chhota Nagpur region of Jharkhand had their customary laws and ways of life which were used to govern their communities. . In 1765 the East India Company received Diwani rights to collect land rent of Bengal Sabha from Mughal emperor. In order to collect land rent effectively the East India Company established Jamindari system. Chhota Nagpur was part of Bengal at that time, so the new system of tax collection by East India Company had also required self-ruled tribal region to pay revenue in cash to the authorized tax collector. This new mechanism of tax collection went against the self-governing system of tribal in the region and therefore it resulted into an Adivasi revolt in 1832. The new tax system increased land alienation amongst Adivasis. According to Sharan (2005) the alienation began during the medieval period, but intensified at an unprecedented pace in the colonial period. The communities not only lost their rights on forests, but a new set of intermediaries were imposed on the tribal areas. "Such oppressive policies led to widespread Adivasi protest in tribal regions. Responding to the outrage of Adivasi the Colonial government recognized the rights of Adivasis and enacted the Chota Nagpur Tenancy Act, 1908. The law in current form regulates transfer of land belonging to SCs, STs and OBCs and ensures prevention of land alienation. The Section 46 of the CNT act "restricts transfer of land belonging to Scheduled Tribes/Scheduled Castes and Backward Classes. However, a tribal may transfer his land through sale, exchange, gift or will to a fellow Scheduled Tribe member and residents of his own police station area. Similarly, SCs and BCs can transfer land to members of their own community within the limits of the district in which the land is located with prior permission of the deputy commissioner<sup>1</sup>." The Act has been amended as much as 26 times since its enactment in 1908, latest in 1996 when the then Bihar government allowed transfer of land belonging to STs for industry and mining. The CNT Act, 1908 is effective in North Chotanapur, South Chotanapur and Palamau divisions of Jharkhand.

**Purpose of the CNT Act, 1908:** The purpose of Chota Nagpur Tenancy Act, 1908 is to protect Adivasis and other vulnerable social groups from land alienation. The Act defines various categories of land holding (Raiyats), protect the right of raiyats' against high rents/enhancements of rents, protect against transfer of land and make provisions for the restoration of illegally alienated land.

### **Main Provisions of the CNT Act:**

- **Restriction on Transfer of ST/BC/SC land:**

**Section 46** enables an occupancy raiyat belonging to the Scheduled Tribes to transfer his lands, with the previous sanction of the Deputy Commissioner (DC), to another member of the Scheduled Tribes who resides within the police station limits where the land is situated. Occupancy raiyats of the Scheduled Castes and Backward Classes are also similarly authorised to make transfers with the previous sanction of the Deputy Commissioner, to other members of SC/BCs respectively who are resident in the district where the holding is situated.

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<sup>1</sup> [http://www.telegraphindia.com/1120223/jsp/jharkhand/story\\_15169375.jsp#.WA2nNYVOKWo](http://www.telegraphindia.com/1120223/jsp/jharkhand/story_15169375.jsp#.WA2nNYVOKWo)

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- **Permissible Land Acquisition:**

**Section 49** allows and raiyat to transfer his land for industrial, mining purpose and for other purposes subsidiary thereto.

- **Restoration of Alienated Land**

**Section 71** of the Act provides for mechanism to restore possession to members of the Scheduled Tribes over land unlawfully transferred. The Deputy Commissioner is authorized to restore such land rights if the original land owner is a raiyat or a Mundari Khunt Kattidar or a Bhuinhar who is a member of the Scheduled Tribes. The DC is also authorized to restore land if the transfer of land used any fraudulent method, including decrees obtained in suit by fraud and collusion. After giving reasonable opportunity to the transferee who is proposed to be evicted, necessary enquiry in the matter, the DC can evict the transferee from such land without payment of compensation and restore it to the transferor or his heir. In case the transferor or his heir is not available or is not willing to agree to such restoration, resettle it with another raiyat belonging to the Scheduled Tribes according to the village custom for the disposal of an abandoned holding.

### The Santhal Pargana Tenancy Act, 1949

Santhal Pargana Tenancy Act, 1949 too has historical roots of recognizing tribal land/forest rights and customary rights. According to the Sharan (2005), "the SPTA is in many respects similar to the CNTA, but goes a step forward in recognising the customary rights and community life, particularly in relation to the settlement of land and the protection of the rights of paharias." The SPTA prohibits transfer of all lands (including that of non-advasis) and allows transfer only in few categories. This Act extends to Dumka, Jamtara, Sahibganj, Godda, Deoghar and Pakur districts of Jharkhand.

