

CHAPTER 1

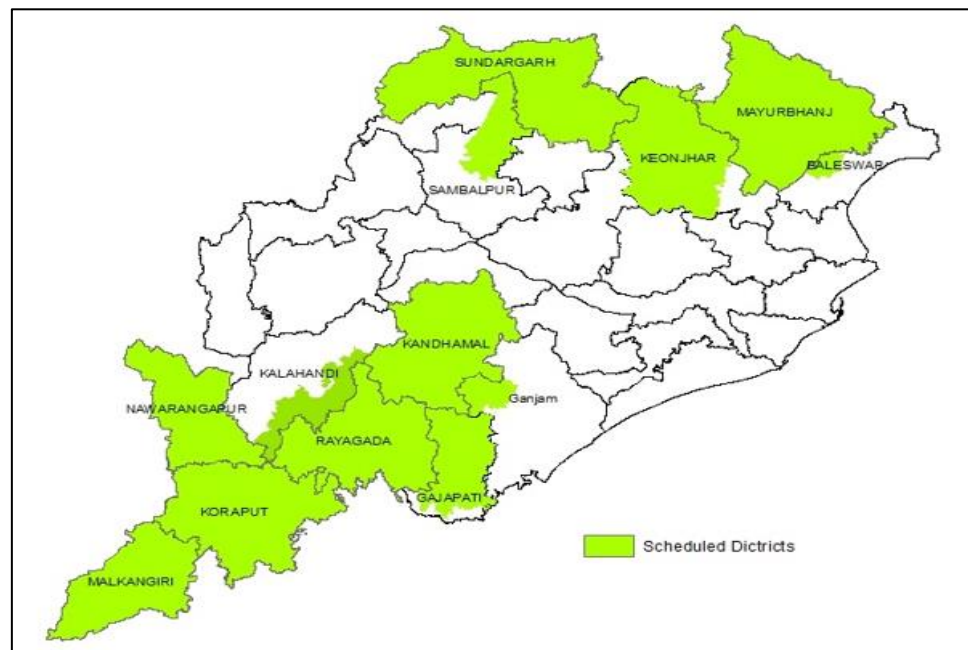
Introduction

1.1 Overview

According to the 2011 Census, the tribal population of Odisha was 95.91 lakh, constituting 22.85 *per cent* of the total population of the State and 9.20 *per cent* of the total tribal population of the country. There are 62 different tribal communities, including 13 Particularly Vulnerable Tribal Groups¹ in the State. Odisha has the third largest concentration of tribal population in the country, after Madhya Pradesh and Maharashtra. The population of STs, in Scheduled areas, accounts for about 68.09 *per cent* of the total tribal population of the State.

The Fifth Schedule, under Article 244 (1) of the Constitution of India, defines ‘Scheduled areas’ as such areas, as the President may, by order, declare to be Scheduled areas. Article 244 of the Constitution includes provisions for administration of Scheduled areas. The criteria followed for declaring an area as Scheduled area were: (a) preponderance of tribal population, (b) compactness and reasonable size of the area, (c) under-developed nature of the area and (d) marked disparity in economic standard of the people. Accordingly, 119 Blocks out of the 314 Blocks of Odisha, had been declared as Scheduled areas, as of March 2022. This comprised about 44.70 *per cent* of the State’s geographical area. The purpose of Scheduled areas is to preserve the Tribal Autonomy and culture, as well as to promote their economic development, to ensure social, economic and political justice, preservation of peace and good governance. The Scheduled districts of the State are shown in *Map 1.1*.

