

**FOREST POLICY AND THE TRIBALS:
A CASE STUDY OF FOREST RIGHTS ACT (2006) IN
ODISHA**

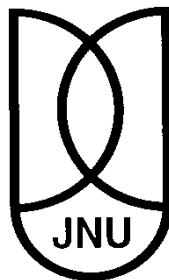
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MASTER OF PHILOSOPHY

MILI SAHU



**CENTRE FOR POLITICAL STUDIES
SCHOOL OF SOCIAL SCIENCES
JAWAHARLAL NEHRU UNIVERSITY**

NEW DELHI-110067

2012

JAWAHARLAL NEHRU UNIVERSITY

Centre for Political Studies

School of Social Sciences

New Delhi-110067 INDIA

Tel. : 011-26704413 Fax : 011-2671603



Dated.....

DECLARATION

This is to certify that the dissertation entitled “**Forest Policy and the Tribals: A Case Study of Forest Rights Act (2006) in Odisha**” submitted by Mili Sahu in partial fulfilment of the requirements for the award of the degree of **Master of Philosophy** of this university. This dissertation has not been submitted for the award of any other degree in this university or any other university and is her original work.



Mili Sahu

CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.



Prof. Pralay Kanungo

(Chairperson)

CPS/SSS/JNU
Pralay Kanungo
Chairperson
Centre for Political Studies
School of Social Sciences
Jawaharlal Nehru University
New Delhi - 110067



Dr. Shefali Jha

(Supervisor)



Supervisor
Centre for Political Studies
School of Social Sciences
Jawaharlal Nehru University
New Delhi - 110067

**Dedicated To My Bhagban
Bapa and Maa**

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ABBREVIATIONS

AISA	All India Students Association
CAMPA	Compensatory Afforestation Management and Planning Authority
CBOs	Community Based Organisations
CCD	Conservation cum Development
CFM	Community Forest Management
CFR	Community Forest Right
CSD	Campaign for Survival and Dignity
DLC	District Level Committee
DSU	Democratic Student Union
EFP	Essential Forest Produce
FCS	Forest Conservation Society
FRC	Forest Rights Committee
HAL	Hindustan Aeronautics Limited
ICT	Information and Communication Technology
ITDP	Integrated Tribal Development Projects
IYA	Indira Awas Yojna
JFM	Joint Forest Management
KWLCL	Kandhamal Women's Leaf Plate Cooperative
MADA	Modified Area Development Approach

MANI	Manav Vikas Niyojan Samiti
MFP	Minor Forest Produce
MGNREGA-	Mahatma Gandhi National Rural Employment Guarantee Act
MOEF-	Ministry of Environment and Forest
MOTA-	Ministry of Tribal Affairs
NALCO -	National Aluminum Company
NCA-	National Commission on Agriculture
NFFPFW	-National Forum of Forest People and Forest Workers
NGOs	Non Governmental Organisations
NNS	Nav Nirman Samiti
NTFPs	Non-Timber Forest Products
OTFDs	Other Traditional Forest Dwellers
PO	People's Organisations
POSCO	Pohang Steel Company
PPSS	POSCO Pratirodh Sangram Samiti
PRADAN	Professional Assistance for Development Action
PTG	Primitive Tribal Groups
REDD	Reducing Emissions from Deforestation and Degradation
SDLC	Sub Divisional Level Committee
SHG	Self Help Groups

SPREAD	Society for Promoting Rural Education and Development
STs	Scheduled Tribes
TSG	Technical Support Group
TSP	Tribal Sub Plan
VDC	Village Development Committees

INTRODUCTION

Introduction

This study is an attempt to understand the symbiotic relationship between the forest and the tribals through the lense of the Indian Forest Policy. To gain a clear policy insight into the process the study has focussed on the National Forest Rights Act 2006 and its implementation in the eastern state of Odisha. To do so an analysis of the Forest Policies of India from the colonial times has been undertaken and the role of Civil Society in the implementation has been assessed in the present context.

Nature has enduring influences on the life of the tribes. The availability of the natural resources around forests strengthens the tribal economy. With the help of those they subsist their life and feel abode of comfortability in their natural habitat.¹ For they collect non-edible things from the forests and make it edible during inadequate food resources. However, on account of various factors like increasing population pressure but decreasing web of resources such as depletion of forests as well as restrictions in reserve forests disturbed the tribal way of life. Thus they find difficulty even in fulfilling their basic needs. It is needless to say that in a democratic state, one group of people should not remain outside the mainstream of society. But, unfortunately, the largest democratic state of India has managed to keep a group of its population called the 'tribals' away from the so-called mainstream of the society. The consequences of this being that the tribals back side of the mainstream have been facing complex problems of economic backwardness as well as socio-cultural adjustment. It is precisely for this fact that the tribals have to be involved in the 'mainstream' if they are to be saved from further marginalization. Nevertheless, it is necessary to point out here that steps have certainly been taken to improve the conditions of the tribals. In fact, broadly, there have different approaches been advanced after independence. This study has identified three major approaches namely, isolationist, assimilationist, and integrationist which have been used for bringing them into frontline. The Isolationist approach was a legacy of the British regime. This approach was advocated by Verrier Elwin, a citizen of Britain who in

¹ Natural Habitats include natural forests of all types, as well as full range of natural terrestrial, freshwater, marine ecosystem which is modified by human activities, such as collection of minor forest products, logging, fishing, hunting, livestock grazing etc.

1927 came to India as a Christian missionary and acquired the Indian citizenship in 1954. He was appointed as 'Anthropological Advisor to the government' by the Prime Minister Jawaharlal Nehru and was given the task of implementing the tribal welfare programmes. Elwin insisted on a separate approach for the development of tribals, the most vulnerable population of India. His approach was known as the 'leave them alone', 'national park', or isolationist approach. Literally it meant letting the tribals live in their own way, not infringing on their socio- cultural and economic space and moreover allowing them to grow in their self-created or self designed developmental paradigm.² The policy was to isolate the tribal population from the masses. Tribals were kept away from the rest of the population. It is following this policy of 'leaving the tribals untouched' that the British took deliberate efforts not to develop communication in the tribal areas. He supported the establishment of a sort of 'specimens in a human zoo' of the tribals and advised that their contact with the outside world should be reduced to the minimum. With the development of the 'assimilationist' approach, the isolationist model was less followed.

The 'assimilationist'³ approach was advanced by Sociologist G.S Ghurye. This paved the way for the tribal people to engage with the larger society. In India, the process of assimilation took place in different parts of the country, resulting in the gradual acceptance of Hindu culture by the tribals. The advocates of this view supported a direct assimilation without waiting for a slow and long-drawn change. The main criticism against this approach was that this tried to change the tribals by imposing the non-tribal customs and traditions. The approach has been discredited and is also considered to be a failure.

² GC Rath, *Tribal Development in India: The contemporary debate*, Sage Publication, New Delhi, 2006, p.73.

³ Conversion of many tribes into Christianity is basically a form of assimilation. G.S Ghurye argued that the tribals were only backward Hindus who had been pushed back into the hilly forest areas, due to which the Christian missionaries felt that the tribal problem could be resolved if the tribals could be converted to Christianity. If the conversion of tribes to a new faith adds to national solidarity without alienating them from the majority of their neighbours and equips them for better participation in modern life, there can perhaps be no opposition to this. However, it can be argued that the approach can no more offer any serious solution to the tribal problem. Rather, this has helped disintegrating the tribal communities, which, for example, becomes obvious from the Hindu- Christian communal riots in the Kandhamal district of Odisha.

The past experience of the policies of isolation and assimilation, forced the planners to take the middle way between the two, which is called the integrationist approach. This approach was a brainchild of India's first Prime Minister Jawaharlal Nehru. He was of the view that the tribals are not completely different and also not totally similar with other sections of the society. That is why, he claimed, when talked about their development it must be integrationist. His model of tribal development is popularly known as "panchasheel"⁴ or five pillars for tribal development. All those five principles are:-

- (1) Tribals should develop along the lines of their own genius and nothing should be imposed upon them;
- (2) Respect for tribal rights on land and forest;
- (3) Minimum investment of outsiders (non-tribals) in their administration and development;
- (4) Administration and launching of multiple schemes should be avoided and effects should be made within the framework of their social and cultural institution; and
- (5) Evaluation of results should not be statistics but by the quality of life.

Broadly, this Panchasheel policy emphasised that the tribals as a cultural group should not be disturbed in the course of developmental programme and at the same time provided a vision of respect to the unique identity of tribal communities. Again, the policy of integration consists of two types of measures for tribal development i.e. Protective and Promotional measures.

The protective measures consist of land policies, forest policies and the policies to protect tribal culture and traditions, while the promotional measures are the same as development and welfare programmes undertaken by the government through plans and other voluntary agencies to make the life of the tribals better. It might be useful to mention at the very outset that in this dissertation I make use of Nehru's integrationist approach to comprehend the FRA 2006. It is because of the fact that the isolation approach aims at conscious separation of the tribals from the political and economic mainstream while the assimilationist approach tends to the tribals' partial and involuntary subservience, but, integration, in contrast, is a respectful merger with

⁴ J Ambagudia, 'Tribal rights, dispossession and the state in Orissa,' *Economic and Political Weekly*, (2010), VOL XLV, No 33, 14,2010, p.67.

the mainstream, staking a claim to an equal share of power and resources as other citizens.

The question that can be pertinently raised here is why forest policies? That is to say, what is the need of forest policies and how is it related to the tribals? Though this dissertation attempts to answer these questions in detail in the ensuing chapters but an immediate short answer to these questions could be that when all the measures taken by the government failed to bring the tribals into the mainstream, it gave prime importance to the forest policies as they could become a conduit to bring the tribals into the mainstream. However, it is worthwhile to point out here that ‘forest policy’ refers to the body of stated principles which underlie decisions and actions of people and person who act on forest. In order to fulfil the basic objective of society, the policies influence the course of development of forests, which are very vulnerable renewable resources.⁵ Moreover, this work gives special attention towards the forest policy for the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of FRA) 2006 launched by the State of India, because, if we are talking about the holistic development and progress in various fields for different people of society, we cannot neglect the welfare of the people who dwells in the forests. In order to do so it tries to put light on the various forest policies adopted in India at different periods starting from 1864 by Dalhousie to the current one in 2006. In this context, another short answer to the above raised questions is that the forest policies and laws since colonial time have been directed towards keeping the tribals out, first, for making the forests commercially productive and then to facilitate wild life protection whereby depriving the tribals from the their right to livelihood from the forests.

On account of this I have reviewed the works of Arun Bandopadhy⁶, Mahendra Gaur⁷, Ramchandra Guha⁸, Tapan Kumar Mishra.⁹ From these works

⁵ NC Sahu, *Economics of Forest Resources : Problems and Policies in a Regional Economy*, B.R Publishing Corporation, Delhi: 1986, pp.360

⁶ A Bandopadhy⁶, ‘The colonial legacy of forest policies in India’, *Social Scientist*, Vol.38, no. 1-2, 2010, pp.53-76.

⁷ M Gaur, *The Forest Rights of Tribals*, Alfa Publication, New Delhi, 2008

⁸ R Guha, ‘Forestry in British and post-British India, A Historical Analysis’, *Economic and Political Weekly*, 1983, pp.1882-1896.

⁹ TK Mishra, ‘Forest Policy and Deprivation of Forest Dwellers in Independent India: The Story of the Baidharas and Other Forest Dependent Communities’, *Social Scientist*, Vol. 34, No. 7/8, 2006.

pertaining to tribal rights or forest rights of the tribals it becomes clear that the forest policies which came during the colonial period were based on economic development or the purpose of commercialisation of forests. And, whatever government policies on forest rights those have been implemented after independence, concerns more about wild life protection and conservation of forests for sustainable environment. To make matters worse for the tribals, even the degraded forest land is also not accessible to the tribal people. The deprivation of access to the forest and the tyrannical rule of the forest guards-bureaucratic nexus have led to tribal people not getting nutritious food which is their traditional diet and sundering of their traditional way of life with all its negative social and cultural consequences. Tribal communities face both social and economic discrimination. The overriding characteristic of the exploitation of tribal communities is the alienation from their land, livelihood and common ownership of forest resources through violent and coercive displacement from their original habitations, from the very beginning of British colonial rule. This process was greatly intensified by the post-independence policies of successive Governments of independent India, till the present day though the process differs from region to region. The bottom line is that, the tribals who constitute 83 million of the population (2001 Census), are victims of brutal exploitation. They are alienated from their land, their right to forests denied and they have been rendered a source of cheap and bonded labour for the contractors and landlords. The nexus among capitalist-landlord-contractor constantly seeks to disrupt their traditional solidarity, denies their legitimate rights and suppresses them with brutal force.

I must acknowledge here that for time and space constraints and also to make this work more precise I have chosen the tribal problem of Odisha. But the more important reason for studying the tribal rights to forest in Odisha pertains to my perception that the tribals of Odisha are terribly vulnerable in the forests today. In fact, this vulnerability of the tribals of Odisha was painfully depicted way back in 1945 in Gopinath Mohanty's Odia novel 'Paraja'¹⁰ which is about the unwritten tribal history, experiences and culture that are fast vanishing. It portrays the story of how the Paraja, a name of a tribe, as well as the other tribes are being evicted from their land and a cultural and economic invasion is taking place. In the novel Sukru Jani and his

¹⁰ G Mohanty, *Paraja*, 10th edn, Vidyapuri ,Cuttack, 2007

family can be taken as representatives of the Paraja tribe that sensitises the reader to millions of tortured indigenous people all over the world. It communicates the agony of the tribals, of marginalized people all over the world. Similarly, the author describes how the tribesmen seek loans from the Sahukar (land lord) for many purposes, such as marriages or bride price, and for grains during months of the rainy season. The exceeding interest and increasing debt goes on from one year to the next year. As a result the illiterate and innocent poor tribals will have no option but to mortgage their lands and consequently the Sahukar becomes master of their land, their bodies and so on. Hence, it is the activities and notorious interest of the non-tribals that destroys the relationship between the Paraja and his land through unscrupulous way.

Philip Viegas¹¹ deals with the gravity of the problem of land alienation among the tribals of Odisha. He looks at the process of land alienation in the context of social change, that is, its impact on the changing pattern of socio-economic life of the tribals in Odisha. Starting from agrarian changes, the author has dealt with the dynamics of land alienation that are in operation within the structure and the processes that led it to happen in the districts of Ganjam, Dhenkanal, Koraput and Phulbani. The issue of land alienation is seen in the context of the tribal struggle for survival. This process of land alienation is ironical in the sense that despite the numerous laws and regulations that have been adopted by the State Government of Odisha to check the land alienation, the process of land alienation among the tribals is taking place in a massive way.

However, the paradigm is shifting, though of late. This shift becomes evident from The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of FRA) 2006 and Rules 2007, which has come to recognize, ascertaining of customary land rights of STs and OTFD and enhance living condition as well as ensure poverty alleviation. The key beneficiaries of this act are Scheduled Tribes (ST) people who have been residing and occupying in forest land before 30.12.2005 and Other Traditional Forest Dwellers (OTFD) who have been residing and occupying for 3 generations. This act entitles Individual Rights (Up to 4 Hectares, or 10 acres of

¹¹ P Viegas, *Encroached and Enslaved: Alienation of Tribal Lands and its Dynamics*, Indian Social Institute New Delhi, 1991

Land); Community Rights of (Water Bodies/Fishing/Minor Forest Produce Collection/grazing/Nomads/Primitive Tribal Groups habitat/Forest Village to Change the nomenclature to Revenue Village) and rights to ensure conservation of Forests and Wild Life using their own indigenous traditional technology.¹² In this backdrop central question of research is-

- **Why the Forest Rights Act 2006 has not achieved its stated objective in developing a symbiotic relationship between the tribals and the forest?**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a result of the protracted struggle by the marginal and tribal communities to assert their rights over the forestland over which they are traditionally dependent. This law empowers the tribal communities living close to the forest to ensure that their habitat is preserved from any form of destructive practices that affect their cultural and ecological heritage. The notification of Rules for the implementation of the Forest Rights Act, 2006 on 1st January 2008, has finally paved the way to undo the 'historic injustice' done to the tribal and other forest dwellers. The central and state governments are now bound by the law to immediately stop all evictions of tribals and other traditional forest dwellers from their lands.

In Odisha, tribals are being denied their rights under the Forest Rights Act. Worse there are increasing cases of open violation of the Act by the forest department in league with the timber and other mafias who have been looting the forest and the forest produce for years. The percentage of *pattas* (land records/titles) given is lower than the rejection of claims. The rejections are inordinately high and include rejection of tribal claimants who are settled on land which has been targeted for projects. In particular the absolutely retrograde and obnoxious clause for non-tribal other traditional forest dwellers (OTFD) to produce evidence of 75 years residence in the forests has been used to deny their rights. To worsen the matter further, government misrepresents it. In this backdrop, civil society organizations with vested interest drift away from the real interest of the people and advance their agenda in such implementation programme.

¹² AB Ota & K Pattnaik, *Two tribal friendly acts and their implications*, SCSTRTI:Government Of Orissa, Bhubaneswar, 2009

Implementation process can be improved with exact clarifications, amendments in the policy guidelines under the active participation of civil society organization. It should be necessary to strengthen them. Civil society organizations contribute to the consolidating and strengthening of democracy. Active and open participation becomes central to the civil society. The most common organizational structure in civil society is the voluntary associations, a grouping of citizens who come together by reason of identity or interest to pursue a common objective. For Habermas civil society refers to voluntary association, non-governmental organisation that hold the communications structures of the public sphere. In Gramsci's scheme of things, civil society is composed of the private organizations, the schools, trade unions etc., which, he claims, are operated by the intellectuals.¹³

Civil Society has an important role to make the state more responsive, to make society more participative and also to redefine the developmental policies of the state to be more inclusive. Both Mahajan¹⁴ and Beteille¹⁵ associate civil society with a set of open and secular concepts that occupies the space between individuals and the state. They are distinct from family and the state institutions like the bureaucracy. Moreover, keeping in mind this role of the civil society organisations, in my chapter I discuss the role of different voluntary and non-governmental organisations and student associations in the implementation of the tribal rights law.

In this dissertation what I mainly aim is to try to highlight the successful initiatives of the various state mechanisms to address the tribal problem. And while doing so I try to identify the gaps and conflicts in the implementation process and analyse the reasons thereof. Moving on to the structure of the dissertation, it has been divided into four core chapters plus an introduction and the concluding chapter. A brief summary of the detailed discussions of the different chapters are as follows:

¹³ N Chandhoke, *State And Civil Society, Explorations in Political Theory*, Sage Publications, New Delhi, 2000

¹⁴ G Mahajan 'Civil Society and its Avtar: What happened to Freedom and Democracy?' in *Economic and Political Weekly*, May 15, 1999, pp.1188-1196.

¹⁵ A Beteille, 'Citizenship, State and Civil Society', *Economic and Political Weekly*, Vol.34, no 36, 1999, pp.2588-91.

Chapter-1 Forest and Livelihood issues among the tribals: A framework of analysis

This chapter deals with tribes and forest relationship by examining the socio-cultural and economic aspects of tribal dependence on the forest.

Chapter-2 Historical Background of “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”

This chapter analyses the Forest Rights Acts in India in the different phases both of pre- and post-independence. Taking a historical perspective, the chapter seeks to capture the political undercurrents of forest policy making towards tribals and tribal development. It specifically analyses the consequences of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 on the tribal development.

Chapter-3 Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act 2006 in Odisha: Its implementation and challenges

This chapter particularly focuses on the FRA 2006. Then, taking the case of Odisha here I examine the status of the implementation of this forest rights act by analysing the existing data. To be precise, a comparative study of two districts namely in Kandhamal and Koraput of Odisha has been done to find out the status of the implementation.

Chapter-4: Forest Rights Act and Civil Society Organisations in Odisha

The implementation of FRA is not successful everywhere because of some lacunae in the act itself or in its implementation. It is in this context this chapter analyses the different NGOs, Voluntary Organisations, intellectual groups, etc., and their role in the implementation of forest rights act in Odisha.



CHAPTER-1

FOREST AND LIVELIHOOD ISSUES AMONG THE TRIBALS: A FRAMEWORK OF ANALYSIS

CHAPTER -1

Forest and Livelihood Issues among the Tribals: A Framework of Analysis

In common parlance, tribals are considered as traditional forest dwellers and tribes. A tribal is usually born and brought up in the forest environment and as such since childhood days the significance of forest is inculcated into his/her inner mind. For them, the forest is the very basis of survival and its resources have to be harvested in a sustainable manner. In fact, the use of the term 'tribe' itself signifies their close and inseparable relation with forest. For, in Indian languages, there is no exact equivalent term for 'tribe' whose only close synonyms are Forest dwellers or Adivasis (Original inhabitants). However, these indigenous peoples are predominantly composed of the large and diverse populations scattered across several States. It is this diversity in their cultural ethnography that poses serious difficulty in deriving a common definition of the tribes and consequently they are interpreted differently by various scholars and policy makers. This leads to a lot of confusion and complexity regarding tribal approaches and various development programmes for tribal development. Above all, it can hardly be denied that tribal development is closely related to the forest resources. Hence, this chapter is an effort to develop a framework of analysis to understand tribe-forest relationship.