**Purpose of the CPT Act:** The Santal Parganas Tenancy (Supplementary Provisions) Act, 1949 codifies some of the customary laws relating to the exchange of raiyati lands and sub-letting of raiyati lands under certain circumstances in Santhal Pargana Area. It also codifies customary laws of tribal in the area such as settlement of vacant and abandoned holdings, rate of landlord's fees on transfer, rights of raiyats relating to tanks and water reservoir, grazing land and jaherthan and rights of raiyats on trees on his lands in Santhal Pargana Area.

#### **Main Provisions of the CPT Act:**

- **Recognition of Customary Tribal Culture:**

**Section 5 to 8** of the Act recognizes customary system of village headmen to execute various power related to land rights, dispute and distribution. Village headman means the person appointed or recognized whether before or after the commencement of the Act by the D.C. or other duly authorized officers to hold the office of village headman, whether known as Pradhan, munstajur, Manjhi or otherwise but does not include a mulraiayat.

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- **Restrictions or transfer of raiyati holding in Santhal Pargana**  
**Section 20 reads as follows :**

- 20 (1) No transfer by a raiyat of his right in his holding or any portion thereof, by sale, gift, mortgage, will, lease or any other contract or agreement, express or implied shall be valid unless the right to transfer has been recorded in the record of rights and then only to the extent to which right is so recorded:-
- 20 (2) No right of an aboriginal raiyat in his holding or any portion thereof which is transferable shall be transferred in any manner to anyone but a bonafide cultivating aboriginal raiyat of the pargana or taluk or tappa in which the holding is situated.
- 20 (3) No transfer in contravention of sub-section 1 or 2 shall be registered, or shall be in any way recognized as valid by any court, whether in exercise of civil, criminal or revenue jurisdiction.
- 20 (4) No decree or order shall be passed by any court for the sale of the right of a raiyat in his holding or any portion thereof, nor shall any such right be sold in execution of a decree or order unless such a right of transfer or the raiyat has been recorded in the record of rights.
- 20 (5) If at any time it comes to the notice of the Deputy Commissioner that a transfer of land belonging to a raiyat, who is a member of scheduled tribe has taken place in contravention of sub-section 1 or 2 or by any fraudulent method including collusive decree he may after giving notice and making necessary inquiries evict the transferee from such land and restore it to the transferor or his heir or in case the transferor or his heir is not available or is not willing to such restoration, resettle with another raiyat belonging to scheduled tribe.

### **Special Protection for CNT Act, 1908 and SPT Act, 1949:**

Understanding the importance of these two legislations in protecting diverse ethnicity, identity and customs of vulnerable tribal groups, the Indian Constitution provides special protection to them. Some crucial constitutional protection granted for CNT Act, 1908 and SPT Act, 1949 are as follows:

- CNT Act, 1908 and SPT Act, 1949 are listed in the Ninth Schedule of the Constitution, so the act is beyond judicial review. It can only be repealed by the Parliament; the state government can only make amendments to it<sup>2</sup>. Amendments by state government also require president assent.
- Any decision/order of deputy commissioner/revenue officer in any of suit or proceeding under various provisions of the law cannot be entertained in any civil court to vary, modify or set aside, either directly or indirectly<sup>3</sup>.

<sup>2</sup> <https://socialissuesindia.wordpress.com/2012/09/18/why-chhota-nagpur-tenancy-cnt-act-fails-to-protect-jharkhand-tribals/>

<sup>3</sup> [http://jajharkhand.in/j/page-media/13\\_01\\_01\\_16\\_08\\_15\\_handbook\\_%20on\\_%20land\\_%20law.pdf](http://jajharkhand.in/j/page-media/13_01_01_16_08_15_handbook_%20on_%20land_%20law.pdf)

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- To ensure restoration of already alienated land illegally, SAR courts were established from 1969 onwards under Scheduled Area Regulation, 1969. SAR courts have been established to expedite and process of restoration. (Sharan, 2005)
- The Panchayat Extension in Scheduled Area Act, 1996 (PESA) also has empowered Panchayats at the appropriate level and the Gram Sabha to prevent alienation of adivasi land and take an appropriate action to restore any unlawfully alienated land. (Sharan, 2005)