Map 1.1: Scheduled districts of Odisha



¹ A special category of tribal community with regard to its pre-agricultural economy, extremely low level of literacy, isolated habitation, *etc.*

1.2 Legal framework

Rights in or over land, in relation to land tenures, including the relation of landlord and tenant, collection of rents, transfer and alienation of agricultural land fall under the exclusive legislative and administrative jurisdiction of States, as provided under the Constitution of India². Insofar as acquisition or requisitioning of land is concerned, the same fall under the domain of both Central and State Governments³. The Revenue and Disaster Management (RDM) Department, Government of Odisha, is the nodal department for management of land resources in the State. The Scheduled Tribes (ST) and Scheduled Castes (SC) Development, Minorities and Backward Classes Welfare (SSD) Department, is the nodal department for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FR Act). Under the FR Act, the SSD Department vests forest rights and occupation of forest land, on forest dwelling ST and other traditional forest dwellers (OTFD), who have been residing in such forests for generations.

To protect and safeguard the land rights of the ST/ SC population by carrying out land reforms, as well as to address issues, arising out of land acquisition and displacement, both - the Central, as well as the State Governments - have enacted various legislations and framed rules thereunder, from time to time, as indicated in *Table 1.1*.

Table 1.1: Main Provisions and impact of Land Legislations in Odisha

Particulars of the Acts and Rules	Significant provision
Orissa Estate Abolition Act, 1952 (State Act).	Abolition of intermediaries
	Vesting of all land rights in the State
	Agricultural land less than 33 acres, to remain with the intermediary, for personal cultivation
The Orissa Scheduled Areas Transfer of Immovable Property (by STs) Regulation, 1956 (Amended in 2002)	Complete ban on transfer of land belonging to ST persons, to non-ST persons, in Scheduled areas
	All non-tribals, owning land originally owned by tribals in Scheduled areas, were required to submit evidence, within two years from September 2002, that the lands, had been acquired through legal means
Orissa Land Reforms Act, 1960 (Amended in 1965, 1973 and 1974) and Orissa Land Reforms Amendment Rules, 1997 (State Act)	Permanent, heritable and transferable rights, in land, for the tiller
	Ban on leasing of land, except under special conditions
	Under adverse possession, land in continuous cultivation for 12 years or more, by a person other than its owner, shall pass to the cultivator
	Rent not to exceed one fourth of the gross produce
	Ceiling on individual holding's at 33 standard acres, later reduced to 20 and thereafter, further reduced to 10 standard acres
Orissa Government Land Settlement (OGLS) Act, 1962 and Rules, 1983 (State Act)	Lease/ alienation of Government land for various purposes, subject to realisation of government dues
	Seventy <i>per cent</i> of the applications received, to be settled with persons belonging to the STs and the SCs

² Seventh Schedule – List - II (State List) - Entry No. 18

³ Seventh Schedule – List - III (Concurrent List) - Entry No. 42

Particulars of the Acts and Rules	Significant provision
Orissa Prevention of Land Encroachment Act, 1972 (amended in 1982) (State Act)	Prohibition of unauthorised occupation of Government land
	Penalties on encroachers to be followed by eviction
	Settlement of unobjectionable Government wasteland with the landless encroachers
The Panchayats Extension to Scheduled Area Act(PESA Act), 1996 (Union Act)	Recognises the traditional rights of tribals over community resources, such as land, water and forests
	Every village to have a Gram Sabha, which is to be consulted before making any acquisition of land in the Scheduled areas or development projects and before resettling or rehabilitating persons, affected by such projects, in the Scheduled areas.
Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Union Act)	Recognises and vests the forest rights and occupation of forest land, on forest dwelling ST and OTFDs, who have been residing in such forests for generations, but whose rights could not be recorded
	Rights to hold and live in forest land, under individual or common occupation for habitation or for self-cultivation for livelihood
	STs and OTFDs, who have lost any of their forest rights, recognised under the FR Act, due to acquisition of land, to be treated as land owners and to be awarded compensation, as per the provisions of the Act
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 (Union Act)	No acquisition to be made in Scheduled areas, except as the demonstrable last resort
	Prior consent of Gram Sabha to be obtained for acquisition of land in Scheduled areas

(Source: Provisions of the respective Acts/ Rules)

The RDM Department is implementing a programme, namely, 'Vasundhara', since 1974-75, to provide government land, up to the extent of four decimals, free of premium, to each homesteadless⁴ family, for house-site purpose, under the OGLS Act, 1962.