This chapter has three sections. The first section deals with the definition of tribes, constitutional provisions for the tribes and tribal development initiatives undertaken in the five year plans. The second section deals with the tribal's socio-economic interdependence with the forest. The last section analyses the need for a forest policy.

Tribes-Definition

The tribes in India are variously known as 'Adivasis' meaning 'original inhabitant'; 'Jan' or 'Janajati' refers to give birth to'; 'Adimajati' which means

primitive community; 'Schedule tribe'; 'traditional forest dwellers'¹⁶ and so on. So far, there is unresolved basic question that who are these people they identified as tribal? The definition of the term 'tribe' has long been a subject for discussion and serious debate among the social scientists.

The British administration described 'tribe' as a category separate from the mainstream Hindu caste society. In contrast with their Hindu neighbours, they possess a carefree life, and enjoy simple pleasures with simplicity. 'Tribes' are a social group, usually within a definite area and having a common language, cultural homogeneity and unifying social organization.¹⁷ But in anthropological literature, tribes have generally been defined in terms of the distinctive features of language, culture, territory and government.

In the census reports of 1881, when the first 'proper' all-India census was undertaken, the term used was not 'tribe' but 'forest tribe'.¹⁸ In the Census report of 1911 the colonial administration identified tribal people as 'tribal animist or people following tribal religion'. In the successive Census reports of 1921, 1931 and 1951 the tribal people have been named as 'Hill and Forest Tribes', 'Primitive Tribe' and 'Tribes' respectively. Importantly, the Government of India Act of 1935, from which the Constitution of independent India derived a number of its provisions, used the term 'Backward Tribes'. There was also a debate in the Constituent Assembly on using the term "Scheduled Tribes" (ST).¹⁹ Jaipal Singh, the tribal representative in the Constituent Assembly, favored the use of the term "Adivasis" instead of ST. But the term "ST" was unanimously accepted, and the reason given by Dr B. R. Ambedkar, Chairman of the Drafting Committee of the Indian Constitution, was that the word "Adivasi" is really a general term which has no specific legal de jure connotation,

¹⁶The word 'traditional forest dwellers' implies that the proposed legislation only covers those people who have been living in the forests for at least three generations. But more significantly, the definition of 'other traditional forest dwellers' also includes people who have become dependent on the forests after being rehabilitated and displaced.

¹⁷Ministry of Tribal Affairs, *Tribes in Orissa: Empowering the tribals of Orissa*, SCSTRTI, Bhubaneswar, Orissa, 2001.

¹⁸V Xaxa, 'Transformation of tribes in India, Terms and Discourse', *Economic and Political Weekly*, June 12, 1999, pp.1519.

¹⁹After independence, certain tribes have been specified under the Constitution of India as the Scheduled Tribes. The Indian Constitution refers to tribal people as the Scheduled Tribes, but it does not define 'tribe'. So it can be said that, only those tribes which have been included in the list of the Scheduled tribes are given special treatment or facilities envisaged under the constitution. Thus all the facilities and opportunities could be availed by the tribes under different regimes though not uniformly.

whereas “ST” has a fixed meaning because it enumerates the tribes. The term was used mainly as a mark of identification and differentiation, that is, to mark out a group of people different in physical features, language, religion, custom, social organization and so on.²⁰

World Bank consultation workshop held in 1988 at Karnataka recommended some of the characteristics to distinguish the tribals from other population. Those characteristics are: tribal people are possessed of an isolated life from the urban area which is demarcated as scheduled area; separate dialect; distinct culture and primitive religious belief; simple life; production for consumption and not for sale and so on²¹. However, identification of tribes is not free from politics of the land. It is in this light that Amita Baviskar shows how in India certain communities who do not possess tribal characteristics are included in the list of scheduled tribes as a political favour so that they can benefit from the special constitutional guarantees, while others who are more deserving have been left out. For example, the Gujjar community in Rajasthan regards itself as better qualified to be a tribal community than the Meenas.²² There is continuously such type of inclusion and exclusion problems going on in the country. This is because of the fact that a tribe may be scheduled in one state and not so in another state. For instance, Konda Kapus is a group listed as an ST in Andhra Pradesh but not in the neighbouring state of Odisha. Thus to sort out this problem the constitution (Scheduled Tribe) Order 1950 proclaimed that ST is one which is included in the schedule and once the list is declared not even the president has the power to modify it. It can be modified only through an act of parliament (Art 342(2)).²³ There are no stated official criteria to identify STs, due to which problem of identification arises. Thus to address this various commissions and committees were set up, namely the Commission of SCs and STs(1951), Joint Committee of Parliament on the Scheduled Caste and Scheduled Tribes Orders (Amendment) Bill(1967), Chanda Committee(1969), the Ministry of Tribal Affairs, Lokur Committe(1965).

²⁰ J Ambagudia, ‘Scheduled Tribes and the politics of inclusion in India’, *Asian Social Work and Policy Review*, 2011, p-34.

²¹ HM Mathur, ‘Tribal Land Issues in India: Communal Management, Rights, and Displacement, in J Perer (ed.), *Land and cultural Survival :The Communal Land Rights of Indegenous Peoples in Asia*, ASEAN Development Bank,2009, P.168

²² A Baviskar, ‘Fate of the Forest: Conservation and Tribal Rights’, *Economic and Political Weekly*, Vol. 29, no. 38, 1994, p-2493.

²³ Ambagudia, 2011, p.36.

Lokur Committee defines that there are certain characters which determine the tribals viz indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large and backwardness.²⁴ However, to address definitional problems and a host of other problems surrounding the tribals the Ministry of Tribal affairs has been set up at the Centre.

The tribes have occupied a definite geographical area which is basically forest areas and exercise effective control over it. Permanent settlement in a particular area gives them a distinct geographical identity. A tribal person living in the remote areas of the territory forms an indispensable part of the Indian population. These tribal groups remain confined to their own small world. To have a development which has a solid foundation at grassroots level, and to build a nation which seeks prosperity through the prosperity of every section and group comprising it, the need is that tribal welfare should be taken care of by giving it a priority treatment.

Tribes in India

There are over 700 Scheduled Tribes notified under Article 342 of the Constitution of India spreading over different States and Union Territories of the country. There are many tribes present in one state. There are certain tribal communities who have declining or stagnant population, a pre-agricultural level of technology, are economically backward and have low level of literacy. 75 such groups in 17 States/UTs have been identified, and have been categorized as Primitive Tribal Groups (PTGs). Since Primitive Tribal Groups constitute the most vulnerable section of the STs, it is important to allocate adequate funds from centrally sponsored and State Plan Schemes for their socio-economic development.

Provisions under the Constitution of India

The constitution of India initiated the tribal welfare programmes by incorporating important provisions. These provisions not only put an end to the policy of indifference which had been followed during the pre-independence period, but also gave testimony to tribal welfare programmes, making them a constitutional obligation for the future governments of the country. With the aim of addressing the

²⁴ Ibid, p.37.

problems faced by tribals the Indian constitution has included many special provisions for the tribal people, which are as follows.

On Social ground:

Constitution guarantees special recognition to the Scheduled Tribe on social ground. The Constitution of India provides the Right to Equality (Art-14), which is a Fundamental Right, whereby the tribal people are treated equally. Art-15 (4) empowers the state to make special provisions for the advancement of the Schedule Caste and Schedule Tribes. Equality of opportunity for all its citizens in matters relating to employment or appointment to any office has been guaranteed by the state under Art-16. Provisions for reservation in appointments or posts in favour of any backward class citizens included under Art-16(4). The state has to make provisions in matters of promotion to any class or classes in the services in favours of the Scheduled Caste and Scheduled Tribes under (Art- 16(4-A)). Art-19(5) restricts the right to move and settle in tribal areas or acquire property in these areas.

The National Commission for SCs and STs has been established to investigate, monitor and evaluate all matters relating to the constitutional safeguards provided for the SCs and STs under Art- 338. Under Art- 339 there is provision for the appointment of a commission to report on the administration of the Scheduled area and the welfare of the Scheduled Tribes. As per Art- 340 there is a Commission to investigate the conditions of socially and educationally backwards classes and the difficulties under which they labour and to make recommendations to remove such difficulties and to improve their conditions. Art- 342 provides statutory recognition to the tribes or tribal communities.

Economic

One of the fundamental features of our constitution is the Directive Principle of State Policy (DPSP) which especially promotes educational and economic interest of the weaker sections of the society including the tribes. Article-275(1) of the Constitution of India guarantees special grants-in-aid from the Consolidated Fund of India each year for promoting the welfare of Scheduled Tribes. The objective of the scheme is the promotion of welfare of Scheduled Tribes and raising the level of administration in Scheduled Areas, gradation of economic and social infrastructure in the tribal areas to bring them at par with other states. Grants received from central government are to be spent on development of irrigation, road construction,

communication, construction of building of model schools for ST students. For example, Odisha has got allocations under Article 275(1) for 11 Ekalavya Model Residential Schools from Class VI to XII. Besides, the Art- 335 enlist the claims of the members of the STs and the SCs in the appointments to services and posts in connection with the affairs of the Union or of a state by taking into consideration the maintenance of efficiency of administration.²⁵

Political

The Fifth Schedule entails special provisions of administration and control of Scheduled Areas and the Scheduled Tribes in any State (other than the States of Assam, Meghalaya, Tripura and Mizoram). Annual Reports are to be submitted by the Governors to the President of India regarding the administration of the Scheduled Areas. Tribes Advisory Councils are required to be set up especially in Fifth Schedule States to advise on matters pertaining to the welfare and advancement of the Scheduled Tribes Article 244 (1). Under the 6th Schedule of the Constitution, in the States of Assam, Meghalaya, Tripura and Mizoram certain tribal areas have been designated as Autonomous Districts and Autonomous Regions. Also Art- 244(2) makes provisions for institutionalisation of District Councils and Regional Councils. Reservation of seats for the Scheduled Castes and Scheduled Tribes in the House of People is guaranteed under Art-330 and Art-332 mentions their proportional representation in the State Legislatures. Reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Panchayat is entailed under Art 243(D). Extension of the 73rd and 74th Amendments of the Constitution to the Scheduled Areas through the Panchayats (Extension to the Scheduled Areas) Act, 1996 ensures effective participation of the tribals in the process of planning and decision making.²⁶

Strategy of tribal development under the Five Year Plans

Various measures and provisions have been adopted, schemes introduced and plans implemented under the Five-Year Plans to redress the problems of the tribals. There are also the ongoing attempts in bringing them to the national mainstream through the Micro Projects.

²⁵ Ministry of Tribal Affairs, *Tribes in Orissa: Empowering the tribals of Orissa*, SCSTRTI, Bhubaneswar, Orissa, 2001

²⁶ PM Bakshi, *The constitution of India*, Universal Law Publishing , Delhi, 2010

The First Five Year Plan emphasized the provision of additional financial resources through a community development approach to address the problems of tribal people rather than evolving a clear-cut tribal development strategy. Towards the end of the plan (1954), 43 Special Multipurpose Tribal Development Projects (MTDPs) were created. These MTDPs could not fully serve the interests of the tribal people since the schemes were numerous and of a general nature. This approach continued during the Second Five Year Plan. In the Third Plan, different strategy for tribal development was evolved by converting those Communities. Development Blocks where the concentration of tribal population was 66% and above were converted into Tribal Development Blocks (TDBs). By the end of the Fourth Five Year Plan the number of TDBs in the country rose to 504. The strategy of development through TDBs had its limitations as well, as it failed to address the cause of the tribal population of the country living outside the TDBs, which comprised more than 60% of the total tribal population.²⁷ Funds for tribal development are sourced from State Plans, Special Central Assistance (SCA) to Tribal Sub Plan, and funds under other Schemes of the Ministry. Other than this there are sectoral programmes of Central Ministries Departments and Institutional Finance funding for the tribal development.

The Ministry implemented various tribal development programmes during the Ninth Plan period and incurred an expenditure of Rs. 3387.41 crore against the budget estimates of Rs. 3632.45 crore. The major expenditure of Rs. 2746.63 crore (81.09%) was in the form of grants-in-aid released to the State Governments as Special Central Assistance (SCA) to the Tribal Sub Plan and grants under Article 275(1) of the Constitution of India.²⁸

From the Tenth Five Year Plan period, the objective and scope of SCA to Tribal Sub Plan (TSP) has been expanded to provide special assistance to the families in tribal regions for employment-cum-income generation activities like agriculture, horticulture, animal husbandry, cooperatives, fisheries and infrastructure incidental thereto. Besides family-based activities, other activities run by the Self-Help Groups (SHGs)/ community can also be taken up. The ultimate objective of extending SCA to TSP is to boost the demand-based income generation programmes and thus raise the

²⁷ Ministry of Tribal Affairs Annual Report , 2006-07, P-15.

²⁸ Ibid., P.19

economic and social status of tribals. It aims to act as a catalyst for development in the region by giving hundred per cent assistance. Moreover, Integrated Tribal Development Projects (ITDP) was set up as nodal agencies within the area of Tribal Sub Plan. ITDP prepares plans for development, implements projects, monitors the progress of work and coordinates in sectoral activities. The Modified Area Development Approach (MADA) was adopted to cover smaller areas of concentration of tribal population. In Odisha, there are now 46 MADA pockets covering 47 blocks. The Ministry of Tribal Affairs formulated a 'Conservation cum Development (CCD) plan' which aimed at development of Primitive Tribal Groups holistically.

Tribes and Forest Relations

Forests are an abode of numerous species of both plant and animals, which constitute biodiversity through a web of life and possess an ecological balance. Apart from the ecological point of view, the forest question has a few other claims that are of the relationship between the forest and the forest dwellers, which is being a direct manifestation of the most primitive type of identity. Since over million of tribal population in India still live in the forests under various socio-political complexes, a close look at the forest sector may yield valuable insights into not only the condition of the numerous tribal masses but also the social processes. It supports various life forms including the human beings who dwell in settlements in and around forest. Thus forest is one of the most important resources for the very survival of human beings, especially those who are living in and around the forest. Forest being the harbor of a wide variety of plant species, has the capacity for tapping of solar energy and yielding the dry matters that satisfy fully the various needs of the consumers, i.e. the man and other animals.²⁹

Elwin very rightly describes the close relationship of tribal people with the forest by explaining how a vast number of the tribal people treat forest as their true loved home place, their daily livelihood and the source of their very existence. The forest gives them food likewise the fruit of all kinds, edible leaves, honey, nourishing roots etc. It keeps them warm with its fuel and cools with its grateful shade. It provides them with material to build their homes and to practice their arts.

²⁹W Fernandes, 'National Development and Tribal Deprivation', Indian Social Institute, New Delhi, 1992, pp.231- 245.

Significance of Forests in Tribal Life

Tribal people have lived in close proximity with the beautiful nature from time immemorial and they have developed a symbiotic relationship with the forests. They do depend heavily on the forests for their daily livelihood concerns like shelter, employment and occupation, but they don't confine its role only to their livelihoods, economic benefits and commercial implications of forest product. That is to say, they don't take forest merely as a renewable, natural and perennial resource for fulfillment of their basic needs. Rather, for them, it is the very foundation of their culture exemplifying the long term pattern of man and nature's coexistence. Forest has its own charm. The pure air of the forest, sweetness of beautiful landscape, deeper silence of the mountain, slow and pleasant sound of the streams gives them a sense of completeness, as they feel to have got everything they wanted. In and around the forests, tribal folklore, their religion, social bonding and worldviews are spread. Tribal life portrays pictures of an amazing world where food has to be collected directly from the forests, processed indigenously and painstakingly over days and nights to make them edible enough to survive on a day-to-day basis. It is also a world where medicinal herbs are the closest thing that works like a doctor which is available locally and plentifully. Therefore by ignoring their dependency and presence on the forest ecosystem, their social and economic wellbeing cannot be ensured.

Tribal Economy with reference to the forest

The tribal society is a closed and simple one. Tribal indebtedness forms part and parcel of their socio-economic behaviour and their economic life is driven by credit practice. The Scheduled Tribes in general and the Primitive Tribal Groups (PTGs) in particular are at the level of subsistence economy. They have been living for centuries in relative security, seclusion and isolation with their varying levels of primary economy.³⁰

The economies of the tribes are exhibited in forest. In fact, they associate themselves with almost all the traditional activities such as food gathering, animal husbandry, food production. For example, the tribes of North East India practice 'shifting cultivation' and practice 'terrace'. Other tribes like the Khampa in Himachal

³⁰ JK Samal, *Economy of Colonial Orissa (1866-1947)*, Manoharlal Publishers, New Delhi, 2000.

Pradesh, Toto of West Bengal draw their subsistence from trading which is their primary means of livelihood. The tribes like Adiyani, Jenu Kuruba, Saharia and the Saunti depend on wage labour as their primary source of income.

In Odisha, food gathering is the most important part of the tribal's primitive economy. Food gathering is supplemented by crafts of different types, fishing and hunting. They catch fishes in streams and other water bodies with net, trap, hook and line. Similarly, with the help of their hunting implements like bow and arrow, stick pellet throwers etc. they hunt small creatures like rabbit, fowl etc. Above all, the tribal people mostly depend upon minor forest produce because the tribals generally live in forest habitats.³¹

Minor Forest Produce (MFP)

Forest is a source of dry matters of various kinds such as soil, trees, minerals, precious stones etc. The forest produces, according to availability, utility and unit cost is classified as major forest produce and minor forest produce. Minor forest produce includes all products obtained from forests other than wood which also comprises products like vegetables. The National Commission on Agriculture (NCA) has defined the MFP as produce obtained from forests other than wood, but much of the above MFP are allowed to be produce not free of cost but at concessional rates. However, categorisation of all the MFP obtained from the forests under as follows³²-

Fibres and Flosses: Fibres are obtained from the tissue of certain woody species like the siali bark which is used for rope making and other shrubs give silky, fine, strong fibre which is used for making net to catch fish. Anjan yields a fibre that is used to make rope; its wood is burnt as well as used for making cots; its leaves are eaten by goats. Flosses are basically obtained from certain fruits of the tree like Semal which can be used for making pillows, mattresses etc.

Grasses, bamboo, reeds, and canes: Bamboos are tall and are a type of grass which is characterized by woody stems called the culms. The strength of culms and its straightness, hardness can be split and used for suitable purposes by the tribes.

³¹ Ibid.

³² NC Sahu & BN Das, 'Forest policy of Orissa: A third visit', in PM Mohapatra & PC Mohapatra (ed.), *Forest management in Tribal areas- Forest policy and people's participation*, New Delhi, Concept Publishing Company, 1997.

Bamboo is considered as poor people's timber as it is extensively used by them in roofing, walling, flooring, making basket, cordage etc. The seed which is collected from the dead bamboo clumps flower is eaten as food grain. And more interestingly Thatching Grass, Hill Broom, Cane, Bamboo are used for making paper. Bamboo is woven into baskets, and most of them are four feet high and equally wide to store grain. Similarly, arrows and bows are made from bamboo. It is also used to make fishing traps and brooms and axe handles. Strips of bamboo also line the roof of house. Teak is used for making all agricultural implements such as ploughs, hoes, rakes-drums and kitchen utensils. Its wood is burnt for various purposes like cooking, saving themselves from cold during winters etc.

Seeds: Oil seeds such as Sal seeds, Kusum seeds, Siali seed, Neem seed, Bana Tulsi seed, Palas seed, Goba seed, Babool seed, Jackfruit seed, Raicod seed, Chakunda seed, Mahua Seed, Kochila seed, Karanja seed, Ringu seed, Char seed etc. are collected by tribal people to make essential oils.

Gum and Resin: Gums include Char Gum, Dharua gum, Babool gum, Bahada gum, Genduli gum while Resins (Jhuna) includes sal resin and Oleve resin which can be called the omnipotent gift of god for the tribal people.

Bark and root: Siali bark, Sunari bark, Paja Bark, Khetuna Bark, Jadamari Bark, Hantari bark. Roots like, madika root, talamali root, arrow root, agnijalila root are used as rope. Goats, buffaloes, and other animals eat the Siali leaves when there is no other food around. The branches of Siali and peels of the stem are extensively used to make cots and mats and also to bundle.