### Controversial Ordinances

The government of Jharkhand has approved and waiting for presidential assent for its two ordinances namely *The Chhotanagpur Tenancy Act, 1908 (Amendment) Ordinance, 2016* and *The Santhal Pargana Tenancy Act, 1949 (Amendment) Ordinance, 2016*. The state government issued these two ordinances on 21<sup>st</sup> May 2016. Since Jharkhand comes in schedule-V of Indian constitution, the promulgation of policies related to tribal in Vth schedule area needs presidential assent. Following this procedure, the governor of the state has forwarded these two ordinances to the President of India for his assent. There has been a long demand from corporate and real estate lobby to bring changes in these two laws to allow them to acquire land from tribal for their use.

These amendment ordinances expands list of sectors for which tribal land can be acquired and transferred. This expansion of the list allows transfer of tribal land to corporate and real estate through backdoor. It allow government to acquire tribal land at large scale and develop that for commercial use for business houses. This will further lead to massive land alienation among tribals. In essence, both CNT and SPT Act are being made redundant and meaningless.

| Understanding Amendments to CNT and SPT Act                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| Current Provisions                                                                                                                                                                                                                                                                 | Proposed Amendments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Under Santhal Pargana Tenancy Act, 1949 (SPT Act) both urban and rural land are not transferable whereas under Chhotanagpur Tenancy Act, 1908 (CNT Act) land is transferable with restrictions within the same castes and within geographical limits with administrative approval. | Both the ordinances incorporated a provision in each, as 21(B) in CNT Act and as 13(A) in SPT Act, reading as,<br><br><b>“Power to regulate non agricultural use:</b><br><i>Notwithstanding anything contained in the act for the time being in force, State Government shall frame rules to regulate the non-agriculture use of land in such geographical areas and for such uses as notified from time to time by the State Government.”</i><br><br>This amendment to CNTA and SPTA would allow transfer of tribal land to any commercial or non-agricultural use in the state. |

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| <p>Section 49 of CNT Act, 1908 - <b>Transfer of occupancy holding or Bhuinhari Tenure for certain purposes-</b> The land could be transferred only for industrial and mining purpose with sanction of the Deputy Commissioner</p> | <p>Proposed amendment in this section of the Act seeks transfer of tribal land also for other purposes such as <i>Road, Canal, Railway, Cable, Transmission, Water Pipes and other service utility as pipelines, schools, colleges, University, Panchayat Building, Hospital, Anganwadi or any public purposes/project or activity which the State Government may add.</i></p> |
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These amendments to above-mentioned two land laws of Jharkhand would leave serious ramification on life and livelihood of tribal community in Jharkhand who are socially, economically and politically vulnerable. The National Commission for Scheduled Tribe (NCST) in its letter to the President of India dated August 01, 2016 noted that proposed amendments are extremely dangerous because it literally lifts the restriction on transfer of tribal land as laid down in these two laws. It further reads, “these amendments will have far reaching adverse economic conditions of the already impoverished tribals.”

### Why are Adivasis opposing Amendments to CNTA and SPTA?

The CNTA Act, 1908 and the SPT Act, 1949 were enacted in order to prevent land alienation amongst tribal communities in central part of India. These communities have been vulnerable to land encroachers since centuries; therefore, these two laws were envisaged to protect the already vulnerable tribal community of the region. However, various micro studies of tribal land alienation in Jharkhand have revealed that despite having protective legal framework thousands of acres of land belonging to tribal communities was grabbed by non-tribals. Government record shows that in thousands of cases, tribal people approached the authorized court for restoration of their land illegally grabbed by non-tribals/corporate/ institutions and other entities. Up to 2001-02 tribal people in various cases asked for restoration of 85,777.22 acres of land, however the court could manage to restore only 29,829.7 acres of land (Sharan, 2005). Individual ownership of land and community owned land is integral part of life and livelihood of tribal in this region. Alienation of both kinds of lands has far reaching adverse impact on tribal community. Alienation of tribal land in past has resulted in further vulnerability of tribes in terms of forceful eviction, displacement and other socio-economic deprivations. Unfortunately, this has happened despite having protective legal framework in the favour of vulnerable tribal communities residing in the region.

