

Indigenous Peoples Development Planning Document

Indigenous Peoples Development Framework
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**ORISSA INTEGRATED IRRIGATED AGRICULTURE AND WATER MANAGEMENT
INVESTMENT PROGRAM
INDIGENOUS PEOPLE DEVELOPMENT FRAMEWORK**

A. Background

1. The Orissa Integrated Irrigated Agriculture and Water Management Investment Program (OIIAWMIP) involves rehabilitation and upgrading of existing irrigation infrastructure under multi tranche financing facility (MFF) to be financed by Asian Development Bank. The OIIAWMIP aims to reduce rural poverty, enhance economic activity and quality of life in rural areas through promoting sustainable irrigated agriculture and improving water resources management. The project will result in increased agricultural productivity and food security and enhanced capacity of institutions including farmers water user associations (WUAs) in improved water resources management practices. The OIIAWMIP will support the participatory renovation of 6 major, 9 medium, and about 1,400 very minor lift irrigation schemes, covering four northern river basins and a part of the Mahanadi River delta areas.

2. The project provides for supporting the sustainable operations of irrigation infrastructure in subproject schemes through an intensive participatory process. None of the subprojects studied for the first tranche of the MFF (2 major and 3 medium schemes, and 2 sample minor lift schemes) will have any negative impact on the tribal community. Additional schemes will be selected for the subsequent tranches and none of these are expected to have any negative impact on tribal community either. ST households are also supportive about the subprojects and did not feel that they will encounter any adverse socio-cultural or economic impacts as a result of the project. Nonetheless, this Indigenous People Development Framework is intended to set out the policy, principles, procedures and implementation mechanisms to adequately address any tribal related issue if they occur during the course of project implementation. This IPDF will address the developmental needs of tribal people as a community rather than as individuals through a process of sustainable development which is outlined in the Specific Action Plan for phase 1 of the MFF. The framework is prepared in accordance with ADB's procedures for sector loans as presented in ADB's Policy on Indigenous Peoples (1998).

B. Indigenous/ Tribal Groups

3. Tribal people have a distinct social and cultural identity. Their overall development, therefore, needs special attention. As a part of tribal development strategy, it is essential to strengthen their capacity to protect their rights and privileges over land and other productive assets. Tribal people commonly make their settlement in pockets secluded from the economic mainstream and pursue a range of traditional activities like agriculture, shifting cultivation in or near the forest, and collection of non-timber forest produce (NTFP). The tribes are closely attached to their ancestral territories and to the natural resources surrounding them. Subsistence oriented economic activities; customary community institutions, indigenous language and culture are the hallmark of tribal population.

4. Orissa has a large segment of indigenous people constituting over 22.2% of the state's population. The Scheduled Tribes (STs synonymous with tribal / indigenous people) are characterized by relatively low level of literacy and economic backwardness. Although these tribal groups are spread all over the state, they are primarily concentrated in the southern, northern, and the north-eastern districts. According to the Article 342 of the Constitution of India, 62 communities have been declared as scheduled tribes. Apart from these tribes, the

Government of Orissa has identified twelve primitive tribal groups (PTG), who have been classified as primitive because (i) they gather food from forest to sustain themselves; (ii) population growth of these tribes is static; (iii) relative physical isolation; and (iv) they are most illiterate and backward community.

5. The literacy rate among the tribes is as low as 37.37% and the incidence of poverty among the rural Scheduled Tribe is around 63.6%¹. The work participation rate among the tribes is 57.36% out of which 33.35 are cultivators, whereas agricultural labourers constitute 46.85% and workers engaged in household industries constitute 4.77% of the total workers². Thus, majority of the workers in tribal communities are agricultural labourers.

C. Indigenous Peoples Development Framework Objectives

6. The Indigenous Peoples Development Framework seeks to ensure that indigenous peoples are informed, consulted, and mobilized to participate in the subproject preparation. The framework is intended to guide selection and preparation of additional subprojects under the project where impacts on tribal people are identified to ensure better distribution of the project benefits and promote development of the indigenous peoples in the project areas.

D. IPDP Policy Framework

7. ADB uses the following characteristics to define indigenous people: (i) descent from population groups present in a given area before territories were defined; (ii) maintenance of cultural and social identities separate from dominant societies and cultures; (iii) self identification and identification by others as being part of a distinct cultural group; (iv) linguistic identity different from that of dominant society; (v) social, cultural, economic and political traditions and institutions distinct from dominant culture; (vi) economic systems oriented more towards traditional production systems rather than mainstream; and (vii) unique ties and attachments to traditional habitats and ancestral territories. Essentially, indigenous people have a social and cultural identity distinct from the mainstream society that makes them vulnerable to being overlooked in development processes.