Leaves: More than 10 lakh (1 million) tribals and other forest dwellers are engaged in the Kendu Leaves collection in the state of Odisha. The tribals collect Kendu leaves and roll it to hold tobacco as well as smoke it as bidis. Its fruit is eaten and its wood used to make carts. Large leaves of teaks are used to make packages for storing dried chillies or groundnuts. Palsa leaves are used for making plates.

Flowers: The 'mahua' tree is prized above all others. Mahua flowers are basically found during the month of February. It, known to have intoxicating effects, is like a symbol of survival for the adivasis, a metaphor for existence and a backbone of their food habits. The flower symbolises the essence and colour of indigenous people. It is

turned into alcohol, eaten as a vegetable and brings money home when sold in the market. It is synonymous with survival. Its fruit *tol* is pressed for oil by the tribals. Other than Mahua Kerua flowers, Dhakti flower, Girli flower are also another means of production for the tribal people who live and depend on the forest.

Edible products like Mango, Jackfruit, kendu, Cashew and fruit, amla, honey, Tamarind, Mushroom etc. are collected from the forest areas by the forest inhabitants to maintain their livelihood.

Lac and its production are of importance resource for the tribal people. Forest produce such as patal garuda, phanphania fruit, sikakai, poisonous mushroom, arrowroot, ashoka bark, Rutrutia root are used for those purpose drug, poison and insecticides.

Non Timber Forest Produce-

Forest as renewable source of subsistence and contribution of forests to the economy is traditionally recognized through products of economic value like timber as well as through a range of non-priced products such as fuelwood, fodder and a range of Non-timber Forest Products (NTFPs) including medicinal plants that are exchanged in an informal manner. NTFPs are promoted and sustainably harvested, which support food and health security.

The limited market exchange results in gross undervaluation of forests resources, which leads to inadequate allocation of funds to the forestry sector. Forests also play a very important role in rural and tribal economy as many of the Non timber forest produce, minor forest produce or collection of essential forest produce provides sustenance to a few hundred million poor people. Non-timber forest products (NTFP) are those entire commodity obtained from the forest which do not necessitate harvesting. It includes mushrooms, medicinal plants fuelwood, nuts seeds. In tropical forests NTFPs can be an important source of income that can supplement farming or other activities. NTFPs serve as raw materials for industries ranging from large-scale floral greens suppliers and pharmaceutical companies to micro-enterprises centred on basket-making, woodcarving, medicinal plant harvesting and processing, and a variety of other activities. This is especially important in India where access to NTFPs is controlled by the Government. In particular we can explore the relationship between financial returns from NTFPs and the social, economic and cultural background of

collectors, to understand the potential contribution of NTFP collection to solving livelihood problems. Non Timber Forest Produces such as bamboo, sal, kendu leaves have been nationalized. The issue of livelihood of forest dwellers is related to sustainable harvest of NTFP, which has negligible impact on plants and trees in forest. Kendu leaf is one of the most important non timber forest produce in Odisha. Plucking of kendu leaf is highly labour intensive activity and creates employment opportunity for tribals.

The liberalized policy of collection of NTFP will be internalized with recognition of community ownership and rights over NTFP. Livelihoods options based on value addition and processing of prioritized of NTFP items will be promoted through self-help groups under suitable credit linkages from banks or other micro-financing institutions, networked into district level and state level federations. The state level federation will provide marketing strategy, demand, price trends, and so on. Agro-forestry based livelihoods will also be promoted by encouraging processing of such products. Gradually bamboo based enterprises will be promoted by adopting new technology to provide improved avenues for livelihood enhancement, particularly for traditional and potential bamboo artisans. Eco-tourism shall be promoted with the objective of obtaining community support for conservation of natural resources without disturbing the pristine nature to provide nature based recreation and alternate livelihood opportunities for people living in and around protected areas.

Forest and Tribal Culture

All human beings are culturally embedded in a locality, which means that they grow up and live within a culturally structured world and organise their lives and social relations in terms of a culturally derived system of meaning and significance. Likewise the tribal society has culture and traditions of their own from which they derive their livelihood. Tribal people's cultural pattern and tradition completely lay behind the forest landscape. The tribal communities all over the world live close to nature. An over acknowledgement of the 'gifts' received from nature finds its expressions in the worship of its various manifestations of plants, animals, hills, fountain rivers, different trees and so many other objects. They do all this not only because they think nature as inanimate entity but also they think it as their fellow human being.

Their religion leads them to believe that there are many spirits living in the trees. There are also a few insights into the religious practices of the Adivasis. Felling trees here is taboo. A part of the virgin forest dedicated to gods or goddesses is preserved as the sacred grove. The grove symbolises the religious identity of the local people. They offer a number of special sacrifices to the forest gods. In many places offerings are made to a tree before it is cut, and there are usually ceremonies before and after hunting. Tribal folk-tales often speak about the relations of human beings and the spirits and it is striking to see how in many of the myths and legends the deep sense of identity with the forest is emphasized.³³ A substantial part of the tribal lore, myths, legends, folk tales, folk songs which reaffirms the concern of a tribal community for its ecosystem and efforts to conserve the resources of the forest which are treated by the tribal as their neighbours. These accounts provide a fair conception to look upon the forest as a socially relevant institution in the context of tribal culture rather than a personal habitat of plants, animals. It also reaffirms that harmony in man-plant-animal interaction is a universal phenomenon and their relationship is largely symbiotic. Tribal people inhabiting in particular geographical areas ascertain to construct a cultural device to ensure reasonable safety to the flora and fauna in its neighbourhood.

Why Forest policy?

India's forests are facing severe biotic pressures as the nearly 40% of domestic fuelwood needs of the people and 30% of fodder needs of the cattle population in the country are met from forests. The rural and tribal population requires forest for their sustenance. They derive employment, food, minor forest produces etc. Above all they obtain fuel from forest for cooking, heating and even lighting purposes. The demand and the supply gap of timber, fuel wood and fodder are widening. With the increasing needs of the galloping numbers, it will be foolishness to ignore the survival compulsions of a vast majority in the country. To save the forest, it is necessary to evolve a fuel policy which places viable fuel alternatives in the hands of the poor. This should in fact form an integral part of the forest policy. To deal with the stupendous task to overcome the problems forests are facing, National Forest

³³ B Chaudhuri, 'Forest and Tribals, in DK Behra(ed.), 'Contemporary Society : Tribal Studies', Concept Publishing Company, New Delhi, vol.I, 1997.

Commission has recommended allocation of minimum 2.5% of national budget to the forestry sector.

In independent India, large areas of community lands were transferred to the forest departments without proper survey and even without any recognition of the tribal rights or consent or consultation of the local people. In many areas, without recognition of rights, forests were notified as reserve and protected forests, which in fact is responsible for the situation of forest dependent people becoming even worse as the already existing minimal rights were not recognised. In the era of globalisation where we are witness to changing cultural patterns and changing socio-economic and livelihood concerns, tribal life too has been deprived of its pristine existence. In India, this age old harmony of tribals with nature has been affected since the time of colonial period. The growing urbanisation, lack of recognition of rights, development process, commercial exploitation of forest resources and treating forest as national wealth have resulted in a trend of massive deforestation. The most important development has been that all this has erased the traditional rights of the tribesman and their dependence on nature. The tribes of Odisha are no exception. Majority of the tribals on forest are socially, economically and educationally backward. They are relatively unknown and underexposed to the outside world. They depend largely over MFP and reside there. Their lives in remote hilly area are resultantly subject of suffering and untold miseries by consequences of deforestation.

Idea of Reducing Emissions from Deforestation and Degradation (REDD)³⁴ is also gaining momentum in the country. In the fact that Indian Government has proposed National Mission for A Green India or Green India Mission (GIM), which is considering the forests as an important part of its climate change strategy; to address climate change issues through forestry sector. Indian government supports implementation of REDD as per the implementation of forest right act.³⁵ But this led to allow private sector to exploit forest resources for profit; highlights ownership and management control of the forest resources in the country; possess a way to denied people's rights and politics behind this contestation consistently affected and also tribal forest dwellers for whom the act come to change their conditions.

³⁴ REDD (Reducing Emissions from Deforestation and Forest Degradation) is the global endeavour to create an incentive for developing countries to protect, better manage and save their forest resources, thus contributing to the global fight against climate change.

³⁵ India's Forests and REDD+, Ministry of Environment and Forests, Government of India

Bamboo is a minor forest produce but it has been nationalised. This has resulted in the taking away of bamboo from the forests and handing over to the paper mills. But the unresolved dilemma here is that how can we nationalise something which is owned by somebody else? Some would argue that the State governments are indulging in violation of the law. Because, bamboo, which is the livelihood source for most of the forest dwellers has been deprived of from them and in return there has been no mechanism of support, process and marketing of other products. It is due to this fact one can find the emergence of situations where in a family the father has no work, the mother has nothing to cook, and the children do not have a school too in the tribal societies. Predominantly, the shifting cultivation practiced over the area along with its socio-cultural and bio-physical characteristics is also the cause of degradation of forests. The din of 'development' appears to be overwhelming this society. As a result the Adivasis are witnessing profound changes in their day-to-day life. For example, with their forest produce increasingly inaccessible to them, the medicinal herbs are no longer available to cure their injuries and illnesses. Instead, they are forced to trek to the nearest doctor, typically one they cannot afford.

In the name of scientific management, by sensing the commercial potential of the forests, wealth of natural resources, the colonial government started to alienate the tribal from their forest livelihood and existence. Its succession of laws was passed with the sole purpose of curtailing the traditional rights of tribal people in the forests. In fact, the tribals were barred from cultivation and required a paid permit for grazing, even which was difficult to obtain. At the same time, in the name of expressing ecological concerns, vast forest lands which are ecologically sensitive were destroyed to build way for big projects.

In this changing context, Verrier Elwin very aptly depicts the position of the tribal people. He talks about the 'melancholy' effect of forest reservation on the tribals of Central India, for whom nothing aroused more resentment than the taking away of their own property. Indeed, the Gonds although they possessed an extensive medical tradition got convinced that their remedies did not operate in this age of darkness, Kalyug, which began when the government took away their forests.³⁶ Truly, the

³⁶ V Elwin, *A Philosophy for NEFA*, Shillong: Directorate of Information NEFA, 1957

tribals, who once in the past regarded themselves as the lord of the forests, were through a deliberate process turned into a subject to come under the Forest Department and the tribal villages were no longer an essential part of the forests. The traditional rights of the tribals were no longer recognized as rights.

The state of Odisha as a geographical unit owns the largest part of forest estate in the country. The government has taken up the task of management but in the process it has marginalised forest dependant communities and through out the long period of time has not recognized the people's rights. Gradually it happened to be jeopardizing the traditional lifestyle. Across the pristine landscape of Odisha the different multinational corporations and multilateral financial institutions ongoing attempt to hamper and usurp the natural resources has created socio-economic deprivations and tensions for the tribals who reside in and around the forests. For instance, the various developmental projects like POSCO, VEDANTA, TATA Steel etc. have come to ask questions like will you leave your land and forests to the tribals. When such a ridiculous question is asked to the tribals it ushers the beginning of a fearful life, as it would make sure of losing of their livelihood resources like land and most importantly displace from their forest in which their life is completely dependent as it the only source of their survival. Their problems get compounded when the Mafia carries on the plunder by clearing the forests with the connivance of the Forest department which doesn't take any action against them. But, on the other hand, when the local people cut wood or take forest produces for their routine use, they are sent to jail. Ironically, the mineral resources are found under the good forested lands. Odisha as a State is richly endowed with mineral resources like coal, iron ores, bauxite that hold the potential of transforming it into an industrial hub and elevating standard of livings of its people. Besides the conservation concerns, there was a growing demand for development in the country. Mines, industry, large dams and other infrastructures were created. And, in these developmental ventures, comparatively, the tribal people have been affected more than any other groups. This further marginalised the tribals and the forest dependents. Many laws displaced of these people without adequate compensation. They became encroachers on their own land which disrupts their culture as well. They have no skills to start any other activity for a living. Thus, development projects in most cases have impoverished them economically.

The above discussion can be aptly illustrated by an example of the ongoing movement by tribals in Odisha. There is a rich habitat in Niyamgiri Mountain and its adjoining areas in Odisha. It is the habitation of the primitive tribes like Dongria Kandha and Kutia Kondh for whom it is the sacred mountain of “Niyam Raja” which is central to their life and culture. The ecological and cultural sacredness of Niyamgiri is threatened by the proposed bauxite mining by Vedanta Alumina Ltd. It will amount to a complete destruction of the rich biodiversity of the area and of an entire culture and a way of life. The important point that needs to be underlined from this story of Niyamgiri is that the tribals equate the biodiversity of the area to their culture and way of life. Hence they claim that the destruction of this biodiversity is tantamount to teasing the deity of Dongria Kondhs, the Niyam Raja.

Conclusion

Eventually, it can be concluded that forest has been indeed an indispensable part of social, economic, political and cultural life of these tribal people from time immemorial. But from the colonial era this forest has been taken away from them by the state in the name of industrialisation and development. These innocent, simple tribal people have been victim of this process of development. So, there is dire need to bring about a coherent forest policy which will, not only suitable for these communities but also affirm their ways of life, more harmoniously adjusted with natural processes.

Thus, in this chapter I have introduced the idea of ‘tribals’ in the country as well as in Odisha. It has also discussed in detail about their dependence on the forests for their livelihoods. In the next chapter, I will describe in detail the different forest policies undertaken in India.



CHAPTER-2

**HISTORICAL BACKGROUND OF “THE SCHEDULED
TRIBES AND OTHER TRADITIONAL FOREST
DWELLERS (RECOGNITION OF FOREST RIGHTS)
ACT, 2006”**

CHAPTER-2

Historical Background of “the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”

“Eviction of Tribal Communities and Other Forest -dwelling communities from forest areas will be discontinued. Cooperation of these communities will be sought for protecting forests and for undertaking social afforestation.”

(Common Minimum Programme of the UPA Government)

This chapter makes an analysis of the historical background of the forest rights act in India in general and the emergence of forest rights act 2006, Odisha in particular. In order to do so, an attempt has been made to show how the colonial state constructed the question of forest in India. That is to say, the peculiar trajectory of emergence of forest policy from the time period of British rule to the historical origin of Forest Rights Act of the present one has been covered. At the very outset it can easily be said that the story of this trajectory is one of exploitation and deprivation of the rights of the tribals and other forest dwellers who are dependent on the forests. Moreover, finally after more than six decades of India’s independence the poor tribals as well as the forest dependent people are seeking to restore their forest rights through Forest Rights Act 2006. It is necessary to make it clear that in this study I have applied the Historical Institutional approach that illustrates and helps make sense of the complex historical processes and contemporary contestation over institutions relating to the framing of it and bringing forest rights in the Indian Context. However, before going to discuss on the FRA it is worthwhile to know as to what is a forest policy.

A Forest policy lays down that the rights and concessions enjoyed by tribal that should be fully protected. Their domestic requirement of firewood, fodder and minor forest productions and construction timber should be the first charge on forest produce. Government of India has developed forest policies for preservation and conservation of forest scientifically, so that forest would not shrink much and

simultaneously for protecting the interest and rights of the tribal who are inhabitants of the forest. The issue of forest policy in India has been highly contentious for at least a century and a half, and has intensified in recent years. There are at least two distinct phases of forest policies in India. The first phase covers the colonial period from the 1850s to the 1947 and the second one covers the period from the 1950s to 1980s onwards.

However, it is interesting to know that even in medieval India, although the ownership of forests was with local rulers, local communities enjoyed almost unhindered access rights to them for their needs. For, under the Mughals, timber trading expanded and as the early British colonial regime spread forests were opportunistically plundered by commercial enterprises with state support. However, it was only after the 1857 uprising that the principle of village forest rights began to be systematically undermined.

From beginning of the colonial period, forests started being targeted for commercial exploitation and revenue generation. The most important way of doing so was for railways. The British wanted to use India as a market. Hence, they developed railways and used timber for the rail coaches. More importantly, the traditional or customary rights of the people were often neither recognized nor recorded by the colonial government while declaring forests to be state property. It is due to this fact one finds numerous examples of rebellions against reservation of forests by tribal communities in the history of the freedom struggle.

The birth right of the tribal's in using forest wealth became the rights and concession during the nineteen fifties. It meant that forest dwellers to some extent got proper natural position for grazing, collection and use of forest production which gradually watered down to conditional 'concession' during the seventies. It must be said that though the tribal got some rights and concessions, but even after Independence, the policies and laws remained more or less unchanged. Earlier in the name of economic development and commercialization of forests the right of tribal was ignored and now it is argued that forests have to be protected for environmental and ecological concerns. It is necessary to recognize the traditional rights of Adivasis to forests and uphold and protect their traditional knowledge and manage biodiversity. For example, the Paudi Bhuinya of northern Odisha and LanjiaSaora,

Didayi, Bondo of southern Odisha collect forest produce both for their household consumption and for sale. Whereas those people live in the forests of Mayurbhanj, Keonjhar etc are Birhor, Mankidia and Hill Kharia lead a life exclusively depending on collection of forest produce for their livelihood. They also catch small birds and animals. They live in temporary huts made out of materials collected from the forest. This shows that their entire life revolves round the forest. Qualitatively, the harmony of nature and culture is best exemplified in the forest based tribal communities. How with the forest a cultural resources apart from being an economic resources? There are some communities like Dongaria Kandha and Kuttia Kondh live in the Kalahandi area come under western part of Odisha. They have not only subsistent economy, agricultural system, social organization but also religious belief and other important socio-cultural aspects of forest life.³⁷

The local tribal people, with all the know-how of the forests and direct incentives and disincentives to manage them carefully can become the best keepers of the resources. This is precisely what the present law under Forest Right Act-2006 does. It gives them the community rights to protect, use and manage the forests in their own way. Hence, there is a great potential in the Act of improving the conditions not only of the tribal and other forest dwellers, but of the degraded forests too.

Chronology of the forest policies in the colonial phase (1855s-1947s)

It is quite well known that before British rule the forests in some parts of India were already threatened. The forests in British India were depleting at a perilous rate. It made the British government to formulate a forest policy which should ensure the use of forest resources for the national benefit and its sustainability as renewable natural resource.

Memorandum of the Government of India on Forest Conservancy, 1855

Colonial strategic concerns led to railway-building and therefore the need for a sustainable supply of timber for sleepers. The year 1855 was the beginning of a systematic forest policy. The then Governor-General Dalhousie issued a memorandum

³⁷ MK Jena, P Pathi, KK Patnaik & K Seeland, '*Forest Tribe of Orissa*', vol.2 on Kutia Kondh, D.K Printworld Ltd, New Delhi, 2006

on forest conservation. Lord Dalhousie's note of 1855 was to establish a forest estate and manage its orderly exploitation. Even before that on 3rd August, 1855 the desire for so-called scientific forest management was expressed by issuing a Charter under Dalhousie which was known as the 'Charter of Indian Forestry'.³⁸

Superintendent of Forests in Pegu, 1856

At that time the British were unquestionably the world leaders in deforestation having fuelled thousands acres of woodland in Australia, Southern Africa, Burma, and India. Knowing little of methods of sustained-yield forestry, in 1864 they established the Indian Forest Department, which for the first twenty-five years of its existence was guided by different German Inspectors General of forest. Dr. Dietrich Brandis, a German forest scientist, was appointed as the superintendent of forest in Pegu (presently under Myanmar) in 1856 and later on in 1856, he was appointed as the first Inspector General of Forests to the Government of India. It was under his guidance that the forest development was organized and the first Forest Act was enacted.³⁹

Forest Act of 1865

The Forest Act of 1865 provided legal sanction to the forest administration in various provinces of India and empowered the colonial state to acquire monopolistic control over India. This covered mainly the management and preservation of forests. By virtue of this Act, the government was empowered to declare any land covered with trees as Government forest. In order to establish Government's control over forests, the administration was empowered to give punishment to anyone for the breach of the Act. This Act was meant to regulate forest exploitation, management and preservation. For the first time an attempt was made to regulate the collection of forest produce by forest dwellers, which meant socially regulated practices of the local tribals were superseded by law. Basically, it was an attempt to regulate the practices of the local people under the force of law. However, the law was applicable only to government forests and not to the private ones. This act had so far never

³⁸T K Misra, 'Forest Policy and Deprivation of Forest Dwellers in Independent India: The Story of the Baidharas and Other Forest Dependent Communities', *Social Scientist*, Vol. 34, No. 7/8, 2006, pp.22.

³⁹ A Bandopadhyay, 'The Colonial Legacy of Forest Policies in India', *Social Scientist*, vol.38, No.1, 2010.

succeeded in overcoming the fundamental conflict of ownership and rights between tribes and the government. It made no provisions regarding rights of users.

Forest Act of 1878

This Act was aimed at increasing the control of the Government over the forests by empowering the government to declare an area to be a reserved forest, protected forest or village forest. A reserved forest or protected forests in India are terms denoting forests which are accorded a certain degree of protection.