Sharan (2005) explains various ways in which land belonging to thousands of tribals being alienated in past. He writes:

*“In urban areas, alienation has been primarily demand induced for housing (by outsiders) and non-agricultural purpose. This type of alienation has continued and accelerated in the post-independence period, and has affected both tribes and non tribes. The majority of such alienation is illegal and methods include: collusive title suits, collusive restoration suits in SAR courts, marrying tribal women, starting commercial enterprises with adivasis as sleeping partner, manipulating land records and even forcible occupation of adivasi land. In rural area, alienation is basically to meet the day to day needs of cash-strapped poor adivasis.”*



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After establishment of Scheduled Area Regulation Court (SAR court) under Scheduled Area Regulation, 1969, cases of restoration of land by tribals have increased in Jharkhand. Currently, more than 20 thousands cases of land restoration are pending all across the Jharkhand<sup>4</sup>, which explains rampant violation of law and denied justice. Tribes in Jharkhand wanted to strengthen these two tenancy laws in the favour of tribal communities to effectively ensure non-alienation of land. However, corporate houses, industrialists and real estate lobby have been pushing for amendments to these laws to make tribal land easily saleable. The lobby in the favour of amendments has been arguing that the restriction on transfer of land has been halting development in the state. The Jharkhand Chamber of Commerce (JCC) has been lobbying for amendment in section 21, 46, 49 and 71 of the CNT Act. It has observed that these sections of the law are not allowing industrialization and real estate business across the state<sup>5</sup>. The real estate lobby has larger stake in it, as it has illegally acquired land in urban areas for construction of buildings and apartments. These two laws further restrict them to sell their apartments and buildings. Tribal land right organizations have been arguing that the any further amendment against tribal communities would accelerate land alienation amongst poor tribes. They have rubbished the argument that these two laws are against industrialization. It is evident that large industrial units such as Steel Authority India Limited (SAIL), Heavy Engineering Corporation (HEC) and Damodar Valley Corporation (DVC) were established in the region within the provisions of the CNT Act and SPT Act.

The National University of Study and Research in Law (NUSRL), Ranchi in its study of land governance framework in Jharkhand has observed that historical violation of stringent provisions of CNT Act and SPT Act by powerful and elites has created several other problem in Jharkhand. According to the study “several residential quarters, commercial set up has come on tribal land which according to the provisions of the CNT Act could not have come into existence because land was illegally transferred to developers of land.”<sup>6</sup> Additionally with passing of time the agriculture land regulated by these two laws have now considered more profitable for non-agricultural purposes like real estate, market, industry, mining and factory production. People who have invested in such land by violating laws have been lobbying for years to allow them to freely use land acquired by them. Influential bureaucrats, politicians, business houses and media houses have been effectively nurturing this demand for years.

### Amendments to SPT and CNY at any Cost

The nexus of ruling class including politicians, bureaucrats, business houses, media and real estate sector lobbying for favourable changes in these two legislations had also successfully pursued erstwhile state government in 2010. The then BJP government headed by Chief Minister Mr. Arjun Munda through an executive notification tried to dilute stringent provisions of land transfer under CNT Act, 1908. The notification dated December 11, 2010 of Jharkhand State Land Revenue Department relaxed norms of land transfer laid down under section 46 of the CNT Act<sup>7</sup>. The notification removed requirement of Deputy Commissioner's approval for transfer of land belonging to Scheduled Caste and Backward Class. According to this section, BC (Backward Classes) and SC (Scheduled Caste) can sell their land to the people belonging to same caste

<sup>4</sup> <https://socialissuesindia.wordpress.com/2012/09/18/why-chhota-nagpur-tenancy-cnt-act-fails-to-protect-jharkhand-tribals/>

<sup>5</sup> <http://www.focusmagazine.in/jharkhand-high-court-orders-cnt-act-question-large-scale-violations/>

<sup>6</sup> [http://siteresources.worldbank.org/INT/LGA/Resources/Jharkand\\_Final\\_Report\\_Oct2014.pdf](http://siteresources.worldbank.org/INT/LGA/Resources/Jharkand_Final_Report_Oct2014.pdf)