In order to computerise all land records, including: (i) mutations, (ii) maps, (iii) textual and spatial data and (iv) survey/ re-survey and updation of all survey and settlement records, as well as creation of original cadastral records, wherever necessary, GoI launched the Digital India Land Records Modernisation Programme (DILRMP). The main objective of the DILRMP was to develop a modern, comprehensive and transparent land records management system in the country, with the aim of implementing a conclusive land-titling system, with

⁴ Means a person who, together with all the members of his/ her family, who are living with him/ her in common mess, does not have any land fit for constructing dwelling units anywhere in the State and owns less than one standard acre of other land and whose total annual income, together with the annual income of all the members of his/ her family, living with him/ her in common mess, does not exceed an amount, which the State Government specifies from time to time on that behalf

title guarantees. The programme is being implemented by the RDM Department, in the State.

1.3 Background of taking up the Audit

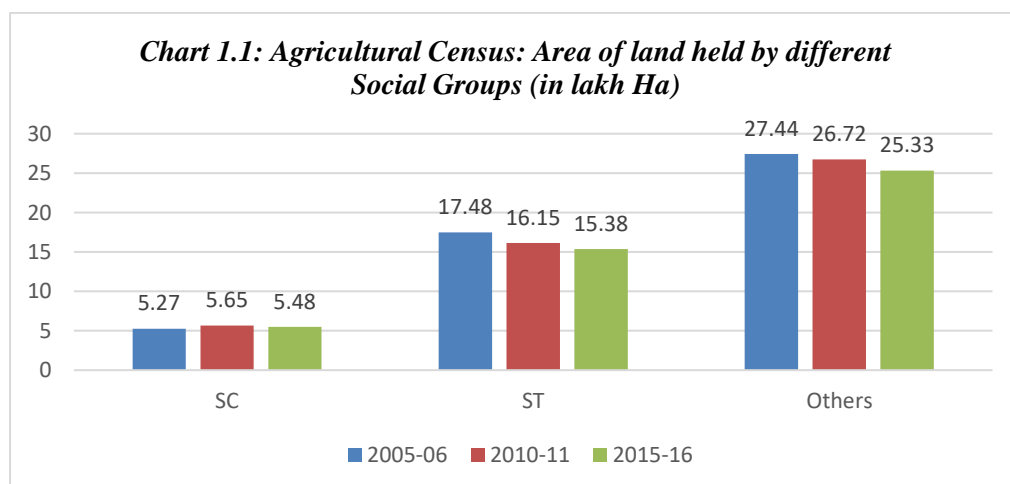
STs are among the socially vulnerable groups, who need socio-economic support of the State, for their development. In order to protect their culture and socio-economic interests, both - Union and State Governments have enacted various legislations and launched a number of welfare programmes. Their livelihood basically depends upon forest produce and farming. Therefore, their own land, as well as the public land of their localities, are the main source of their sustenance. In view of this, special provisions had been made in the RFCTLARR Act, 2013, to safeguard the interests of the tribal population in land acquisition. The FR Act, 2006, also recognises the rights of the tribal population, to the forest land.

District/ Tahasil-wise distribution, of landholding by STs, was neither maintained by the RDM Department/ SSD Department, nor by the concerned Tahasils. However, operational land holdings⁵ and areas, published in the Agricultural Census, conducted by the Government of Odisha, for financial years 2005-06, 2010-11 and 2015-16, showed operational land holding by different social groups, as shown in **Table 1.2** and **Chart 1.1**.