That is why under this Act, the forests were divided into:

(a) Reserved Forests

Reserve Forest provides claims and privileges of people over land and forest produce in the proposed reserved areas. In reserved forests, rights to activities like hunting and grazing are sometimes given to communities living on the fringes of the forest, who sustain their livelihood partially or wholly from forest resources or products. Thus, typically reserved forests enjoy a higher degree of protection with respect to protected forests. Reserved forests are often upgraded to the status of wildlife sanctuaries, which in turn may be upgraded to the status of national parks, with each category receiving a higher degree of protection and government funding. For example, the Sariska National Park was declared a reserved forest in 1955, upgraded to the status of a wildlife sanctuary in 1958, becoming a Tiger Reserve in 1978.

(b) Protected Forests

People residing in areas proposed to be made reserved or protected forests were now to be notified to record their claim over such land, and its forest produce. Certain activities such as cattle grazing or trespassing were prohibited. Provisions were made to impose a duty on timber.

There are forested lands where logging, hunting, grazing and other activities may be permitted on a sustainable basis to members of certain communities. In reserved forests, explicit permission is required for such activities. In protected forests, such activities are allowed unless explicitly prohibited. Thus, in general reserved forests enjoy a higher degree of protection as compared to protected forests. Necessary Acts were brought into force to make it public what practices amounted to forest offences and what punishments were prescribed for committing such offences. Certain uses

were declared forest offences and imprisonment and fines were prescribed for them.

(c) Village Forests

The act formed a third category called '*village forests*', which provided village communities with more concessions in using forests for their livelihood. According to the act, the state government may assign to any village community the rights of government to or over any land that has been constituted as a reserve forest. But the state government can cancel such an assignment. The government makes rules for regulating the management of village forests: how the villagers may use timber and village produce and pasture, and their duties towards the protection and improvement of such forests.⁴⁰

The Indian Forest Act of 1878 was a comprehensive piece of legislation that came in to serve as a model for other British colonies. In independent India, it allowed the state to expand the commercial exploitation of the forest while putting curbs on local use for subsistence. It allowed forest-resources produced in British India to be taxed by local Governments, thus enabling the British government to earn revenue from the forests. Any rights people might have had over forests were seen as concessions that could be withdrawn at will.⁴¹

Forest Policy Resolution, 1894

In the Forest Policy Resolution of 1894, it was declared that the State forests were to be administered with the sole objective of public benefit.⁴² But in all cases, the constitution and preservation of a forest involved, to a greater or lesser degree, the regulation of rights and the restrictions of privileges of forest user which have previously been enjoyed for free by the inhabitants of its immediate neighbourhood. In this resolution, the forests under State management were divided into four classes such as:

(1) Conservation Forests- the preservation of which was essential for

⁴⁰K Mitra & R Gupta, 'Indigenous Peoples' Forest Tenure in India' in J Perer (ed.), *Land and cultural Survival :The Communal Land Rights of Indegenous Peoples in Asia*, ASEAN Development Bank,2009, P.168, pp.195-196.

⁴¹See <http://www.commonlii.org/in/journals/NUJSLawRw/2008/19.pdf>

⁴² The Government of British India marked the interdependence of agriculture and forest, hence invited Dr.Voelcker to examine the condition of Indian agriculture and explore criteria for its development. Which basically with a definite purpose for serving the agricultural interest ; forest situated on hilly area should be protected to preserve the climate and of the land; forest used as grazing ground should be managed for the need of the local population.

- environmental protection;
- (2) Commercial Forests -for the supply of valuable timber for commercial purposes;
 - (3) Minor forests –these were the only forests that were managed by local institutions, and
 - (4) Pasture lands- mostly grasslands that were meant for domestic animals.

It was categorically specified that the claims of cultivation were stronger than the claims of forest preservation and that whenever any demand for cultivable land could be supplied from forest area it should be granted without hesitation. The cardinal point was the emphasis laid on the advantages to be gained by limiting the rights and privileges of the individual.

India Forest Act, 1927

By decrees the Government of India gradually increased its control over the forests and the Forest Department was strengthened from time to time with a view to regulating people's right over forest lands and forest products. There was a steady increase of revenue obtained from the forest. The functions and duties of different forest officials were codified. Different forest products were listed. The items which were declared as forest produce under the Act are as follows: Timber, charcoal, wood oil, resin, natural varnish, bark, lac, mahua seeds, leaves, flowers and fruits, grass, creepers, reeds and moss, skins, tusk, horns, bones, silk cocoons, honey, wax, peat, surface oil, rocks and minerals. This act remains India's central forest legislation and still operational in Independent India with minor modifications.⁴³ Provisions under this Act were made to extend state control over forests because the act empowers the forest departments to accept or reject claims to use forest produces.

Chronology of the Post-Colonial Phase (1950-1970 Onwards)

Forest Rights Act did not emerge in an 'unproblematic and consensual' way. Different stakeholder groups contested for their interests over a long period of

⁴³As per the 1927 Act, the government can constitute any forest land or waste land as the property of Government, a reserved forest, by issuing a notification to this effect. This Act enabled the colonial government to declare more and more land as reserve forests, without finding out rights of the forest dwellers.

time. All of the above Colonial Forest Rights Act or forest policies critically showed 'FRA just as a privilege, not a right'. This question becomes relevant due to the simple fact that the entire colonial forest policies failed to redress forest rights deprivations. Then, a more pertinent question to ask is as to how the forest policy can bring solution to tribal development. That is why the post-colonial India has provided a range of legislations for the settlement and protection of local rights to forest use. The major ones are as follows.

National Forest Policy 1952

After Independence, it was declared that the forest policy should be based on paramount preservation of national needs or national interest. During the post-independence period there was some rethinking on the forest policy in India and thus came the '*National Forest Policy of 1952*'. This policy has laid down that it would be the duty of the Forester to awaken the interest of the people in the development, extension and establishment of tree-lands and to make them tree-minded.

(a) Basic Objectives of the NFP

The basic objectives that should govern the National Forest Policy are the followings:

- Maintenance of environmental stability through preservation and where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represent the remarkable biological, diversify and genetic resources of the country.
- Checking soil erosion and denudation in the catchments areas of rivers, lakes, reservoirs in the interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.
- Checking the extension of sand- dunes in the desert areas of Rajasthan and along the coastal tracts.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programs, especially on all denuded,

degraded and unproductive lands.

- Meeting the requirements of fuel wood, fodder minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilization of forest produce and maximizing substitution of wood.
- Creating massive people's movement with the involvement of women for achieving these objectives and to minimize pressure on existing forest areas. The 1952 resolution following colonial legacy also mentioned that the claims of communities living in and around forests should not override national interests. The major lacuna of this policy was the absence of alternatives that were being offered where the rights of the tribals had to be shortened or cancelled in the larger public interest.⁴⁴

Dhebar Commission Recommendations

The different Five Year Plans gave a new boost to the forest management and the increased demand of timber and various forest products on the one hand and pressure on land on the other, resulted in substantial loss of forest land and forced the administration to embark on new policy again. In 1961, the Dhebar Commission had already recommended that subject to safeguards, tribal should be allowed forest lands for cultivation, their needs should be met from outlying areas in the reserve forests and their requirements for grazing and shifting cultivation should be conceded. The Commission wanted the forest department to participate in the betterment of the tribal side by side with the development and conservation of the forest. Their intention was to provide the tribal with work all the year around by the Forest Department in consultation with Agriculture, Industries and the Development

⁴⁴N Bhai, 'Towards a new forest policy' in PM Mohapatra & PC Mohapatra (ed.), *Forest management in Tribal areas- Forest policy and people's participation*, New Delhi, Concept Publishing Company, 1997, pp.61-62.

Departments in each region.⁴⁵

Shiloo Ao Committee in 1969 more or less reiterated the recommendations of the Dhebar Commission and deplored the inaction and apathy of the administration in improving the lot of the tribal people.⁴⁶

Wildlife (Protection) Act 1972

The Wildlife Protection Act 1972 allows any area to be constituted as a 'protected area', namely a national park, wildlife sanctuary, tiger reserve or community conservation area. Wildlife reserves, which had minimal rights for tribal people, increased from 131 in 1975 to 572 in 1999 covering 4.7% of the land area of the country. Beside the conservation concern, there is growing demand for development in the country. Mines, industry, large dams and other infrastructure were created. These further marginalized the tribal and forest dependent communities. They were displaced from their lands without adequate compensation.

Under these laws the rights of people living in or depending on the area to be declared as a forest or protected areas were to be settled by '*forest settlement officer*'. The officer would enquire into the claims of people to land, minor forest produce, etc., and, in the case of claims found to be valid, he would allow them to continue or extinguish them by paying compensation. But studies suggest that for many areas this process either did not take place at all or took place in a highly faulty manner.⁴⁷

A most important point here is that most of these protected areas have been declared without any rhyme or reason and no scientific surveys have ever been carried out before their declaration. In fact, there is no provision in the relevant legislation (Wild Life Act 1972) in this regard. The government can declare any government land as Protected Area, if it thinks it suitable for wild life preservation, irrespective of the fact whether any wild life worth the name exists there or not. The Ministry of Environment and Forests, together with some influential environmentalists, had

⁴⁵ B Chaudhuri, 'Forest and Tribals: A historical review of forest policy' in C K Paty (ed.), *Forest, Government and Tribe*, New Delhi, Concept Publishing Company, 2005, pp.4-5.

⁴⁶ Ibid.p.5.

3.For an introductory summary, [http://en.wikipedia.org/wiki/Forest_Rights_Act_\(India\)#Background](http://en.wikipedia.org/wiki/Forest_Rights_Act_(India)#Background).

somehow decided that approximately 5% of the total land mass of the country should be made Protected Areas and be made inviolable.

National Commission on Agriculture (N.C.A., 1976)

The National Commission on Agriculture in 1976 accepted the inter-relationship of forest economy with rural and tribal economy. It also accepted that forestry needed strengthening by rationality in operations, larger investments and use of newer techniques so that forest can yield a higher surplus to be shared locally, regionally and nationally as against rapid disappearance of trees and vegetation. The Commission recommended revision of the 1952 National Forest Policy by incorporating significant shifts and stresses in the forest policy arising out of the recommendations of the Central Board of Forestry. The Estimate Committee (1968-69) of the Fourth Lok Sabha in its 76th Report also recommended that the National Forest Policy should be reappraised so as to make the new policy more purposeful, realistic, effective and operative for the development of forests and forestry.⁴⁸ The National Commission on Agriculture was constituted to look into not only the agricultural policy, but also the forest policy at the national level. It recommended that future forest policy should be based on two pivotal points: (1) the requirement of goods, i.e. industrial wood production for forest-based industries, defence, and communications and other public purposes and small timber, fuel wood and fodder for the rural communities and (2) the satisfaction of the present and future demands for protective and re-creative.

The Commission in its report on forestry has advocated commercialization of forests at all costs and recommended a drastic reduction in people's rights over forests. It stated that free supply of forest produce to the rural population and their rights and privileges have brought destruction to the forests and so it is necessary to reverse the process. The rural people have not contributed much towards the maintenance or regeneration of forests. Having over-exploited the resources they cannot in all fairness, expect that somebody else will take the trouble of providing them with forest produce free of charges.⁴⁹

⁴⁸ Chaudhuri, Forest and Tribals: A historical review of forest policy, p.5

⁴⁹ N Pattnaik, *Essential forest produce in Orissa*, D.K Printworld Ltd, New Delhi, 2003, p18.

Constitutional Changes

The subject of forests was included in the state list as per the Sixth Schedule of the Constitution of India. But it was changed in the year 1976 whereby the subject of forest was transferred from the state list to the concurrent list through the 42nd Amendment to the Constitution of India. By this change the powers of the State were diminished and those of the Centre were enhanced over the forests. The Government of India promulgated the '*Forest Conservation Ordinance*' in the year 1980 prohibiting the State Government from allowing the use of any forest land for any other purposes without the prior approval of the Central Government. The ordinance was listed and converted into an Act.

Draft Forest Bill (1980)

Based on the Commission's recommendations the Government of India drafted a new set of forest laws known as the 'Draft Forest Bill', in 1980. This Bill contained measures to protect forests. Provisions were made in it to reduce people's rights over forest land and its produce and severe punishments were prescribed for forest offences. The Bill in general provoked a lot of criticism. In view of that the Central Board of Forestry convened a meeting of forest ministers from all states to discuss the matter in 1982 and changes or amendments were made in the Bill which was proposed as "The Conservation of Forests and Natural Ecosystems Act" and is yet to be passed by the Indian Parliament. The discussions that follow about the proposed Act are referred to in a publication by an NGO.⁵⁰

In '*The Conservation of Forests and Natural Ecosystems Act*', forest is defined as a tract covered with trees, shrubs, bushes, woody vegetation or pastures, whether of natural growth or planted and existing or being maintained with or without human effort, and includes any Government land recorded as forest land in Government records (section 2(8)). No *patta* or occupancy right on reserved forest land shall be granted by or on behalf of the state government (section 5(2)).

The proposed Act suggests that a forest officer, police officer or a revenue officer can

⁵⁰. Indian Forest Act, 1995, Amended Draft Forest Bill by Voluntary Organisations. Bombay: Van - VidheyakSamikshaSamanvay.

seize the tools used in committing an offence and also the related forest offence has been committed. Provisions of criminal proceedings against the offender are also made in the Act.

The Indian Forest Bill, 1980

In accordance with the recommendations of the N.C.A. a draft forest Bill was circulated in 1980 which curtailed the people's rights over forest land and produce. However, this Bill was withdrawn because public criticisms were mounted against it. Again, a committee was appointed to reconsider the forest policies proposed in the Indian Forest Bill, 1980. It was this committee which was setup in 1980 emphasized the dependence of the tribal people on forests.

National Committee on the Development of Backward Areas (1980)

The Planning Commission constituted a 'National Committee for the Development of Backward Areas' in 1980. The Committee subscribed to the views expressed by the National Commission on Agriculture and recommended curtailment of rights of tribal communities over forest lands and products. The Committee also emphasized the importance of *Essential Forest Produce* (EFP)⁵¹ in providing substantial income to tribal communities. It recommended removal of middleman in all business transactions and stated that EFP should not be treated as a source of revenue to the State. It was of the opinion that the economic interest can be created in the mind of the tribal communities for maintenance of forests provided substantial income accrues to them regularly from EFP. The tribal communities should be paid on the basis of the market price, not on daily wage basis, for the collection of any items of EFP. All leases for collection of EFP should be given exclusively to the co-operatives organised by the tribal communities.⁵²

National Forest Policy 1988

The state machinery's traditional response to the plight of tribal communities has been marked by indifference and suspicion. However, in 1988, the linkages

⁵¹Essential Forest Produce (EFP), comprises simple fodder and fuel wood to baffling medicinal herbs, besides numerous economically important plants yielding fibres, flosses essential oils, edible fruits, seeds, leaves, honey among any others items. Which all have enormous economic potential but about three-fourth of this forest wealth has so far been utilised because of its inaccessibility.

⁵² N Pattnaik, '*Essential forest produce in Orissa*', D.K Printworld Ltd, New Delhi, 2003.

between environmental and social concerns in terms of community rights to natural resources were recognized for the first time and the National Forest Policy (the 'NFP') highlighted the need to involve tribal communities in the management of forests.⁵³ Many changes have occurred in the economic, political, environmental and social set-up of the country since the previous forest policy was laid down in 1952. Thus the 1952 National Forest Policy has been revised to a new extent in the newly announced "**National Forest Policy 1988**", which gives due recognition to the symbiotic relationship between the tribals and the forests. The Forest Policy, 1988 envisages that Minor Forest Produce which is so vital for tribal sustenance "should be protected, improved and enhanced, with due regard to generation of employment and income". The MFP includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tusser, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like. The policy also looks into the protection of rights and concessions enjoyed by the tribals traditionally. It recognizes the problems of shifting cultivation and propagates improved agricultural practices within the areas already affected by it. Areas already damaged by such cultivation should be rehabilitated through social forestry⁵⁴ and plantations. The policy emphasizes the illegal cutting and removal of timber and minor forest produce by contractors as one of the major causes for degradation of forests. Hence, it suggests that in order to put an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour co-operatives, government corporations, etc. as early as possible.

People orientation announced in the new Forest Policy, 1988. According to this Act, forests are not to be commercially exploited for industries, but these are to conserve soil and environment, and meet the subsistence requirements of the local people. The Policy gives higher priority to environmental stability than to earning revenue. It discourages monocultures and prefers mixed forests. The focus has shifted from 'commerce', and 'investment' to ecology and satisfying minimum needs of the

⁵³.Ministry of Environment and Forests, Government of India, National Forest Policy (1988), at <http://envfor.nic.in/divisions/fp/nfp.pdf>.

⁵⁴.To keep people out from using forest land for production of commercial timber, necessary to make them produce what they consumed free of charge village land.It essentially involves a strategy of people's participation in village forestry activities for rural development and poverty alleviation.

people, providing fuel wood and fodder, and strengthening the tribal-forest linkages.

Not only policy planners but many perceptive foresters also realised that the old strict custodial policies were counterproductive and needed to be radically changed. So there was another one called '*Ministry of Environment and Forests*' guidelines of September 18, 1990 for resolving conflicts with tribals and other forest dwellers related to forest land⁵⁵ as well as the 1988 national forest policy. The **National Forest Policy, 1993** envisages a new strategy for forest conservation which also talks about preservation, maintenance, utilization enhancement of the natural environment with rights and concessions from forests to the tribes.

A New Forest Bill was proposed in 1995 to replace the 'Indian Forests Act 1927' by a new Act called '*The Conservation of Forests and Natural Eco-system Act*'. However, it was felt that the draft bill does not follow the Resolution on the National Forest Policy, 1988 in letter and spirit. The main salient features as laid down in the National Forest Policy Resolution, namely, "meeting the basic needs of the people, especially fuelwood, fodder and small timber for the rural and tribal people and maintaining the intrinsic relationship between forests and the tribal and other poor people living in and around forests by protecting their customary rights and concessions on the forests" have not been fully reflected in the official draft. The official draft did not take into consideration an important policy initiative of Joint Forest Management as reflected in the circular issued by the Ministry of Environment and Forests on 1st June, 1990. Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities. All must agree the last statement in the National Forest Policy Resolution that "forests are a national asset to be protected and enhanced for the well-being of the people and the nation," Again, the 73rd and 74th Amendments to the Constitution of India that suggested decentralization of powers has interesting implications in the context of forest

⁵⁵Forest land means ,the land of any description failing with in any forest areas and includes unclassified forests, existing forest , sanctuaries ,national parks etc which different with reference to the agricultural land. Basically agricultura lands means land which is used or is capable of being used for purposes of agriculture including horticulture. The land owning tribal use land for agriculture purpose means cleared piece of land and tended some selective crop plants to meet his food needs. This wider variety of plants led to practice of agriculture. They also get benefits by dependent on trees like,Mahul,Karanj, Jack-fruit etc .

management. It implies that only people can preserve and develop their natural resources and they must be encouraged to do so by assigning the management rights and duties.

National Forest Policy - A Critical Appraisal

All the national forest policies and Acts have been criticized by social scientists for their anti-people and more importantly, for their anti-tribal character. The British approach to forest management was not only criticized by Indian scholars but also by British scholars. *J.A. Voelcker*, wrote about the Acts of 1865 and 1878. He was of the view that when the Forest Department began its work its chief duties were the preservation and development of large timber forests. Its success was gauged mainly by fiscal considerations. The Forest Department was practically called upon to provide revenue and was naturally proud of the profits it made. Wallace, a professor of Agricultural Economy, University of Edinburgh, commented that large areas of India had been shamefully and wastefully denuded of valuable timber and that this exploitation of valuable timber was not the work of the *rayator* cultivator for local purposes, but the work of contractors employed in catering to extraneous demands.⁵⁶ The 1952 policy in independent India was not better. In a way, it was largely an extension and continuation of the colonial British policy. The destruction of forests for tire construction of roads, irrigation works and hydro-electric projects, ammunition factories, and other projects was justified in the name of national interest, whereas cultivation of lands shown as forest lands but without any actual tree cover was treated as encroachments. Tribals living near forests were debarred from using forest. The government tried to obtain more and more revenue from the forests. India's technically skilled professional forest service thought mainly of increasing the revenue from forest, treating tribals as the enemies of the forests.

The commission on Scheduled Castes and Scheduled Tribes set up in 1967,⁵⁷ emphasized the importance of forests in the life of the tribals in providing them with all kinds of food, wildgame and fish, wood for the construction of houses and even

⁵⁶ J.A. Voelcker, 1893, Report on the Improvement of India Agriculture, London: Eyre and Spottiswoode, p. 114; R. Wallace 1888! India in 1887, Calcutta: Thacker Spink, p. 269.

