

**Disseminating Information Accessed under the RTI Act- Reports related to
Schedule V Areas (habitat of ethnic communities)**

(12 August 2009)

Dear all,

Many of you may be familiar with areas that are covered by the Fifth Schedule of the Indian Constitution. This Schedule contains special provisions for the administration of specific areas where ethnic communities (loosely termed tribals) reside. (To access a copy of the Constitution of India please click on: <http://lawmin.nic.in/coi/coiason29july08.pdf> - Contents of the Fifth Schedule are on pages 287-290). Nine States - Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan have settlements, blocks or entire districts covered by the Fifth Schedule. (For a complete list of all settlements covered by the Fifth Schedule in these states, please access the Annual Report of the Union Ministry for Tribal Affairs at: http://tribal.nic.in/ar_0708e.pdf - pages 147-175)

Article 244 (1) of the Constitution requires the Governor of every State that has areas covered by the Fifth Schedule to submit an annual report to the President of India. The reporting must focus on the administration and development of these areas. There have been misgivings that this mechanism is not functional.

We launched an exercise to check whether the reporting mechanism was being adhered to. An application was filed with the Union Ministry for Tribal Affairs. The queries raised and the responses received are tabulated below:

	RTI Query	Response																											
	Dispatched on 25 th November 2008	Reply dated 5 th January 2009 received free of cost on 13 th January 2009																											
1.	The date and month of receipt of reports specified under clause 3 of Part A of the Fifth Schedule [read with Article 244(1)] of the Constitution of India from the States of Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan during the period 1990-2008.	<p>The Ministry of Tribal Affairs was created in October 1999. However details of the Governor's Reports received after the creation of the Ministry (since Tenth Five Year Plan onwards) for the years are indicated against each are given below :-</p> <table border="1" data-bbox="808 1346 1386 1793"> <thead> <tr> <th data-bbox="808 1346 1092 1413">Name of the State</th> <th data-bbox="1092 1346 1386 1413">Report for the period of</th> </tr> </thead> <tbody> <tr> <td data-bbox="808 1413 1092 1444">Andhra Pradesh</td> <td data-bbox="1092 1413 1386 1444">2006-06, 2006-07</td> </tr> <tr> <td data-bbox="808 1444 1092 1476">Chhattisgarh</td> <td data-bbox="1092 1444 1386 1476">2002-03 to 2006-07</td> </tr> <tr> <td data-bbox="808 1476 1092 1507">Gujarat</td> <td data-bbox="1092 1476 1386 1507">2003-04 to 2006-07</td> </tr> <tr> <td data-bbox="808 1507 1092 1539">Himachal Pradesh</td> <td data-bbox="1092 1507 1386 1539">2001-02 to 2004-05 and</td> </tr> <tr> <td data-bbox="808 1539 1092 1570">Jharkhand</td> <td data-bbox="1092 1539 1386 1570">2006-07</td> </tr> <tr> <td data-bbox="808 1570 1092 1602">Madhya Pradesh</td> <td data-bbox="1092 1570 1386 1602">2005-06</td> </tr> <tr> <td data-bbox="808 1602 1092 1633">Maharashtra</td> <td data-bbox="1092 1602 1386 1633">2000-01 to 2002-03 and</td> </tr> <tr> <td data-bbox="808 1633 1092 1665"></td> <td data-bbox="1092 1633 1386 1665">2004-05 to 2006-07</td> </tr> <tr> <td data-bbox="808 1665 1092 1696">Orissa</td> <td data-bbox="1092 1665 1386 1696">2000-01, 2002-03 and</td> </tr> <tr> <td data-bbox="808 1696 1092 1728">Rajasthan</td> <td data-bbox="1092 1696 1386 1728">2003-04</td> </tr> <tr> <td data-bbox="808 1728 1092 1759"></td> <td data-bbox="1092 1728 1386 1759">2001-02 to 2004-05</td> </tr> <tr> <td data-bbox="808 1759 1092 1791"></td> <td data-bbox="1092 1759 1386 1791">2003-04 to 2006-07</td> </tr> </tbody> </table>		Name of the State	Report for the period of	Andhra Pradesh	2006-06, 2006-07	Chhattisgarh	2002-03 to 2006-07	Gujarat	2003-04 to 2006-07	Himachal Pradesh	2001-02 to 2004-05 and	Jharkhand	2006-07	Madhya Pradesh	2005-06	Maharashtra	2000-01 to 2002-03 and		2004-05 to 2006-07	Orissa	2000-01, 2002-03 and	Rajasthan	2003-04		2001-02 to 2004-05		2003-04 to 2006-07
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		The Governor of each State having Scheduled Areas therein i.e., the States of Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan submit the Governor's Report on Administration of Scheduled Areas of the State annually or whenever so required by the President to the President Secretariat.
2.	Details of action taken by your Ministry in respect of any State that has not submitted its annual report as per the Fifth Schedule of the Constitution of India during the period 1990-2008.	The State Government who do not submit [sic] the Report are reminded for submission of Governor's Reports from time to time.
3.	The manner in which citizens can access copies of the aforementioned reports from your Ministry regardless of the <i>Right to Information Act</i> .	The Governor's Report may not be given to citizens unless seen by the Hon'ble President or permitted by the President's Secretariat. The Governor's Report is prepared by the concerned State Government. The concerned State Government may therefore be approached for obtaining the copy of the requisite Governor's Report.
4.	The amount of additional fees required to be paid under the RTI Act for accessing a copy each of all reports submitted by all aforementioned States for the aforementioned period.	In view of the reply to para (iii) above, the question does not arise.