8. There are several legal provisions provided within the Indian Constitution and various legislations to ensure protection and assistance to vulnerable communities and sections of the society. Indian Constitution enjoins upon the State to give special attention and a completely different dispensation to the Scheduled Tribes and Scheduled Castes.³ The Constitution of India in its 244 (1) and (2) in part X has listed Scheduled Areas and Tribal Areas under the Fifth and Sixth Schedules envisaging special system of administration. Under the *Fifth Schedule*, certain tribal areas of the state have been declared as scheduled areas by Notification of the President of India. According to sub para 2 of paragraph 5 of the schedule, state has to make regulations for the peace and good governance of scheduled areas specifically for:

- Prohibiting or restricting transfer of land by or among members of scheduled tribes
- Regulating allotment of land to members of such tribes
- Regulating the business of money lending

¹ Orissa Human Development Report, 2004.

² Statistical Abstract of Orissa 2002, and Orissa Statistics at a glance, 2003.

³ This is clear from the provisions contained in Articles 46 (Part-IV) 16, 17, 19, 164, 244, 275, 330, 332, 335, 338, 339, 341 and 342.

9. Extension to Scheduled Areas Act (PESA) 1996 has given control of land, forests and water in the hands of tribal through institution of Gram Sabha (Village Assembly). The 73rd Constitutional Amendment Act 1992 has made provisions for reservations of Vulnerable Groups such as SC, ST and women for effective participation and involvement in decentralized governance. The tribal population is given opportunity of participation through reservation at three levels of Panchayats. Other land tenancy acts control marginalization of tribal household through restriction of transfer of land from tribal to non-tribal person.

10. GOI formed the Ministry of Tribal Affairs in October 1999 to accelerate tribal development in the country. The Ministry of Tribal Affairs has recently come out with a draft National Policy on Tribal Development based on the feedback received from tribal leaders, the concerned States, individuals, organizations in the public and the private sectors, and NGOs. The policy seeks to bring scheduled tribes (STs) into the mainstream of society through a multi-pronged approach for their all-round development without disturbing their distinct culture.

11. ADB's Policy on Indigenous Peoples (IPs) aims to protect ethnic minorities from the adverse impacts of development, and to ensure that ethnic minorities benefit from development projects. The need for a full IPDP will be established on the basis of the following criteria set out in ADB's policy on indigenous people to determine if project impacts are significant: (i) adverse impacts on customary rights of use and access to land and natural resources; (ii) negative impacts on socio-economic and cultural identity; (iii) impacts on health, education, livelihood and social security status; (iv) any other impacts that may alter or undermine indigenous knowledge and customary institutions. The IPDP will ensure that project affected IPs are, as well off with the project as without it after the implementation of the plan. This plan will also aim to identify measures towards satisfying the needs and development aspiration of the IPs.

12. If the impacts on IPs are insignificant,⁴ then specific actions in favor of the indigenous people will need to be integrated in the resettlement plan for the subprojects or a community/tribal development plan. This would ensure appropriate mitigations and benefits for the indigenous people. A specific action may take the form of: (i) incorporating indigenous peoples (who might be excluded from the project) into the project beneficiary group, (ii) incorporating indigenous peoples' specific needs (that may not be addressed by the project) into the project plan, and (iii) a common community action plan where indigenous groups live with the non-indigenous peoples in the same project location.

13. Based on India's legal, constitutional and development strategies and ADB's Policy on Indigenous Peoples, the objective of IPDP will be to (i) ensure that tribal/ST people affected by any subproject will benefit from the subproject; (ii) ensure tribal inclusion in the entire process of planning, implementation, and monitoring of the subproject; (iii) ensure that benefits of the subprojects are available to STs/SCs more than or at least at par with other affected groups; this may require giving preference to tribal people as vulnerable groups over others on certain benefits under the subprojects; and (iv) provide a base for the tribal groups in the area to receive adequate development focus and attention.

E. Procedure for Preparing IPDP

⁴ Impacts are insignificant when fewer than 100 IP are affected. A full IPDP is not required but impacts and mitigation measures can be dealt with through the RP. The impacts of ADB's Projects on indigenous peoples will also be considered significant if they positively or negatively (i) affect their customary rights of use and access to land and natural resources; (ii) change their socioeconomic status; (iii) affect their cultural and communal integrity; and/or (v) alter or undermine the recognition of indigenous knowledge."

14. In order to prepare an IPDP, the following steps will be undertaken:
- (i) Based on the social assessment, establish baseline data on the tribal people (subsistence, employment, community networks) affected by the project;
 - (ii) Review policy guidelines both at national and state levels regarding STs;
 - (iii) If the impacts are considered significant as defined above, prepare an IPDP based on ADB's Policy on Indigenous People; and
 - (iv) Submit IPDP to ADB for review and approval.

15. The IPDP preparation process will comprise preliminary screening process, followed by social impact assessment to determine the degree and nature of impacts of each subproject, and an action plan will be prepared if warranted.