⁵⁷Report of the *Scheduled Areas and Scheduled Tribes Commission*, vol. 1960, New Delhi:Govt, of India, pp.32,33.

income from the sale of forest produce, besides fuel. It criticized the gradual extension of the government authority over forests to the detriment of tribal life and economy. A committee on Forest and Tribals in India (1982)⁵⁸ similarly, emphasized the importance of forests in tribal life. The committee noted that after independence rapid industrialization made the forest authorities more concerned with financial rates of return, net revenue and such other indices of productivity and efficiency and forestry got mainly linked with consumption of the urban society than the tribal benefit. The committee highlighted the need that forest policy and forests should be directed towards managing a renewable endowment of vast potential for subserving national, regional as well as local.

The Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA)

The PESA, which provided for self-governance in accordance with their customs and traditions in Schedule V areas including management control over community resources, also decentralized existing approaches to forest governance by bringing the Gram Sabha to the centre stage. Key objectives of PESA ACT, 1996 included devolution of power to the Panchayati Raj Institutions at the grassroots levels, to empower the tribal people, enhancement of living condition and ensuring poverty alleviation of the Tribals.

Major Rights Given by Central PESA Act

The PESA Act provided that the Gram Sabhas to safeguard and preserve the traditions and customs of the people, their cultural identity and community resources. It also stipulated that the Gram Sabha has to be consulted before making acquisition of land in the Scheduled Areas for any developmental projects or before resettling or rehabilitating persons affected by such projects in Scheduled Areas. Gram Sabha/Panchayats at the appropriate level need to be consulted for grant of prospecting license or mining lease for minor minerals in the Scheduled Areas and for grant of concession for the exploitation of minor minerals by auction. The Act also enjoined that the State Government will have to ensure delegation of powers to Panchayat/GS to claim ownership rights over minor forest produce from village

⁵⁸ *Report of the Committee on Forest and Tribals in India, 1982*, New Delhi: Govt, of India.

forests and reserve forests, to prevent alienation of land and to restore any land alienated illegally and to ensure management of minor water bodies and recognizing the traditional rights of tribals over community resources, meaning, land, water and forests. Thus, implementation of PESA enables better community-based management of local forests.

However, this Act, though limited to tribal areas in different states, gave rights over minor forest produce to Gram Sabhas. But it failed to define minor forest produce. Forest departments of most states used this ambiguity to retain control over trade on minor forest produces. This ambiguity can be gauged from the fact that while Madhya Pradesh has defined 'community resource' as land, water and forest while Odisha and Andhra Pradesh are silent about what constitutes community resources. Hence, as there is no clarity on this issue, the powers given by the PESA Act to exercise rights over community resources are almost nonexistent in many states like Odisha, Andhra Pradesh, due to which, in fact, there is difficulty in its implementation.⁵⁹ In this historical setting, the actual trigger for the Forest Right Act came up in the year 2002, when, in response to a decision by Supreme Court, the Ministry of Environment and forests (MOEF) issued a directive to the state forest departments to evict all the encroachments from the forestland in a fixed time.

Scheduled Tribe and Other Traditional Forest Dwellers Recognition of Forest Right Act 2006

Historically, the relationship between tribal communities in India and forests was characterized by co-existence and these communities were considered integral to the survival and sustainability of the ecological system. This symbiotic relationship was acknowledged and crystallized as customary rights over forest produce. But these rights were not recognized and recorded by the government while consolidating state forests during the colonial period as well as in independent India.⁶⁰

Emergence of FRA 2006

The fact that the FRA emerged after a concerted campaign illustrates all points well. It brings forward the detailed issues surrounding the collective action of the

⁵⁹AB Ota, K Pattnaik (ed)*Two tribal friendly acts and their implications*, , Govt Of Orissa, Bhubaneswar, Orissa

⁶⁰.Ministry of Tribal Affairs, 'Note on the 'Scheduled Tribes (Recognition of Forest Rights) Bill, 2005', available at <http://tribal.nic.in/bill.pdf>.

hitherto politically-economically marginalized groups. How is it that they have been able to articulate their aspirations through the imperfect but nevertheless democratic constitutional polity? In fact, it can safely be argued that the passage of the Forest Rights Act 2006, along with other much recent restitution of land rights to indigenous groups internationally, seems to illustrate the point that marginalized groups can use the democratic political apparatus to defend the material basis for their 'moral economy' against enclosure and accumulation, and even reverse it.

Vanashakti on FRA 2006

As Vanashakti says, the forests do not belong to any section they belong to all. This would lead to large-scale deforestation. Vanashakti argues that the act enables some truly frightening scenarios such as the perpetuation of poverty for Forest Dwelling Tribals. It claims that the FRA provides for a "Land Grab" operation on a scale never imagined in the history of our race, anywhere in the world. It opens scope for the deforestation of huge swathes of Indian Forests as well as the destruction of the water ecosystem for more than 50% of India. It also alleges that the implementation of the Act could lead to the destruction of our natural biodiversity heritage.⁶¹

On the other side, supporting the provisions of the Act, The Campaign for Survival and Dignity group has come up with a point-by-point rebuttal of the arguments put forward by Vanashakti. The group vociferously argues that this Act has nothing to do with "gifting" land to people. It has nothing to do with removing forest protection.⁶² Whatever may be the debate, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was enacted in the year 2006 and its implementation started in the year 2008. This act recognises a range of individual and communal rights on forest resources including ownership of forest land, which have been neglected since independence. It not only aims to undo the 'historical injustice' to scheduled tribes and other traditional forest dwelling communities but also to empower the communities for the 'responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance'.

⁶¹Campaign for Survival and Dignity, *Response to Vanashakti on Campaign's Open Letter* available at < http://forestrightsact.awardspace.com/updates/update_07.11.07.

⁶²ibid

The new law recognises the right to homestead, cultivable and grazing land (occupied, and in use since December 2005), and to non-timber forest produce. It marked an unprecedented event in Indian politics, when rights of the tribal and other forest dependent communities took centre stage.

Moreover, those whose rights were not recorded during the settlement process were susceptible to eviction at any time. This has led to harassment, evictions and the extortion of money from forest dwellers by forest officials, who wield absolute authority over forest dwellers' livelihoods and daily lives. The Forest Rights Act (FRA) 2006 is intended to correct the 'historical injustice' done to forest dwellers by the failure to recognise their rights. These points were reinforced by the Prime Minister at the State Environment Minister's Conference in New Delhi on 17-19 August 2009, where he stated that 'The Act is an opportunity to guarantee the legitimate rights of forest dwellers and to bring them in the frontline of the environmental movement'. However, it can be argued that the FRA has had little impact to date. In fact, many have called the Bill "a paper tiger", like so many other pieces of legislation in India.

Forest Policies in Odisha Perspective

Odisha is one of the distinct Indian states where protection and conservation of forest for meeting the daily livelihood requirements is performed by the local communities' particularly tribal forest dwellers. Over the years the forests have suffered severe depletion and degradation due to growing demand for fuel wood, small timber, fodder, unhealthy shifting cultivation practices, uncontrolled grazing, and encroachments. The loss of forests is a matter of grave concerns owing to its protective function in ecological stability of the coastal regions. About 50% of the forest area of the State is estimated to be in various stages of degradation. Fortunately, a large number of communities are protecting adjoining forests, which harbours a promise for protection and conservation of forests.

History of the Forest Policy Development in Odisha

Odisha appeared as a separate province in pre-independent political map of India on 1st April, 1936 carved out of the then Bengal Presidency, Central Province, and Madras Presidency. By then, the Scientific Management of Forest had already started during the year 1883 in some parts of the Province under Indian Forest Act

1882 and during 1885-86 in some other parts under Madras Forest Act, 1882. Management of most the forests of ex-Princely States vested in the Government at the time of merger and the process was completed in 1957 with the coming of the rest of ex-Jamindari forests. All the forests of the state were brought under the purview of the Indian Forest Act 1927 with suitable amendments to accommodate certain peculiarities prevailing in the ex-Princely States. After the merger, forest areas of the State under various clarifications constituted 42% of its geographical area. The Forest Enquiry Committee, 1959 in its report, however, has noted that most of the unreserved, the un-demarcated protected forests, unreserved lands, open forests of the state including those of ex-Jamindari areas are barren lands and hills without vegetation and actual forests is only about 25% of the geographical area.

In the matters of management of the forest resources the State has been following the National Forest Policy with some state-specific initiatives. The Orissa Forest Act, 1972 replaced the Indian Forest Act, 1927 to bring about uniformity in the legal provisions throughout the state. The concept of social forestry was introduced in the early 1980s to enable village communities to meet their requirement of fuelwood, fodder, and small timber from self-invented and managed wood, thereby reduce pressure on natural forests. The Orissa Village Forest Rules 1985 accorded a formal recognition to the community's role in natural resource management. The community initiatives for protection of natural forests by then had also grown to cognizable proportion that ushered in the resolution for Joint Forest Management of 1988, ahead of the national initiative in 1990. Subsequently, Joint Forest Management resolution has been revised from time to time to ensure effective community participation with greater autonomy. Several facilitating provisions have been put in place for promoting agro-forestry. A liberalized Non Timber Forest Produce policy has been enunciated in the year 2000 enabling unhindered collection and marketing of NTFPs by the people. Such path breaking policy initiatives are gradually empowering the local communities for managing the natural resources. The overall vision for forest sector is the Conservation of state's rich bio-diversity and forest with active participation of local communities for ecological security, livelihood for the forest fringe dwellers, and production of goods for meeting people's needs with the support of an effective and vibrant processing and marketing network facilitated by a well structured and enabled

forestry organization. Consistent with this vision, the state forest policy has the following objectives:

- a.** To improve the existing forest cover, and enhance their productive capacity for ecological security.
- b.** To strengthen the conservation measures in protected areas and community reserves for maintaining the state's rich biological diversity with the active participation of local communities.
- c.** To manage the forests based on the principles of sustainable forest management with active community participation to certified forests and processed forest products for higher economic returns to the forest dependent communities.
- d.** To convert shifting cultivation or *podu* areas into a stable land use system by adopting appropriate agro-forestry practices.
- e.** To promote tree cultivation outside forests to meet the growing demand of timber, firewood and industrial wood and thereby reduce pressure on natural forests, and also help in climate change mitigation.
- f.** To promote appropriate land use and land use changes that provide low cost options for mitigating the consequences of climate change.
- g.** To build up the capacities of forest dependent communities through skill development and adoption of appropriate technology complementing indigenous knowledge systems to access alternative livelihood options for enhancing income and reduced subsistent dependence on forest.

The provisions of Orissa Forest Act, 1972 will be extended to such forest areas that have remained outside its purview to prevent encroachment and degradation and to incident management interventions for qualitative improvement. Forest area of the state is already more than the area prescribed in the National Forest Policy, 1988. Efforts, therefore, will be made to bring improvement in its health and structure through appropriate protection and eco-restoration measures. Forest lands will be

consolidated in contiguity of existing notified forest area to convert them into effective units of forests for proper management.⁶³

The PESA Act (Central Act) which was passed by the Parliament on 24th December, 1996 on the recommendations of the Bhuria Committee Report was implemented from 22.Dec.1997. In the light of this Act some important acts like the Panchayat Samiti Act,1959, Panchayati Raj Act,1964 and Orissa Zilla Parishad Act 1991 were modified by Government of Odisha. Importantly, the State Government of Odisha has amended some existing Acts and Rules in consonance with this Central PESA and devolved powers to the PRIs with respect to the functions of the panchayati raj bodies. In Compliance of Central PESA Act Odisha state enabled gram sabha to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources through Gram Sabha. Gram Sabha needs to be consulted by the Zilla parishad before making acquisition of land in the Scheduled Areas for development of projects or before resettling or rehabilitating persons affected by such projects. Similarly, Gram Panchayats have to recommend for grant of license or mining lease for minor minerals in the Scheduled Areas and for grant of concession for the exploitation of minor minerals by auctions. The State Government has delegated powers to Gram panchayats the rights to recommend for issue of license for mining/quarry lease, to own & manage 70 items of MFPs, to prevent alienation of land and to restore any land alienated illegally and delegate powers to Zilla parishad to ensure management of minor water bodies. It is a matter of truism that the implementation of PESA in the Country and especially in Orissa has not resulted in any speciality or in specific result in terms of ideals and objectives engaged in the Act. It is a fact that State laws have been amended more as routine than the real application of the spirit of the Act.

It is in this backdrop, owing to Odisha's inconsistent forest policies, the FRA 2006 is extremely relevant in the case of the tribals and other forest dependent people of Odisha. In fact, the implementation of FRA in letter and spirit is likely to give a lot of relief to large number of tribal families as their life basically centres round the forests. Above all the forest policy in Odisha should be prepared by giving top priority

⁶³ N Pattnaik, B P Chaudhury, A Rath, A K Biswal & D B Giri, 'Forest Tribe of Orissa', vol.3, The Juang, D.K Printworld Ltd, New Delhi, 2007, pp.141-146.

to create conducive environment for the life and livelihood of tribals as well as environment instead of industry and investment, as is the case in contemporary times.

Conclusion

To sum up, it can easily be said that the above account clearly establishes a large degree of continuity between the colonial and post-colonial forest policy. However, it cannot be denied that there is no watertight compartmentalization among the different forest policies of distinguishing period of time. Nevertheless all acts were more or less a repetition of the previous Act. The Forest Acts of 1878 and 1927 empowered the government to declare or notify any area as a reserved or protected forest following which a 'forest settlement officer' was appointed to enquire into various claims of rights over land, forest produce and grazing under pasture etc. The government of India's forest policies of 1894 and 1952 clearly emphasized the necessities of scientific management of forest and commercial forestry which, in fact, resulted in the curtailment of the livelihood rights of the forest dwelling communities. During 1950-87, policy commencement was a phase of conservation with increased state control.⁶⁴ This is also the time when powerful legislative instruments such as the Wildlife Protection Act and Forest Conservation Act came into implementation. But, here again, forest dwellers and tribal people had no space in the protection and management of local forests. After that, the National Forest Policy, 1988 started with the objective of making forest a local forest and making the participation of local forest protecting communities mandatory in regeneration of the degraded forests. The Gram Sabha very rightly held centre stage with PESA, 1996. But when the bill was introduced in the Parliament, the pre-eminent position of PESA in relation to Gram Sabha was ignored. However, the present forest policy 2006 is a watershed in the hard-fought and prolonged struggle of Adivasis and other forest dwellers of India. For the first time in the history of the country, the state formally acknowledged the injustice done to forest dwelling communities due to non-recognition of their rights during the consolidation of state forests. It seems to encourage the same trend even while speaking about the needs of forest and its resources, priority over environmental stability, farmland for peasantry etc. However, there are some principles of it that have

⁶⁴ Forest conservation was made as a Directive principle and a fundamental duty in the constitution, and forest come under the Concurrent list of the constitution for control of the national government.

brought outstanding changes and development. Hence, having discussed the FRA 2006 it is necessary to move to the case study on the implementation of FRA in the two districts of Odisha, namely, Koraput and Kandhamal. This has been done in the next chapter.



CHAPTER-3

**IMPLEMENTATION OF THE FOREST
RIGHT ACT 2006 IN ODISHA**

CHAPTER-3

Implementation of the Forest Right Act 2006 in Odisha

In the previous chapter, from a historical analysis I have reached on a conclusion that FRA 2006 is an exception from what other forest policies have sought to achieve. The Scheduled Tribes and other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006 (FRA) was a result of the legislative response to protected struggles and movements by tribal communities to assert their rights over the forest land they have been traditionally depending upon. The Act denounced the Government policy of the colonial era which had established the authority of State over the Forest by diminishing the traditional rights of the aboriginal communities. Further by recognizing the validity of Gram Sabha to give effect to these rights, this Act has established great synergy with PESA provisions.⁶⁵ However, continuing bureaucratic control, resistant attitude of forest officials to give ownership to the communities and inadequate efforts towards creating awareness have led to slow implementation of the Act. It is evident from this that there is still poor recognition of various rights favouring the tribals clearly violating the letter and spirit of the FRA. To get a complete idea on this I have examined the working of different mechanisms of the state taking the case of Kandhamal and Koraput district in particular and Odisha in general. The problems associated the implementation of the Act have also been discussed.

Tribal Rights under FRA 2006

The FRA provides to the tribals and the other forest dwellers the all important Right to hold and live on the forest land under the individual or common occupation, for habitation or for self-cultivation for livelihood. Besides allowing STs and forest dwellers to cultivate forest land subject to a ceiling of up to four hectares, the Forest Rights Act recognises the right of collecting, using and *disposing off minor forest*

65 Orissa Review, February-March, 2011

*produce*⁶⁶ which has been traditionally collected within or outside village boundaries. Also, the rights conferred under the Act would be heritable and would be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in case of households headed by a single person. There are also the community rights of uses or entitlements such as, fishing and other products of water bodies, grazing land and traditional seasonal resource access of nomadic and pastoralist communities and community of tenures of habitat and habitations for PTGs and pre-agricultural communities have been provided.⁶⁷

In addition to the above, rights for conversion of *pattas* or lease or grants issued by any local authority or any State Government on forest lands to titles including rights of settlement or conversion of all forest villages,⁶⁸ old habitation, un-surveyed and other villages in the forest whether recorded, notified or not into revenue villages have been placed in the Act. Besides the above mentioned rights, the most important and stand-out in the Act is right to protect, regenerate, conserve or manage any community forest resource, which tribals protect and conserve for sustainable use, because tribal people collectively generate livelihood by collecting resources from the nearby forests. Rights which are recognized under any state law or laws of any autonomous district council or accepted as rights under any traditional or customary law of the concerned tribes of any state have also been recognized. The Act speaks that Forest dwelling Schedule Tribe or other traditional forest dwellers shall not be evicted or removed from the land or from his occupation till the recognition and verification procedure are not completed. Providing that, the act not only talks about right to recognition but also puts the responsibility on forest dwellers to protect, conserve and regenerate wildlife, forests and biodiversity. The right to access biodiversity and the community right to intellectual property and traditional knowledge

66 Recognition of MFP, for example- the act recognized bamboo as an minor forest produce and the ST and OTFD have the vested rights of ownership, access to collect, use and dispose of it as minor forest produce. Where as in accordance with the forest right act of 1927, bamboo treated as a tree or grass not as an MFP. Former Minister of environment and forest, Jayram Ramesh 'gram sabha have the power to issue transit passes for transport bamboo out of forest for sale in the areas where FRA to the community forest resources are recognised . And the areas in which community claims on forests are not settled, the forest department will develop management plans and the revenue generated from bamboo cultivation will be shared with the communities.

⁶⁷ See appendix

⁶⁸ Forest villages do not mean villages located in the forest but colonies of coolies established by the Forest Department for assured supply of labour.

related to forest biodiversity and cultural diversity is an important inclusion. Any other traditional right customarily enjoyed by the forest dwelling STs or other traditional forest dwellers which are not under the clauses (a to k) maintains status quo but they are excluding the rights of hunting or trapping or extracting a part of the body of any species of wild animal. The inclusion of the right to *in situ* rehabilitation including alternative land in cases where the STs or other traditional forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation prior to 13 December 2005 is laudable from the perspective of those who have been displaced or dispossessed by development projects, natural disasters, or the failure of the state to provide for them.

Procedures of the Implementation of FRA-2006

The act does not merely distribute lands to the people but recognizes the rights of forest dwellers over land that they have been using for cultivation and to reside. Unlike other acts, this Act clearly provides the ways to implement the provisions of the Act. It clearly mentions the authorities as well the procedures the authorities should follow while implementing the Act. It can be said that this Act, for the first time, devises a unique, democratic and transparent way of implementing the rights of the tribals and the other tribal dwellers. As per this act, it involves the Gram Sabha or Palli Sabha as an institution for inviting claims and taking a view on 'what, and whose, rights should be recognized'. The Gram Sabha in its first meeting shall elect not less than or more than fifteen person from amongst its member to constitute 'Forest Rights Committee' (FRC).

The Gram Sabha as the authority to initiate the process for determining the nature and the extent of individual or community forest right is mandatory to receive claims, consolidate and verify them. Forest and revenue departments are generally to assist the Gram Sabha with technical and other support, providing the maps, assisting in the matter of land demarcation and measurement and helping with the documentary evidence. Through FRC, Gram Sabha invites claims from the inhabitants of the village for recognition of rights. Then it passes a resolution to that effect and thereafter forwards a copy of the same to the next tier known as Sub-Divisional Level Committee (SDLC). Though the Act does not specify the time frame within which the resolution of the Gram Sabha on the claims has to be passed but the rules framed

under the Act states that individual claims should be made to the Gram Sabha within three months of its calling for such claims.