Subsequently, a second RTI application was filed. A request was sent to Central Public Information Officer, Rashtrapati Bhavan on 19th March 2009 seeking the following information:

- 1) "A copy of each report submitted to the Hon'ble President of India under clause 3 of Part A of the Fifth Schedule [read with Article 244(1)] of the Constitution of India by the respective Governors of the following States of Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan for the period-2002-2009.
- 2) A copy of all written communication dispatched to the Governors of the aforementioned States regards the contents of the reports, submitted under clause 3 of Part A of the Fifth Schedule [read with Article 244(1)] of the Constitution of India, for the aforementioned period."

The President's Secretariat transferred the application to the respective States and advised us to approach them directly. The Tribal Development Departments of the states listed below contacted the team on their own seeking additional fees for disclosure of the reports. We are happy to report that we have received reports filed under Article 244(1) from six states. We are following up with Chhattisgarh that has also sent us a fee intimation letter. Jharkhand and Madhya Pradesh have not yet responded. For strategic reasons we have not contested the action of the PIO from the President's Secretariat. In principle he had a duty to make a decision regarding disclosure as the original copy of the reports are held by/in the custody of the President's Secretariat which is a public authority.

State	Years for which reports are available with CHRI
Andhra Pradesh	2006-2007, 2005-2006, 2004-2005 2003-2004, 2002-2003, 2001-2002
Gujarat	2006-2007, 2005-2006, 2004-2005 2003-2004, 2002-2003
Himachal Pradesh	2007-2008, 2006-2007, 2005-2006 2004-2005, 2003-2004, 2002-2003
Maharashtra	2003-2004, 2002-2003, 2001-2002
Orissa	2006-2007, 2005-2006, 2004-2005 2003-2004, 2002-2003
Rajasthan	2007-2008, 2006-2007, 2005-2006 2004-2005, 2003-2004, 2002-2003

These reports are in English and contain a wealth of administrative and development-related information about the Fifth Schedule areas and the Tribal Advisory Councils wherever they have been constituted. We have only hard copies of these voluminous reports and cannot afford the cost of scanning them all to make them available publicly. If anybody is interested in acquiring copies of these reports, we will be happy to send them photocopies at actual cost + actual postage/courier charges. If anybody is interested in scanning these reports and uploading them on one's own website at one's own cost, we will be happy to provide a copy of the reports free of cost. However we would like to have the hard copies back after the scanning is completed. Please contact me at this email id or my colleague Michelle at michelle@humanrightsinitiative.org Our telephone numbers are given below.

The Ministry also sent us some guidelines on the contents of these reports and some related correspondence. On our website you will be required to select the subject line mentioned in this email in order to open the attachments.

In order to access our previous email alerts please click on:
<http://www.humanrightsinitiative.org/programs/ai/rti/india/national.htm> You will find the links at the top of this web page. If you do not wish to receive email alerts please send an email to this address indicating your refusal to receive email alerts.

Thanks,

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