<sup>7</sup> <http://www.focusmagazine.in/jharkhand-high-court-orders-cnt-act-question-large-scale-violations/>

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category, after getting due permission from Deputy Commissioner (D.C.) of district. The order was challenged in the Jharkhand High Court. The Jharkhand High Court in its order dated 25 January 2012 quashed the notification of government and asked for strict implementation of the CNT Act. The Court order made deputy commissioner's consent mandatory for transfer of land belonging to Backward Class and Scheduled Castes in the context of the CNT Act<sup>8</sup>. Four years later, the newly elected BJP government headed by Chief Minister Mr. Raghubar Das has gone step further and announced amendments to CNT and SPT Act to address demands of anti CNT and SPT lobby in the state. Most worrying thing in this entire process is desperation of current state government to promulgate these two proposed ordinances at any cost. The state government has violated various constitutional and procedural mechanism of policy formulation on one hand and brutally suppressed outrage of Adivasis on the other.

### Constitutional and Procedural Violation by Jharkhand Government

The National Commission for Scheduled Tribes (NCST) while objecting amendments moved by the state government has identified various procedural and constitutional violations by the state government while issuing these two ordinances seeking amendment in CNTA and SPTA in may 2016. In its letter, (D.O. No. CPNCST/04/2016-301 dated August 01, 2016) to the President of India, the NCST has identified following procedural violations by the state government.

- Under Article 338A (9) of the Constitution of India which interalia mandates that the union and every state government shall consult the National Commission for Scheduled Tribe on all major policy matters affecting scheduled tribes has been violated by the state government, as the commission was not consulted while drafting these two ordinances. The commission feels that this the violation of the mechanism in build in the Constitution for safeguarding the interest of Scheduled Tribe.
- The promulgation of hastily issued ordinances also not consulted the Tribal Advisory Committee (TAC) of Jharkhand. The Paragraph 4 of the Fifth Schedule (Article 244 (i)) of the Constitution mandates state government to consult TAC before amending laws such as CNTA and SPTA.
- Both of these ordinances ignore pro-advais provisions of Panchayats Extention in Scheduled Area Act, 1996 (PESA). The Section 4 (d), 4 (m(iii)) of the PESA Act, vests power to Gram Sabha, in Scheduled Area, the power to safeguard and preserve the community resources and the power to prevent land alienation. Ordinances issued by the state government have not included these safeguards.

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<sup>8</sup> <https://socialissuesindia.wordpress.com/2012/09/18/why-chhota-nagpur-tenancy-cnt-act-fails-to-protect-jharkhand-tribals/>

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### State's Oppression

Tribal communities have been protesting against proposed amendments issued by the Jharkhand government to amend CNT Act, 1908 and SPT Act, 1949. Tribals have raised concerns through various democratic means such as protest, *bandh*, rallies and negotiations with policy makers and politicians. However, the State government seems to be firm with its decision on amending these two laws at any cost. In past few months, instead of listening to tribals and their grievances, the state government has misused its power to suppress tribal outrage across the Jharkhand. The oppressive moves of the state government to suppress democratic and peaceful protest of Adivasis in the state are as follows:

- Jharkhand Police opened fire in a state-wide tribal protest – Aakrosh Rally in Soyko Bazar in Murhu, situated 50 km from state capital Ranchi. This rally was organized by around 42 tribal organizations on 22<sup>nd</sup> October 2016 against latest amendments to CNT Act and SPT Act. The police firing also injured many other tribal protestors. Police firing against tribal protestor in Jharkhand has increased recently. In August 2016 police firing killed two protestors in Gola region of Ramgarh District. Similarly, police opened fire in tribal protest on land issue in Hazaribagh district on October 01, 2016. This firing killed four protestors and injured many others<sup>9</sup>.
- Police firing on tribals protesting against government's decision of tweaking CNT and SPT Act led opposition political parties and tribal organizations in the state to call for one-day statewide *bandh* (Shut down) on 24<sup>th</sup> October 2016. To restrict this large-scale tribal outrage, the state government detained more than 5000 political activists, leader and leaders of tribal organizations across the state<sup>10</sup>.
- The chief minister of the State, Mr. Raghubar Das has also tried to communalize the growing outrage of tribal communities in the state. On 22<sup>nd</sup> October 2016 the chief minister in a communally charged statement blamed Christian organizations both for conversion and protest against his government on land issues. In his statement he said, "those "involved in conversions of tribals were inciting the protest against the state's bid to amend the Chhotanagpur Tenancy Act (CNTA) and the Santhal Pargana Tenancy Act (SPTA)<sup>11</sup>."
- Afraid of tribal unrest the Jharkhand government asked special branch?? to investigate role of churches in protest organized by the tribals. According to a report of Hindustan Times, the report of special branch has accused churches for misusing foreign fund by conceiving and executing tribal protest. The report goes further and blames these organizations for using Rs. 310 crores of foreign funds for religious conversion in tribal region. However, tribal leaders and Christian organizations said that these charges are fabricated and being used by the government to target minorities. They said that the report of special branch is misleading to target Christians in the state. Christians constitute only 0.43% of state population and amongst Tribals, only 5.8% are Christian, while a sizable 37% tribal population is enlisted as Hindus in the Census.