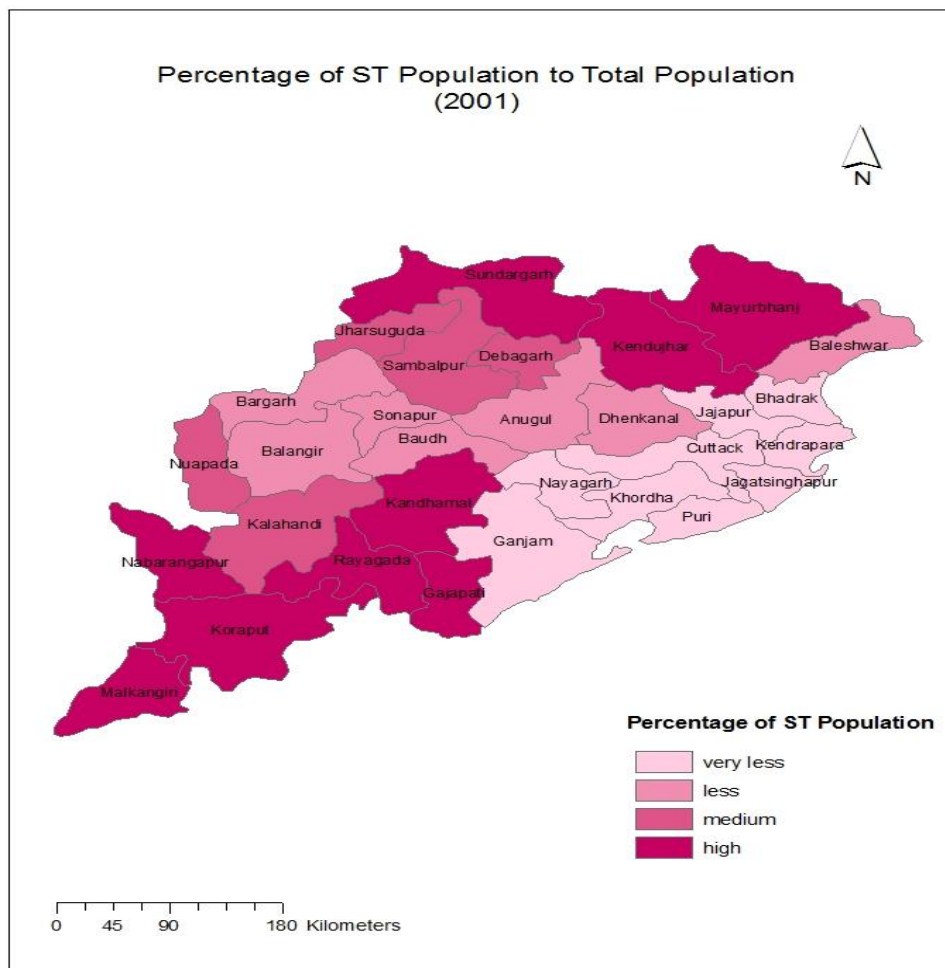
The SDLC shall consider and dispose of petition,⁶⁹ which shall be preferred within sixty days from the date of passing of the resolution. The SDLC shall dispose of such petitions after giving an opportunity to the aggrieved person. Again the SDLC prepare the record of rights and forward the same to the District Level Committee (DLC). The DLC here follows the similar procedure followed as in SDLC. The DLC has to consider it and finally approve the record of forest rights prepared by Sub-Divisional Level Committee and the decision of the District Level Committee on the record of forest rights shall be final and binding. A similar committee is constituted at state level to monitor the process of recognition and vesting of forest right named as State Level Monitoring Committee and to submit to the nodal agency such records and reports as may be called for by that agency. The members of the aforesaid committees if in case committed offences or offices of authorities in contravening provisions of the act are liable to be proceeded against and punished with fine which is up to thousand rupees. The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the Departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institution at the appropriate level, appointed by the respective Panchayati Raj institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.⁷⁰

69 Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted.

70The Gazette of India, The Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Chapter-iv, pp.8

Map No- 1



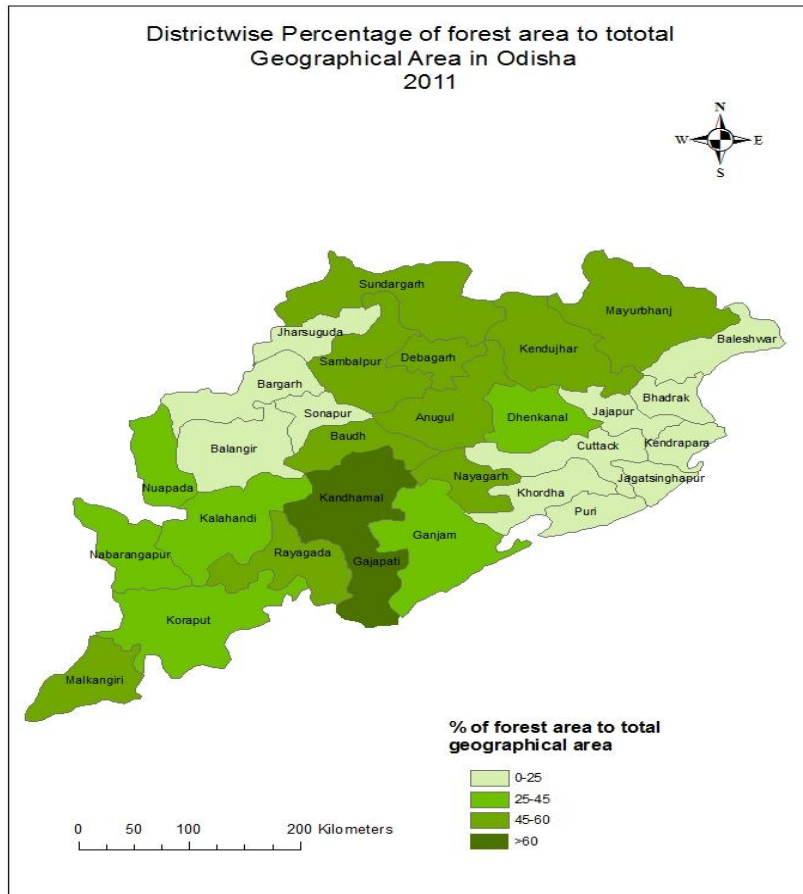
Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

Odisha and its Tribes

The largest number of tribes are located in the State of Odisha i.e., 62 tribes. The population of Odisha according to 2001 census figure is 36.8 million, out of which, the category of people belonging to STs are 81,45,081, which is 21.1% of the total population. 2001 census shows that the number of total households in Odisha is 77, 380, 65. Out of which number of ST households is 17, 95,075. As the above map portrays, there are more than 70% of the total Scheduled tribe populations found in its 12 districts namely, Sambalpur, Sundargarh, Keonjhar, Mayurbhanj, Balasore,

Malkangiri, Koraput, Rayagada, Nawarangapur, Kalahandi, Kandhamal and Gajapati. Apart from them, among the remaining other 18 districts, other tribal populated districts are Bolangir, Bargarh, Nuapada which are the next highest tribal populated districts.⁷¹ In the district of Mayurbhanj its 58% population are scheduled tribes, which is highest in the state followed by Koraput and Sundargarh districts with 55% and 51% respectively. There are altogether 53% different tribal groups found in the district. The Santhal, the Bhumija, the Bathudi, the Bhuyan, the Munda etc. forms the majority of its population.

Map No-2



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

⁷¹ Implementation of ST and OTFDs(Recognition of Forest Rights) Act-2006, Adivasi Journal, Vol.49, No.2, (December 2009), Bhubaneswar, SCSTRTI,p-14

As per India State of Forest Report 2011, the state of Odisha has reported a forest cover area of 48855 sq. km. This includes 7060 sq. km of very dense forests, 21366 sq.km moderate dense forests and 20477 sq. kms of open forests. The recorded area of the state is 58,136 sq km. Odisha is endowed with vast forests extending over 37.34% of its geographical area that are rich in floral and faunal diversity. Diversity of forest ecosystems comprises natural teak, Sal, and bamboo forests in the hinterland and lush green mangroves on coast. Thus, the State occupies a prominent place in the national biodiversity map. According to the degree of privilege enjoyed by communities over forest the forests have been categorized into Reserved Forests which constitutes 45.29%, and are exclusively designated for the use of the Forest Department and forest fringes communities had no rights other than the ones explicitly permitted by the state. Protected Forest, which constitutes 26.70% of the total, means the category of forests that are provided to the communities with certain rights solely for household consumption and not for commercial purposes. Above map shows that Kandhamal district has the highest percentage of forest cover. However, it is observed that most of the forest landscapes are located in schedule V areas. It implies that in the Schedule areas the proportion of tribal population is more than 50% of the total population and which are included in Scheduled V of the Constitution having special laws for protection of land and the forest rights of the tribals. There are six fully scheduled districts of Koraput, Mayurbhanj, Sundargarh, Rayagada, Malkangiri, Nabarangapur along with many other blocks and Tahasils of other tribal districts in Odisha comes under the V Schedule area.

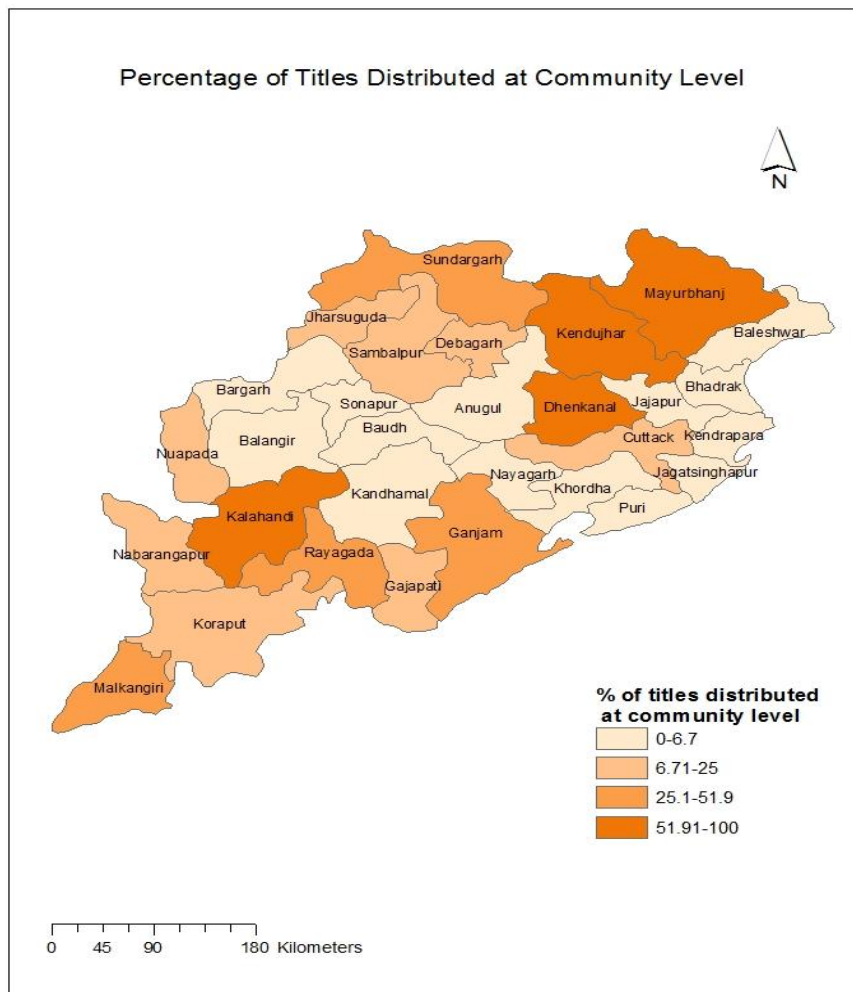
Table No-1

**Status of implementation of Forest Rights Act, 2006 in the state (Odisha):
Individual and Community claims (As on 31.01.2012)**

	Koraput		Kandhamal		Odisha		
	Individual level	Community level	Individual level	Community level	Individual level	Community level	
No. of claim received by FRC	33710	330	56137	165	525748	3239	
No of claims approved by gram sabha and sent to SDLC	24873	58	54216	3	405901	1442	
No of claims approved by SDLC and sent to DLC	24691	58	53709	2	313585	991	
No of claims approved by DLC for Titles.	24621	58	53606	0	30714	902	
No of Certificates of Titles distributed	23009	51	53606	-	295246	798	
No of Gram Sabha meeting held	1 st phase	1890	1890	2415	2415	47266	47265
	2 nd phase	4013	4013	2385	1137	48571	37815
% of claims approved by Gram Sabha	73.78	17.57	96.57	1.81	77.20	44.51	
% of claim approved by SDL	99.26	100	99.06	66.66	77.25	68.72	
% of claim approved by DLC	99.71	100	99.80823	0	9.79	91.01	
% of Certificate Distribution	68.25	15.45	95.49	0	56.15	24.63	

Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha.

Map No-3



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

Status of Community Claims in Odisha

The review note of ST and SC Development Department, Government of Odisha reveals the implementation status of FRA in respect of community claims at three levels (FRCs, SDLCs and DLCs) in the entire state of Odisha. According to the above table no.1, number of claims received at Community level in Odisha are 3239 whereas number of certificates of titles distributed are only 798. In other words, it is only 24.63% of total number of claims received by FRC. It is a very negligible average of success of Community claims in Odisha. However, the ground level

analysis shows that total number of claims approved by Gram Sabha and send to SDLC was 1442 in number which was 44.51% of total number of claims received by FRC. Similarly number of claims approved by SDLC was 991 which is 68.72% of the total claim received by it. In the same way, highest number of claims granted by DLC was 902 out of the total approved claim of SDLC which was 991. It is 91.01% of the total approval of DLC. In this level of analysis total number of Gram Sabha meetings that were held in the first phase was more than the second one. In the first phase it was 47, 265 whereas in the second phase it decreased in to 37,815. If we have a look at the district level, then we can say that, highest percentage of titles have been distributed in two northern district of Odisha (Mayurbhanj and Keonjhar), in one central district (Dhenkanal) and one southern district (Kalahandi).

But, as my case study is regarding Kandhamal and Koraput districts of Orissa, we should also analyse the performance at the community level in these 2 districts. In Kandhamal the total percentage of titles distributed is completely zero. That means not a single community title has been rewarded whereas in Koraput district at least 15.5 percent of community claims have been honoured. But still this number is very less in comparison to other districts of Odisha such as, Mayurbhanj (90.3%), Dhenkanal (80.7%) and Malkangiri (52%). That is why we can safely conclude that barring a few districts, the implementation of the FRA, 2006 in most of the districts of Odisha is not up to the mark. Communities who have received community forest rights are managing their forests in the same manner as they had been managing it traditionally. In most of the cases there are certain systems in place, such as, patrolling by the community members, village level meeting in a regular interval, community contribution for village and forest development, ensuring participation of women, comity for dispute resolution, ensuring equity in benefit sharing etc.⁷²

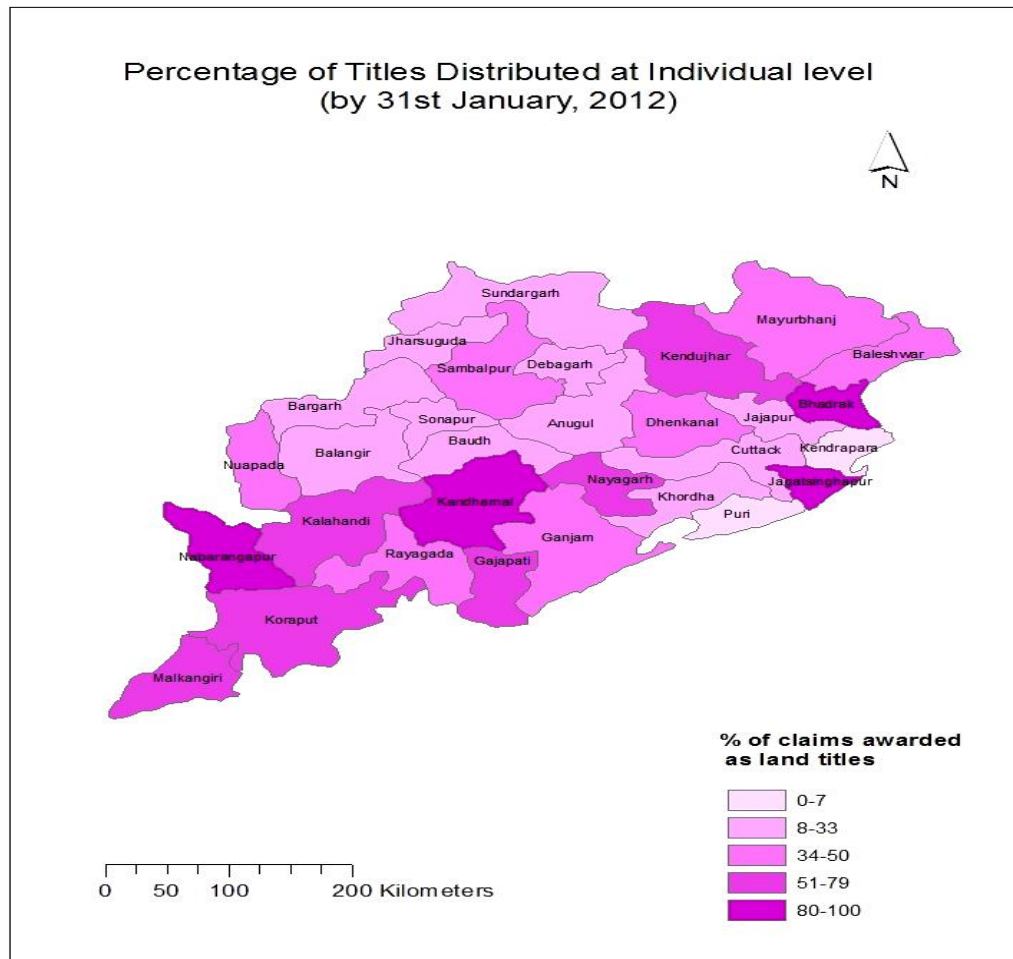
Thus the failure of Community claim in Odisha is being studied for many reasons. These are discussed below.

72'Community Forest Rights Under Forests Act, A Citizen's Report on Status and Recommendations, Vasundhara and Kalpavriksh In collaboration with Oxfam

- (1) Lack of awareness and understanding of the provisions of community rights including use of forest land for development purpose through proposal of de-reservation of forest land for non-forest use may be the prime reason for poor status of filling and disposal of community claims.
- (2) There arises the biggest challenge in implementation of the Forest Right Act which pertains to the various misconception and confusions at the time of demarcating community rights. As per the Ministry of Environment and Forest report, even foundation of FRA has emphasised security of tenure and livelihoods to the communities and it has provision for recognition of more number of community rights than the individual rights. But, so far, rights mainly for agriculture and habitation have been given, mostly, for individual land motive.
- (3) Deprivation of other traditional forest dwellers, who are not eligible for the benefit under FRA, has led to their non-cooperation in filling up of claim forms of community rights at village level.
- (4) It has also been observed that the tribal people are more interested on individual claims at the first instance and although some of them are aware of the provisions of community rights and its provisions, they are contemplating that they will apply and take this issue only after the individual claims are disposed of. It also reveals that the same mentality persists among the officials and they are keener on focusing attention on individual claims and not giving as much attention on community claims as they are attaching to individuals claims.

In addition to all the above lacunas, there exists some more reasons which are responsible for the poor recognition or governance of community forest resources, such as, inadequate awareness and support to claim making, institutional gaps, prescribing invalid procedures for claim filing, information gap and lack of transparency, not adequate or appropriate titles, diversion of forest lands for non-forest purposes and so on.