16. **Screening.** The Project Management Unit (PMU) and institutional strengthening and project management consultants (ISPMC) responsible for subproject preparation will collect information on tribal population within and near the subproject areas visiting key tribal settlements and arranging public meetings to provide them information about the subproject and take their views on the subproject. During the process, the social specialist of the ISPMC and PMU will undertake screening of the tribal communities with the help of community leaders and local authorities. The screening will cover the following aspects: (i) names of tribal community in the area; and (ii) total number of tribal community groups; (iii) percentage of tribal community population to that of local population. The areas of enquiry would also include (i) access to natural resources, likely impact on land ownership and land distribution, share cropping and lease holder; (ii) job opportunities through wage labour within or outside agriculture; (iii) employment and income generating opportunities in agriculture, trade and business and services; (iv) poverty; (v) women and gender relation; and (vi) felt needs and community organization. If the results of the screening bring forth the presence of tribal community households in the subproject areas, a social impact assessment on the tribal people will be arranged for those subprojects.

17. **Social Impact Assessment (SIA).** The ISPMC and PMU will undertake an SIA, which will gather relevant information on demographic data; social, cultural, and economic situation; and social, economic, and cultural impacts – positive and negative on the tribal communities in the subproject area. Information will be gathered from separate group meetings within the tribal community, including tribal leaders; group of tribal men and women, especially those who live in the impact areas of the proposed subproject. Discussion will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The PMU and the ISPMC will be responsible for analyzing the SIA and based on it developing an action plan with the tribal community leaders.

18. With a view to assess the life patterns of the affected indigenous population, pertinent baseline information shall be collected, compiled and analyzed. The baseline information on socio-economic characteristics including land tenure, land holding categories, occupational pattern, usual activity status, income – expenditure pattern, access to natural resources, health status, literacy level, age structure, gender, marital status, etc shall be collected in order to facilitate the planning process.

19. The assessment of impacts on tribal population in or adjacent to the irrigation subprojects shall focus on the probable consequences of the project according to specific criteria/indicators. The indicators may include (i) access to natural resources (such as forest, grazing land, weekly markets, etc.); (ii) job opportunities through wage labor within or outside agriculture; (iii) employment and income generating opportunities in agriculture, trades, services

and business; (iv) tribal community rights, institutions, values and way of life; (v) social infrastructure and public services such as sources of water, health facilities, schools, etc.; (vi) reduction in political power, marginalization and social disarticulation; and (vii) changes in farming methods, cropping pattern, crop yield, income, expenditure pattern, etc. If the assessment identifies indigenous peoples specifically as a significantly and adversely affected population, or vulnerable to being so affected, the PMU and ISPMC will consider other design options to minimize such adverse impacts, and will prepare an IPDP.

20. **IPDP.** The IPDP aims at strengthening the existing capacity of the affected tribal community to participate in the Project; ensuring that project benefits will equitably accrue to affected indigenous peoples; and ensuring that mitigation measures are in place to address negative impacts resulting from the Project. The strategy of IPDP therefore would be to promote participation of the tribal people, initiating and identifying people's need, priorities and preferences through participatory approaches. The IPDP will consist of a number of activities and will include mitigation measures of potentially negative impacts by means of modification of subproject design and development assistance. Where there is land acquisition in tribal communities, the project will ensure that their rights will not be violated and they will be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation will be in keeping with entitlement matrix as provided in the Resettlement Framework of the project. The IPDP will include:

- (i) Baseline data;
- (ii) Land tenure information;
- (iii) Development or mitigation activities;⁵
- (iv) Institutional arrangement;
- (v) Implementation schedule;
- (vi) Monitoring and evaluation; and
- (vii) Cost estimate and financing plan.

21. The PMU will submit the IPDP through the Project Director to ADB for review and approval prior to the selection of the specific subprojects. The IPDP policy and measures must comply with ADB's Policy on Indigenous Peoples.

F. Consultation and Disclosure

22. The tribal groups will be consulted in preparing the IPDP. They will be informed of the mitigation measures proposed and their views will be taken into account in finalizing the plan. The plan will be translated into the tribal language and made available to the affected people before implementation. The tribal institutions and organizations in the affected area will also be involved in implementing the IPDP and in resolving any disputes that may arise.

G. Institutional Framework and Budget

23. Department of Water Resources (DOWR) will be the executing agency (EA) for the project which will have project management unit (PMU) headed by a chief engineer who reports to Principal Secretary DOWR. The PMU will have the primary responsibility for the preparation of the IPDP supported by ISPMC. The responsibility of financing, implementation and monitoring of the IPDP will rest with the EA. A local NGO with the relevant experience will be

⁵ Based on surveys on various community specific development needs, such as (i) infrastructure development and community service facilities such as weekly markets, drinking water facility, sanitation, health facility, schools, community halls, post office, watershed structure, drainage, etc; and (ii) Water User's Association (WUA).

hired to assist the PMU in preparing and implementing the IPDP. An independent agency will also be oriented on ADB's Policy on Indigenous Peoples.

H. Monitoring and Evaluation

24. The DOWR/PMU will set up and operationalize internal monitoring, with the relevant specialists of PMU and ISPMC, NGO(s) to implement the IPDP, and an independent agency. NGO will be thoroughly briefed about the ADB's Policy on Indigenous People. An external monitoring agency will also be engaged by the EA with ADB concurrence to monitor and proactively evaluate the IPDP implementation. The reporting formats will be prepared for both internal and external monitoring. The monitoring will include the process and impact indicators with the baseline established at the preparatory stage of the IPDP.