Table 1.2: *Operational land holding by different Social Groups in Odisha*

Social Groups	2005-06		2010-11		2015-16	
	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)
SC	6.31	5.27	7.02	5.65	7.42	5.48
ST	14.07	17.48	14.26	16.15	14.61	15.38
Others	23.18	27.44	25.39	26.72	26.63	25.33
Total	43.56	50.19	46.67	48.52	48.66	46.19

(Source: Odisha Agricultural Census: 2005-06, 2010-11 and 2015-16)

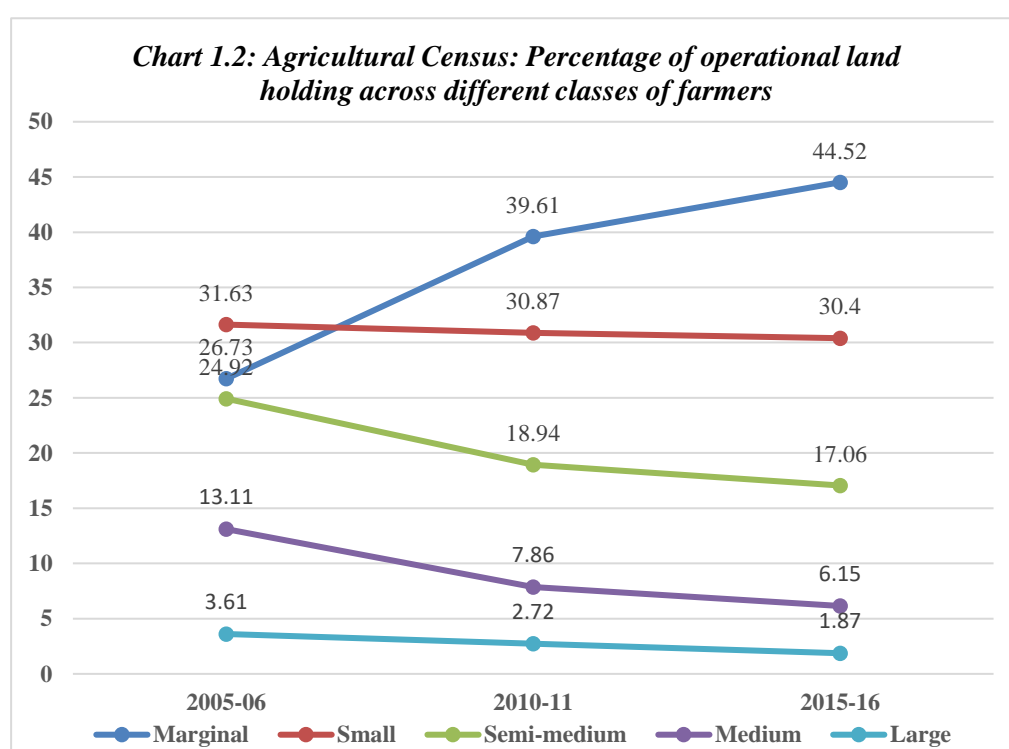


⁵ Land used wholly or partly for agricultural production

As can be seen from **Table 1.2** and **Chart 1.1**:

- The total area of operational land had decreased from 50.19 lakh Ha, in FY 2005-06 to 46.19 lakh Ha in FY 2015-16.
- During the same period, the land holding area, had registered a decrease, in case of ST and Others. In FY 2005-06, 17.48 lakh Ha of total operational land was held by ST, which decreased to 15.38 lakh Ha in FY 2015-16, *i.e.*, by 2.10 lakh Ha (12 per cent).

As per the Economic Survey Report, 2022-23, of the Government of Odisha, the distribution of operational land holdings, among marginal (<1 Ha), small (1-2 Ha), semi-medium (2-4 Ha), medium (4-10 Ha) and large farmers (>10 Ha), across the three Agricultural Censuses, during 2005-06, 2010-11 and 2015-16, was as depicted in **Chart 1.2**.



It may be observed from **Chart 1.2** that, as a consequence of shrinkage of agrarian land in the State (as shown in **Table 1.2**), the land holding area, across higher categories had been decreasing, leading to an increase in the population of marginal landholders, indicating the need for a closer examination of the modalities involved in the management of land in the Scheduled areas of the State.