Map No-4



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

Status of Individual Claims in Odisha

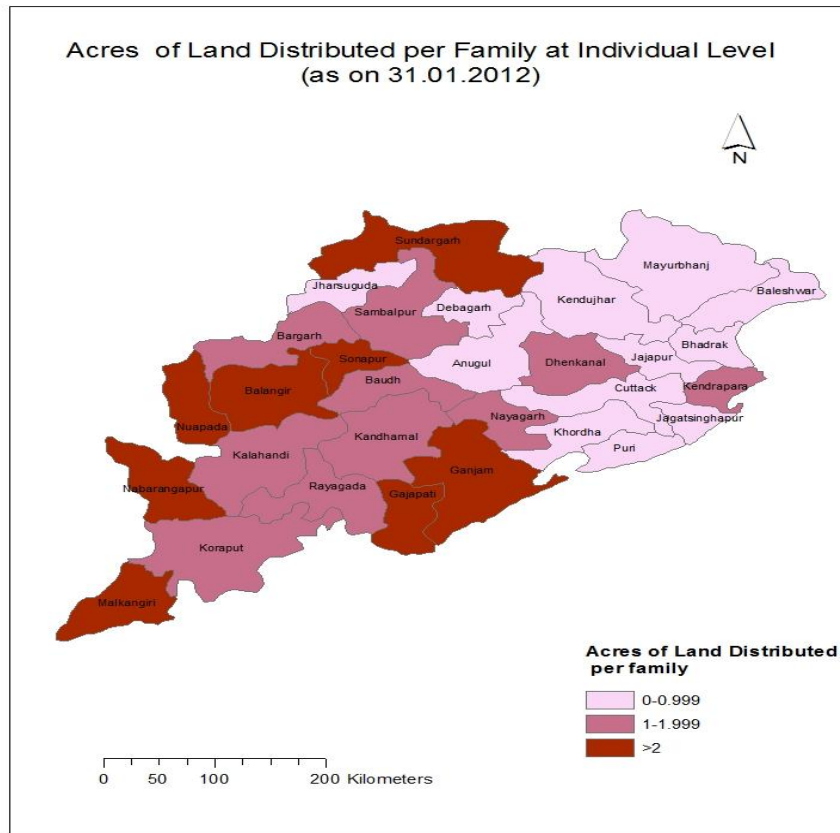
The right on forest land includes forest land under occupation for habitation and cultivation, conversion of pattas grants on forest land into permanent titles. As far as Individual Claims are concerned the state of implementation of FRA is averagely good in numbers. The total numbers of Certificate of Title distributed is 295246 which is 56.15% of the total 525748 number of claims received by FRC. Both from table no-1 and map no-4, it is clear that the implementation of FRA, 2006 in terms of honouring individual claims by distribution of land titles, is most satisfactory in Kandhamal district of Odisha where around 95 per cent of individual

claims have been rewarded by the government. The implementations of FRA (2006) in the two tribal districts of Odisha viz. Kandhamal and Koraput has gained momentum from its beginning. The result assessment of the act at individual level in these two tribal districts has been shown in the table-1. The result shows that the success rate of the Act in Koraput and Kandhamal is higher than the all-Odisha level. However, between the two tribal districts, the percentage of certificate distribution is 95 percent in case of Kandhamal which is much higher than Koraput, where it is 68 percent only. Table shows that, the success rate is higher in that district which has higher percentage of claim approved at different levels like GS, SDL and DL and vice versa.

In other tribal districts such as Keonjhar and Nabarangapur the performance is quite well. In the same manner number of claims approved by Gram Sabha, SDLC and DLC is respectively 405901, 313585 and 30714 in numbers which is respectively 77.20%, 77.5% and 9.79% of its total. From the number game of implementation there is only one exception which comes out clearly from all the level of approval and receiving of claim for titles of certificate distribution is the number of claims approved by DLC which is only 9.79% of the total 313585 number of claims received by DLC. After this, the total number of Gram Sabha meetings held was more in numbers in the second phase which stood at 48571 while in the first phase it was 47266.

We should not only look at the quantitative aspect of FRA, 2006, i.e. percentage of title distribution but also touch upon the qualitative aspect of the act, i.e. the areas of land distributed to the families. One of the important aspects of Forest Right Act, 2006 is that, each tribal family should have minimum of 4 hectares (9.88 acres) of land for its livelihood. If we glance through this aspect then the above map no-5 reveals that none of the single district of Odisha has at least achieved this target. None of them have fulfilled at least half of the target. In every single district of Odisha, the land distribution per family is less than 3 acres as against 10 acres provision of the act. In both Kandhamal and Koraput district the average land distribution per tribal family is only 1.5 acres, which is far below the target. The latest status report of the Union Ministry of Tribal Affairs on the implementation of the Forest Rights Act (FRA) of 2006 confirms the general perception that the law has not benefitted the majority of the country's forest dwellers.

Map No-5



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

It has been found that more than half of the claims filed by the tribal people and other forest dwellers for land titles under FRA have been rejected.⁷³ In the chaos situation there is denial of women's right. Mita Krusika, a tribal women resident of Karlakana village in Rayagada district of Odisha, is disillusioned with the Forest Rights Act (FRA) of 2006. She said that enactment of this act has done more bad than good to her. After the death of her husband she filed an application for the title over her 0.8

73R Mahapatra, Kumar, Sambhav S., Sumana Narayanan &A Pallavi 'Down to Earth', How government is subverting forest right act, Nov 15, 2010

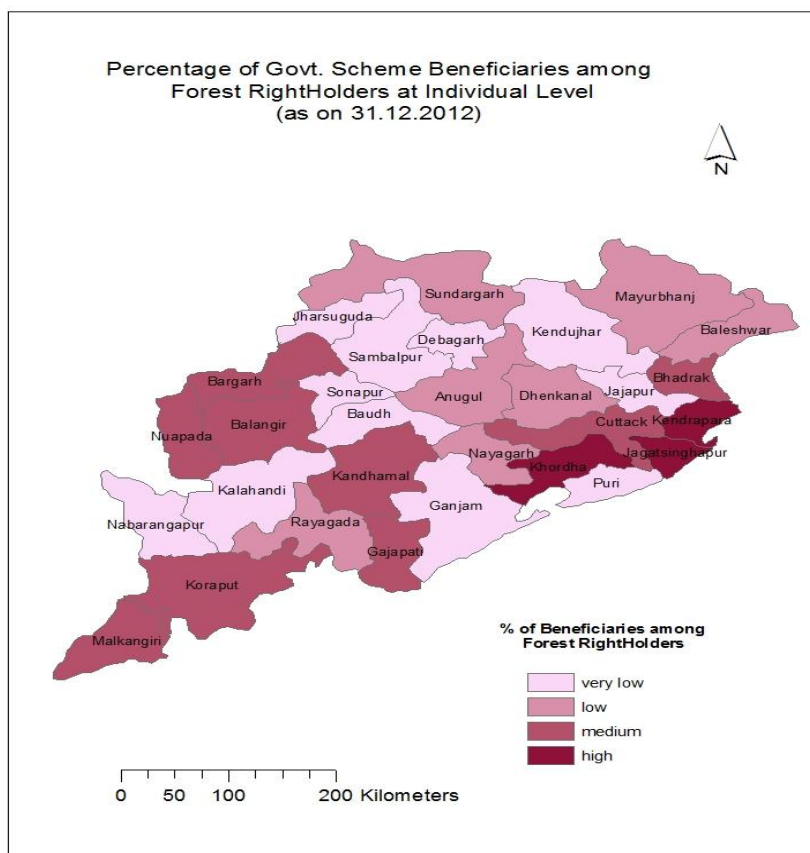
hectare land their family had traditionally occupied. But the title was denied to her.⁷⁴

There are certain reasons behind poor implementation of FRA, which are as follows-

- (1) The depositions specifying issues concerning individual rights are that there are cases of vaguely worded titles without clear maps or any boundaries which leads to conflicts.
- (2) The gap between number of claims approved by FRC and finalised by DLC is very large. In this context Welfare officers try to clarify that this miscreants happened because of the faults of RIs /Foresters who were involved in the verification process and assured for re-verification, but later on it was found that cases were not verified and remained pending with the district administration.
- (3) There are cases in which name are not mentioned in the claim form. In some other cases title is issued in the name of the family as per encroachment records, but not in the actual claimants.
- (4) A widespread problem exists due to right recognition of land area being less than the claim land.
- (5) Without considering decision of Gram Sabha rights are pre-selected by revenue and forest department at the sub- district level and district level.
- (6) There are cases where claims are rejected due to the disputes status of the land. Unavailability of records should not exclude the claims but there is no proactive action by SDLC or DLC to address the issue.
- (7) Excessive delay by the authorities in finalizing the claims has come out as a cause for disaffection among people who have claim rights.

74 ibid

Map No.6



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

Status of Convergence⁷⁵ of Programme and Schemes as on 31.01.2012

Under FRA, the Odisha government has taken all effort to develop the forest land so claimed, recognized and distributed to the Scheduled tribes. It makes them economically useful for sustainable livelihood through convergence of different schemes and programme during the year 2011-12. As a result of which as on 31st January 2012, total of 295246 family beneficiaries have been benefitted under different schemes. Such programmes are Indira Awas Yojna (17263 families), Mo Kudia (2270 families), Mo Pokhari (4275 families), Land Development under

⁷⁵ Translating rights into livelihood gains and conservation would require convergence of forest right act with laws and programmes like MGNREGA, National Horticulture mission recent National Bamboo mission and other livelihood development programmes.

MGNREG (33120 families), National Horticulture Mission (4490) National Bamboo Mission (28 families), and other Programmes and schemes (12078 families). In the southern districts of Koraput and Kandhmal convergence programme is not that much good. Yet there persists continuing problem of poverty among forest dwellers. It has been felt that insecurity of tenure coupled with the fear of eviction is perhaps the biggest reason why tribal communities feel emotionally as well as physically alienated from forests and forest land. That is why there should be more than necessary of technical support provided to Gram Sabha to prepare plan for development of forest land and proper framework to implement the community plans.

Primitive Tribal Groups

Government of India has recognized 13 Primitive Tribal Groups (PTG)⁷⁶ in Odisha. The Primitive Tribal Groups are also called the Particularly Vulnerable Tribal Groups. The PTGs of Odisha are localized groups, which are found in specific compact forest areas spread over different districts of the state.⁷⁷ The Primitive Tribal Groups in Orissa include Paudi Bhuiyans (Keonjhar, Bonai block of Sundargarh district, Pallahara or Angul District), Chuktia Bhunjias (Sunabeda Plateau of Nuapada district), Birhors (Mayurbhanj and Keonjhar districts), Bondos (Bondo Hills of Malkangiri), Didayi (Konda Kamberu hills of Malkangiri district), Juangs (Keonjhar and Pallahara Block of Angul district), Dangaria Kondhs (Niyamgiri Hills, Rayagada district), Kutia Kondhs (Belghar area in Kondhmal district), Hill Kharias (Mayurbhanj), Lodhas and Lanjia Saoras.⁷⁸ As these PTGs are always the target of displacement, industrialization, deforestation, there always remains a threat on their very livelihood. Hence they are the most miserable society not only in the whole population but also among the tribal population. Hence their development and progress needs greater attention. So, these groups should be studied separately. Forest is the only means of their existence. Hence they should be empowered along with

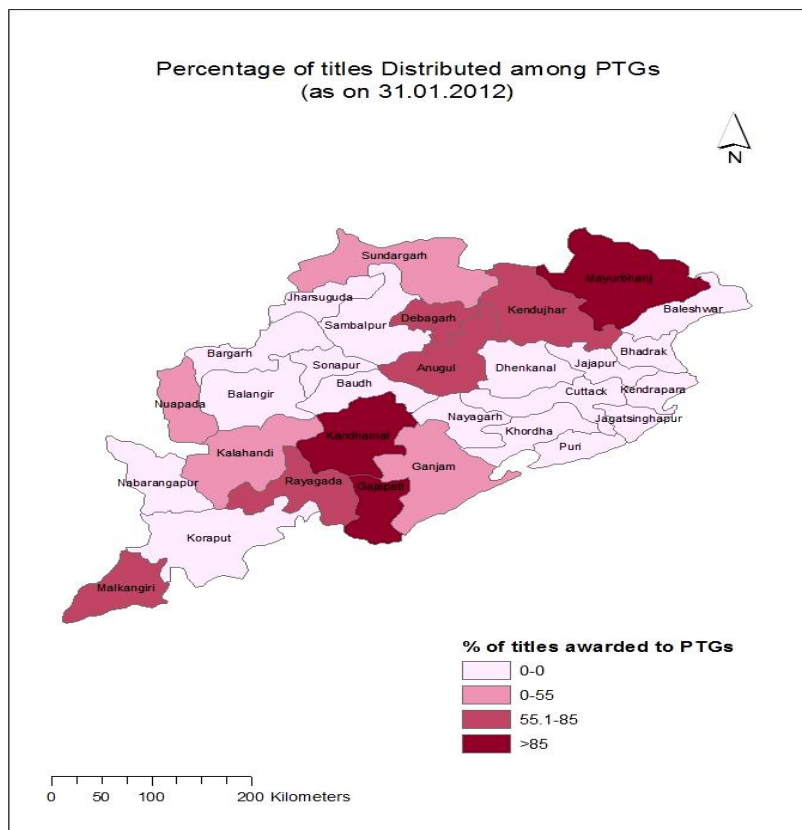
76 The Primitive Tribal Groups (PTG) or the Particularly Vulnerable Tribal Groups is considered as a special category in view of their distinctly different social, cultural and occupational practices and traits. Primitive Tribes are distinguished from other tribal communities with regard to their pre-agricultural economy, extremely low level of literacy, isolated habitation within the forest coverage area etc.

77 Annual Activity Report of Micro Projects for Primitive Tribal Groups (PTGs) 2007-08, ST & SC Development Department Government of Orissa.

78 K Kumar, and Pranab Ranjan Choudhary (2005) A Socio-Economic and Legal Study of Scheduled Tribes Land in Orissa, Bhubaneswar: Vasundhara, p-14

forest rights. We can measure their empowerment by their title holding. Except a few, in almost all PTG tribal districts more that 80 percent claims have been honoured with land titles. In Kandhamal district all the individual PTG tribal claims have been rewarded. That means not a single claim has been rejected. It shows that, the implementation of Forest Right Act, 2006 has been very much successful in this district. There is hundred percent rewarding of land has also been done in Mayurbhanj and Gajapati districts. In Deogarh, Keojar and Rayagada districts, more that 80 percent of total claims have been honoured with land titles. Its only in Kalahandi (55%), Ganjam (46%) and Nuapada (39%) districts the performance is not satisfactory. Hence more land titles should be given to the vulnerable PTGs in these districts so that they can be empowered and their social status could be lifted.

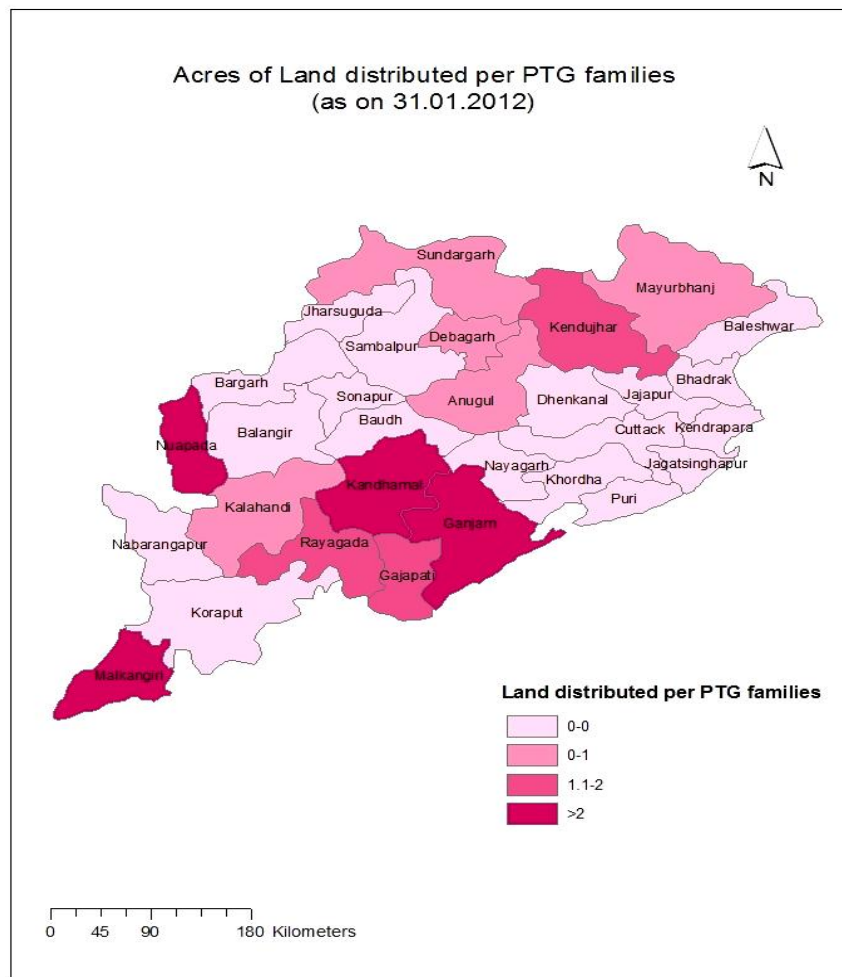
Map No-7



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

PTG communities have been demanding and claiming their rights in different districts, for example, habitat rights are claimed by Juangs in Keonjhar and Dongria Kondhs in Niyamgiri, Rayagada. But the provisions for community/habitat rights of PTGs, pre-agriculture communities and shifting cultivators, seasonal access of nomadic and pastoralist communities are not implemented so far.

Map No. 8



Source: Scheduled Castes and Scheduled Tribes Development Department, Government of Odisha

Rights of Other Traditional Forest Dwellers (OTFDs)

The Other Traditional Forest Dwellers (OTFDs) have been discriminated in some states and denied their rights under the Forest Rights Act. The National Committee on FRA stated that “the misinterpretation of the definition of OTFDs is probably the single biggest source of wrongful rejections and omissions across all states.”⁷⁹ The majority of OTFD claims are not being processed at the SDLC and DLC level even after being duly approved by the concerned Gram Sabhas. Oral and physical evidence permitted by the Rules is not being accepted and instead, documentary evidence of 75 years of occupation is being demanded. This is when even the State Government does not have proper records for many tribal areas for that period. Non-consideration of genuine claims of OTFDs will deprive a large number of equally impoverished forest dependent people of their legitimate rights besides creating conflict and discord within villages. Immediate steps should be taken to accord equal priority to the processing of OTFD claims. In addition, claims of OTFDs in occupation of forest land prior to 1980 which are found ineligible under the FRA, should be settled in accordance with MoEF’s 1990 guidelines. The FRA 2006 is intended to give legal protection to forest dwellers’ rights. Unfortunately, the Ministry of Environment and Forests has been flagrantly violating this law in order to divert forest lands for use by companies and government agencies. Despite this being repeatedly brought to the Ministry’s notice, including by letters from political leaders, various press reports and public protests, these violations are continuing. There are 882 projects were granted final forest clearance in 2008 alone. According to sources, none of these clearances have practically complied with the Forest Rights Act. Granting clearance to the projects that would result in denial of forest rights, especially if done before the process is completed, hence a violation of the FRA.⁸⁰

As per the Forest Rights Act and Rules the important function of the Sub-Divisional Committee (SDLC) is to ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum. There should be no dominance of government officials. But the recent practice of the State Government in

79 Orissa State level public consultation, 22nd July, 2010, Bhubaneswar by MOEF and MOTA.

80 Report of the State Level Workshop on ‘Community Forest Rights under Forest Rights Act, 2006: Issues and Challenges’ Organised By Vasundhara and SPREAD

matter relating to POSCO is clearly violating the constitutional provisions affecting even fundamental rights of the villagers. In the proposed POSCO area neither the forest rights settlement process has been completed nor the concerned Gram Sabhas have been consented for the diversion of forest land as per the provisions under FRA. By giving final clearance, the MOEF has openly violated its own circulars of dated 30th July 2009 for compliance of FRA before diversion of forest land. Even in many circulars issued by the Govt. of Odisha from time to time for the implementation of FRA in the State, they have never emphasized on the procedure of 2/3 quorum of Gram Sabhas.

The forest department considers the implementation issue as a continuation of the forest co-ordination policy 1988 while for the Department of Tribal Affairs it is a tribal welfare issue. The survey department and local bodies perceive their roles mainly as facilitators. Although the gram sabhas are the most empowered authority in the implementation process, they seem to wait for directions from the higher authorities. Due to which all forest and community related factors leads to unwarranted delay in the process of implementation.⁸¹ Environmentalist Biswajit Mohanty says that the rising incidences of forest fires are due to the failure of the forest department to take on-time remedial measures. The department is supposed to involve people in protecting the forests as per the provisions of Forest Rights Act. But no such initiatives are being taken and incentives meant for protecting forests are not reaching the people.