<sup>9</sup> <http://www.catchnews.com/india-news/3-police-firings-7-deaths-is-jharkhand-govt-at-war-with-tribals-1477330122.html/fullview>

<sup>10</sup> <http://indianexpress.com/article/india/india-news-india/jharkhand-bandh-over-5000-activists-political-leaders-taken-into-preventive-custody-3100847/>

<sup>11</sup> <http://www.newindianexpress.com/nation/2016/oct/22/senior-jharkhand-ias-officer-questions-cms-statement-on-religious-conversion-1530684.html>

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### Conclusion

Various studies and cases in courts have revealed that a large amount of land belonging to Scheduled Tribe is in the custody of non-tribals. In most cases, such transfer of land took place by violating CNT Act, 1908 and SPT Act, 1949. Moreover, all these illegal occupiers of tribal land especially in urban centers are involved in business and real estate. There has been a relentless pressure from illegal occupiers of tribal land on successive state governments to dilute stringent land transfer provisions laid down by these two laws. On the other hand tribal have also been resisting demands of amendments to these two pieces of legislations by illegal occupiers. For tribal these two laws not only prevent resource alienation but also ensure protection of tribal identity, domicile, traditions and customs. Any changes in these two pieces of legislations would affect entire tribal population of Jharkhand.

Hastily promulgated these two ordinances by the state government in May 2016 have incorporated long pending demands of illegal occupiers of tribal land in the state. Therefore, the government has ignored fundamental concerns of tribal communities. Furthermore, procedural and constitutional violations while promulgating ordinances followed by brutal suppression of tribal outrage shows that the government strongly stands by illegal occupiers of tribal land.

### References:

Sharan Ramesh, 2005, 'Alienation and Restoration of Tribal Land in Jharkhand: Current Issues and Possible Strategies', Economic and Political Weekly, October 08, 2005

Ashokvardhan C., 2005, 'Studies in the Jharkhand Tenancy Laws', Centre for Rural Studies Lal Bahadur Shastri National Academy of Administration Mussoorie, 2005.

NUSRL, 2014, 'Report on Land Governance Assessment Framework, Jharkhand' National University of Study and Research in Law, Ranchi, retrieved from:

[http://siteresources.worldbank.org/INTLGA/Resources/Jharkand\\_Final\\_Report\\_Oct2014.pdf](http://siteresources.worldbank.org/INTLGA/Resources/Jharkand_Final_Report_Oct2014.pdf)

Devalle, B. C., 1980, 'Multi Ethnicity in India: The Adivasi Peasants of Chhota Nagpur and Santhal Pargana', IWGIA, International Work Group for Indigenous Affairs, IWGIA document ISSN 0105 – 4503, retrieved from:

[http://www.iwgia.org/iwgia\\_files\\_publications\\_files/0180\\_41\\_India.pdf](http://www.iwgia.org/iwgia_files_publications_files/0180_41_India.pdf)

Judicial Academy Jharkhand, Hand Book on Land Law, Judicial Academy Jharkhand, Ranchi, retrieved from:

[http://jajharkhand.in/j/page-media/13\\_01\\_01\\_16\\_08\\_15\\_handbook\\_%20on\\_%20land\\_%20law.pdf](http://jajharkhand.in/j/page-media/13_01_01_16_08_15_handbook_%20on_%20land_%20law.pdf)