Along with problems related to that of individual and community claims there also exists many up and downs in the implementation of the Act in many parts of Odisha. There is the district like Bolangir which remains at far below of the list in terms of implementation of Forest right Act. The status of individual and community Forest Right (FRC) is very abysmal. The awareness level of the forest dwelling schedule tribes and other traditional forest dwellers to assert their rights over the forest resources and eagerness to conserve the resources for the future generations

81Sathyapalan, J. (2010) 'Implementation of the Forest Rights Act in the Western Ghats Region of Kerala', *Economic and Political Weekly*, pp-72.

through sustainable use needs massive community level sensitization and pro-activeness. On the other hand, some sporadic incidence of forest cutting in the name of forest rights act occurs because of misleading the communities by local touts. Regarding concerned efforts of PRIs and forest department at the ground level it is virtually nonexistent. Similarly, the nodal agency, SC and ST welfare department with inadequate staff failed miserably to reach out the communities to inspire for asserting the rights.⁸² The Range officers, amins or other forest officer are the key functionaries and have to look after a lot of works such as maintenance of records, continuous visit to the inaccessible sites and also preparing maps, pattas etc. within the stipulated time frame. But the shortage of them for preparation of maps or demarcation of land in a definite period of time is another continuing factor for slowdown of the progress of implementations. There are widespread irregularities in the verification and processing of claims. For instance in Similipal area the technical support teams (RI/Amins) have wrongly interpreted the provision on land ceiling. During the field verification of claims they are adding both revenue land in possession and forest land under occupation while applying the land ceiling of four hectares i.e. if a claimant possesses 4 acres of revenue land (Patta land) and also 8 acres of forest land then out of the 8 acres the verification team is recording 6 acres, leaving out 2 acres with the reason that both the revenue and forest holding add up to 10 acres. Such application of the provision on ceiling is in violation of the Act as the ceiling as provided under section 4 (6) of the Act is applicable to forest land only.⁸³

Corruption has affected the process very drastically. Like the low level government personnel, who visit villages to measure land, usually demand a substantial bribe in return for processing a claim of title under the FRA. And without recognition of the property rights of local communities in some areas, like Jatropha plantation areas, Niyamgiri hills in Kalahandi district of Odisha, there are claims that the FRA has been violated because some forest lands have reportedly been earmarked for development projects and commercial plantations.

82 Report by Orissa diary

83 Swikruti, Forest Right Act update from Orissa, June 2009 issue, pp.3

Suggestions

Odisha is one of the very few states which have done considerably good progress in implementation of Forest Rights Act. What is more outstanding and noteworthy is the different level of mechanism constituted. There are certain well oriented suggestions if followed by the state government then it may achieve some outstanding results. They are as follows.

In the absence of specific institutional mechanism, the government should find out and prescribe specific mechanism to generate more funds for the CFM and MGNREGA schemes which through the Gram Sabhas could be channelized for the proper implementation Community Forest Rights. The institution of Gram Sabha should also be strengthened, so that it could efficiently chalk out plans in this regard.

The central and state funded forestry schemes and other externally aided projects like Odisha Forestry Sector Developments projects, Odisha Tribal empowerment and Livelihood project (IFAD), Western Odisha Rural Livelihoods Project need to be reexamined and re-assessed. These schemes should be integrated in the recognition process of forest rights for better and effective implementation of FRA. It should be ensured that officials and State governments comply with gram sabha decisions on the timeline. It must be made sure that all eligible claimants know how and when to file for rights and are able to file appeals.⁸⁴

Currently implementation process is marred by several institutional and efficiency issues, due to which rights have been recognized only over a limited forest area. It is necessary to start transformation in the sphere of resource management.

Although the Act explicitly addresses the issue of shifting cultivation, at first it needs to be strictly implemented on a priority basis. The government should create an environment to enable the Forest Right Act implementation by ensuring adequate human resources, budgetary allocation and infrastructural facilities. For, it is the lack of funds which is affecting the verification and recognition process.

⁸⁴<http://www.forestrightsact.com/component/content/article/21/75-chargesheet-on-governments-violations-of-forest-rights-act>

Hence, the study shows that the majority of Gram Sabha and FRC members, field personnel as well as officials responsible for implementation are poorly informed about the provisions of the FRA and Rules. It is because of this fact most of the forest dependent people are not being able to claim the diversity of rights to be recognised under the FRA. Urgent steps need to be taken for skill and capacity building of the implementing agencies, especially the members of Gram Sabhas, FRCs, SDLCs, DLCs, verification teams and representatives ITDAs, PTG Micro- Projects and PRIs. The technical support provided by the revenue official and forest department has opened up scope for corruption and manipulation of the process at the field level. The fact that FRCs and gram sabhas are not aware of the provisions and lack of necessary information to carry out the verification process has worked to the advantage of the officials who are making money out of verification and mapping process. This can be checked if the gram sabha's capacity is increased to facilitate the verification process and to monitor the action of the field officials.

In the field of individual forest rights complaint regarding issuing of titles to wrong persons need to be looked into and necessary correction should be made by the district level committee. The title should be provided with clear maps and boundary demarcation to avoid confusion and conflict. As behind the success and failure Gram Sabha plays the major role, so more Gram Sabha should be constituted and more meeting should be held for more success. Take the case of Koraput and Kandhamal district. So it is necessary to arrange special gram sabhas and social audit of the recognition process should be conducted to correct anomalies in the recognition process which takes place due to the official's arbitrariness. Hence, action should be taken against arbitrary conduct by officials.

For success of community right, it is necessary to increase awareness on the provisions of community forests. Focus should be given on the community practice and ownership of shifting cultivation which is not considered by converting it into individual rights. There should be dedicated structure for implementation of this act and community forest rights at the centre, state and district level. Mechanisms should also be devised for knowledge support with involvement of different organizations, group of NGOs who work with the forest communities.

At present titles on community forest rights broadly mention the nature and extend of rights but do not mention about the mechanism to maintain the document and important informations such as details of rights, maps etc. Mechanism should be in place to support the Gram Sabha to maintain these records of information on rights and knowledge on community practices. This can be helpful in guiding the management of community forest resources in future. Community forest rights including the rights on Minor Forest Produce should be recognized in the protected areas and the confusion should be removed. Development and improvement of recognized CFRs and individual lands should be facilitated with the funds available for MGNREGA and bringing in greater convergence for livelihood security.

Hence, to conclude, from the above account it becomes clear that it is the proper implementation of the FRA which is crucial for the betterment of the tribals as well as the other forest dwellers in the country. In fact, the fate of the Act itself depends in its proper implementation. It may be pointed out here that the success of title distribution in Kandhamal is due to the development of better civil society coordination in CFR claim facilitation in the whole district. Developed CFR model and guidelines through participatory process have been used widely in all villages of Kandhamal. There must be proactive engagement of RIs, Amins, Tahasildars, Village level volunteers and civil society in sensitization and facilitation of CFR claim process. Besides that better coordination and regular follow up strategy is the order of the time. There should be efforts to utilize the skills and expertise of Civil Society Organizations, People's Networks, academics, researchers and knowledgeable individuals by involving them in the entire process. In fact considerable useful material has been developed by NGOs which may be utilized in the process. In fact, due this salient role of the civil society organizations in the implementation of the FRA the next chapter deals in detail the role of these organizations in this regard.



CHAPTER-4

FOREST RIGHTS ACT AND CIVIL SOCIETY ORGANISATIONS IN ODISHA

CHAPTER-4

Forest Rights Act and Civil Society Organisations in Odisha

“We want demarcation of forest land village wise, right on forest, right price on forest produce, plantation of local fruit bearing trees and cash income plants, market facilities to sail of tribal collection and produce to avoid exploitation”.

Tulsi Munda

Civil society in this study implies the large number of voluntary associations, conscious intellectual groups, nongovernmental organizations and multiple types of movements. All of these are independent from the state interest and work for promoting and furthering the genuine interest of different sections of the society. One role of the civil society has been to raise the consciousness among the tribals to voluntarily protect the forest and conserve them. Interestingly, the need for civil society organizations becomes manifested when the government itself failed to design an apparatus to ensure gullible people who incessantly cut down trees and degrade the existing forests. Thus we see how NGOs work from the basic level of local tribal groups up to the state level institutions involved in forest management, installing values of community response, participatory democratic structure and mechanism of open communication. Here I intend to study how these groups and associations articulate the interest, problems of people and try to pressurize the Government to accept their view point. The larger point is that the role of the civil society in this regard would stimulate civic engagements and enlarges the democratic space. Simultaneously I propose to study their pattern or forms of functioning as well as their take on the problem of contestation over forest policy and its implementation issues.

The state is not a unitary actor. Although it may be commonplace to ascribe particular decisions or policies, but a state or government is composed of competing individuals, interest groups each with its distinct view and motivation, problem on specific issues. Given the federal structure of the Indian polity, it is obvious that a

number of actors have been involved in any policy formation as well as implementation. And the announced policy decisions are inevitably made by coalition government compulsions having competition with respect to opposition along with compromise from within. Thus every legislation or every policy decision carries behind it a larger story about the contestations and lobbying carried out by various actors, governmental like administrative departments and non-governmental like NGOs and interest group.⁸⁵ At the same time, with several political parties on the side of agitators, there is the possibility of reaching a middle ground. Experience with constitutional means shows that civil society activists, through their constant struggle, have persuaded the government to acknowledge several basic rights and convert these into laws. The forest rights are also not an exception. Here are some of the revolutionary measures that civil society has been able to conceive through constitutional methods. Just as in other parts of India, in Odisha also, the role of civil society is not only limited to providing relief at the time of disasters or complex emergency but is also committed to development responsibilities like fight against government's policies on industrialization and raising the voice against the displacement of the tribal people. Strengthening of these measures can contribute to conflict resolution and facilitate development aid.

As I have discussed in my previous chapter there is an urgent need to understand the failure of FRA-2006 which largely lies in its implementation level. It happens due to lack of awareness regarding rights and duties among the tribal groups. Hence, this study embarks upon the direct or indirect role of NGOs and other groups in the protection and management of forest and effective implementation of FRA 2006. The Forest Rights Act is considered as a weapon of struggle for the Adivasi people. The networking of civil society actors and policy advocates of the Forest Rights Act are also making a significant mark to mould things effectively. As a result of the intervention of the Supreme Court and the High Court in the Forest Rights cases collective strategy has evolved through the process of constant sharing.

⁸⁵ I Bose, *How did the Indian Forest Rights Act, 2006, emerge?* Discussion Paper Series (May 2010) IPPG Thirty Nine Discussion Papers available at www.ippg.org.uk, P.10

State seeks NGOs' help to Spread Awareness

With the implementation of Forest Rights Act moving at a snail's pace, the Odisha state government has sought the help of non-governmental organizations to spread awareness as well as help in filing claims especially for community forest rights. According to official of ST and SC Development Department, the State government is putting in constant efforts to expedite the process and has targeted to cover all the villages by the end of the current year. In order to expedite the process and addressing the community title claims on a timely basis, voluntary organisations will be engaged.

The State government has prepared a draft Request Proposal for expediting FRA implementation in 11 scheduled tribe dominated districts including Keonjhar, Sambalpur, Gajapati, Mayurbhanj, Kandhamal, Koraput, Malkanigiri, Sundargarh, Rayagada, Nabarangpur, and Kalahandi. The State is having a total of 51,551 villages, wherein 29,302 villages are forest fringe inhabitations. With focus on ST communities, the programme will cover 20,903 villages within two years. All eligible ST community households will be focused upon under this programme. The comprehensive programme aims to rope in services of NGOs which will be called, '*Facilitating NGOs*'. As prescribed in Forest Right Act, the programme aims at ensuring that claimants and make them enable by which they submit their rights before the Forest Rights Committee, Sub-Division Level Committee, and District-Level Committee and get their rights within a fixed timeframe. Besides, the NGOs will be engaged in developing a village-wise land database and tracking system to monitor status of land allocation at individual and community level. Pendency will also be monitored. As on date of June 2012 12,000 villages are engaged in community forest protection activities. Out of all the villages in various districts, a total of 14,200 villages have availed benefits of the Act with individual and community claims said to be addressed appropriately. Similarly, for periodic evaluation, the Government has proposed a State-level project monitoring cell which will not only keep a tab on the progress but also provide guidance and policy prescriptions. Below the state-level committee, a district-level body will function.⁸⁶

⁸⁶ Bhubaneswar Edition, The Hindu, 22 June, 2012

In Dhenkanal district, *Adivasi Kranti Sangathan* a nongovernmental organisation has been associated with awareness building for implementation of FRA in right direction. Members of the Sangathan are frequently getting in touch with the SDLC, the FRC, Revenue and Forest Personnel for smooth settlement of claims.⁸⁷

Jami Jungle Mukti Andolan

Hundreds of tribals and other traditional forest dwellers of Nuapada district under the banner of Jami Jangal Mukti Andolan conducted a rally on 18th of June 2012 at Boden and demonstrated before the block office of Boden with the following demands; ⁸⁸

1. Give us Community forest Rights under Sec. 3(1) of Forest Rights Act.
2. Issue Patta of forest lands to the traditional forest dwellers.
3. Settle Gramya Jungle Jogya or Gramya Jungle land in the name of the claimants.
4. Give revenue status to the small forest villages.
5. Provide houses under IAY to all the beneficiaries who have been allotted land under FRA.
6. Land development and construction of farm ponds in allotted lands under MGNREGA.
7. Compensation / payment of input subsidy for crop loss in forest lands.

Society for Promoting Rural Education and Development (SPREAD)

The Society for Promoting Rural Education and Development (SPREAD) was founded in 1989. It seeks to ensure dignity for socially excluded groups. SPREAD works in the Koraput districts of Odisha and focuses on the issue of development of the tribal population. In the early stages of intervention, the project team tried to understand the problems of the displaced tribal community of Koraput, who were alienated from their source of livelihood. It works for the tribal's access to livelihood through Forest Right Act. The SPREAD project aims to enable socially excluded communities to access their rights over land and work and enable people of Koraput

⁸⁷ Implementation of ST and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act-2006', *Adivasi*, vol. 49, no. 2, December 2009, p.7.

⁸⁸ <http://indigenouspeoplesissues.com>

to claim a dignified living. SPREAD has been working with scheduled tribes (ST), scheduled castes (SC) and other backward communities in the Koraput region of Odisha. It has mobilised communities displaced by Kolab dam, HAL (Hindustan Aeronautics Limited), NALCO (National Aluminum Company). SPREAD has made significant progress in unionising these forums and facilitated mass mobilisations to demand food and employment rights and individual claims.

Aims of SPREAD

The aim of SPREAD is to enhance the capacity of people's institutions, groups and community leaders to enable them to claim benefits and entitlements under different government schemes and acts. Even, it aims to strengthen the village and Panchayat (local governance) level institutions under different schemes, for effective participation of socially excluded groups as well as to improve the capacity of community based organisations (CBOs), groups and community leaders in claiming land rights under FRA. Since its inception SPREAD has been addressing livelihood issues for these communities to ensure their overall development. The major programs taken up by SPREAD are; facilitating monitoring process of the services availed through the social security programs; ensuring effective implementation of the basic facilities; enrolment drive in form of Campaign; sharing collected contents of the tribal cultural heritage and rituals with children through education system etc.

SPREAD and the Mass Mobilization Process

The process of mass mobilization started with the institutions like, Machhkund Basachyuta Mahasangha, Bhumi Adhikar Sanghathan, Koraput Adivasi Mancha, Dangar Adhikar Samiti, Women Mahasabha, Self Help Groups (SHG) and Village Development Committees (VDC) which are engaged in taking up various developmental activities, monitoring the effective implementation of government programmers, taking care of the village resources and resolving the village level disputes. Again, to make the mass mobilization process socially inclusive, Women Federations and People's Organisations (PO) have been formed at the Gram Panchyat level. The main focus of these G.P. level PO is to resolve the G.P. level conflicts, look into the conflicts remaining unsolved at village level, monitor the effective implementation of the government programmes, do strategic planning to have access over the natural resources of the G.P., ensure accountability and transparency in the

implementation of government programmes. Moreover, to form a larger forum at the district, networking with other people's organisations like the Adivasi Mitra Shakti. Kolab Bisthapita Sangathan, Sahid Laxman Nayak Shramik Sangha and Deomali Shramik Sangha create pressure on the system and the government to meet their demands related to lives and livelihood.⁸⁹

Pragati

Pragati is a nongovernmental voluntary organization established on 26th January 1992. It works in one of the most backward districts of South Odisha, Koraput. Its more than 50% of the population are tribal people. Due to isolation from the mainstream and lack of awareness they are deprived from the basic amenities of life. Pragati's vision is to build such a self-reliant society, free from hunger and exploitation, where everyone irrespective of caste, creed, sex and language have the right to dignified means of livelihood and through collective action ensure socio-economic justice and ecological balance. Its mission is to facilitate and strengthen the vibrant people's organizations at different levels of society that will protect, utilize, control and manage local resources and through collective action, ensure dynamic socio-economic change for sustainable development by advocating for pro-poor governance and bringing women, children, tribals and downtrodden, to the mainstream of the society.⁹⁰

Koraput Jilla Banabasi Sangha and People's Voice for Rights over Forest Land

Koraput Jilla Banabasi Sangha (District Level forest Federation) took out a rally on 6th August 2008 demanding action to end the age-old injustice being done to scheduled tribes and traditional forest dwellers through proper implementation of the Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act 2006 and Rules 2007. People from all over the district under the leadership of Sri Dharmananda Guntha, President of the Federation of KJBS marched into the town for reaching the office of the District Collector and submitted a Memorandum addressed to the Chief Minister of Odisha. The Federation facilitated by Pragati in association with local NGOs is engaged in forest conservation and advocacy for rights over resources. Koraput Jilla

⁸⁹ Annual Report, *SPREAD* 2008-2009 Pp.11,

⁹⁰ Annual Report , *Pragati*, Koraput,2008-09,pp.5

Banabasi Sangha in its Memorandum to the Chief Minister of Odisha has demanded for immediate action to look into the problems and make necessary arrangements to enforce the Act and provide legal entitlement rights to the people.⁹¹

Vasundhara

‘Vasundhara’ is a policy research and action group based organization at Bhubaneswar in Odisha which was founded in 1991, got registered in 1992 as a Society under the Societies Registration ACT XXI of 1860. It initially focused on supporting and strengthening the self-initiated community forestry groups. It is primarily working in the areas of to facilitate reflection of livelihood interests of forest dependents in the policy objectives and also to create situations where the primary gatherers are economically and politically empowered to have exclusive control over their lives and livelihood. Then its constant efforts has been working towards highlighting the critical role that forests play in sustaining rural livelihoods and embark direct action on it. Considering that there are many empowering provisions of the FRA, it can be used as a powerful tool for democratization of forest governance in our country. Vasundhara has taken it seriously by trying to engage other civil society groups and the government to work closely for effective implementation of the Act after its notification in January 2008. Its interventions are informed by the need to deepen democracy, and to create conditions to address voicelessness, economic deprivation and political marginalizations of the poor tribal. The visions of democratization of natural resources, governance as well as all walks of life guide over its work. The focus is hence, on expanding democratic spaces, improving democratic governance of natural resources, capacity building of civil society actors to demand and sustain democratic spaces to work for degraded sections likewise the tribal forest dwellers.

The team owes its origin to the impressive and spontaneous protection of forests by local communities in the state. Vasundhara’s initial work entailed documentation of community based forest management systems, research on the various institutional and ecological aspects of community forestry, sensitisation of Forest Department officials and the bureaucracy on the need for Participatory Forest Management etc. The Government of Odisha has taken several proactive steps for

⁹¹ Annual Report, Pragati: Koraput, 2008-09, pp.19

proper implementation of the Forest Rights Act. To date, the State has issued more than 15 circulars to streamline, facilitate proper implementation of the Act and has particularly stressed the recognition of Forest Rights. However, for various reasons recognition of Community Forests Rights has been slow in comparison to individual rights.

In this backdrop, a State Level Workshop on Forest Rights Act with a specific focus on the recognition of community forest rights was organised by Vasundhara at Bhubaneswar from 28th to 30th August 2009. Its focus was on Forest Rights Act, Community Forest Rights-Scope, Challenges and Prospects. The objective behind this was to provide a forum for cross sharing and learning among communities as well as state representatives; different provisions of FRA with a particular focus on community rights and CFR and their potential; to assess the status of implementation of FRA in the state with a focus on identifying operational bottlenecks, problems, constraints and best practices and to develop strategies and action plans for addressing the identified problems for effective implementation of FRA in the state.

In another workshop on 1st to 3rd September 2009 over 300 participants actively participated in the workshop. Apart from the representatives of communities and civil society organizations, the participants included a number of eminent persons, intellectuals, students and academicians. State level workshop on “Community Forest Rights under Forest Rights Act, 2006: Issues & Challenges” was jointly organized by Vasundhara and SPREAD, Koraput on 20th & 21st December, 2011 in DRTC, CYSD. Broad objectives of the workshop were to sensitization of the policy makers and implementing bodies on various provisions of Forest Rights Act particularly the ones which are still neglected; identification of bottlenecks through reviewing the present process of implementation and prepare a set of recommendation for proper implementation of the law and devise future actions/strategies.⁹²

⁹² Report of the State Level Workshop on ‘Community Forest Rights under Forest Rights Act, 2006: Issues and Challenges’ Organised By Vasundhara and SPREAD.

Documentation on Forest Rights Act, 2006 by Vasundhara

The team is also involved in documentation of the implementation process of the Forest Rights Act in selected areas of Tribal Districts in proper coordination with local partners and forest rights campaign groups. The research and documentation process includes case studies, discussion with government officials, notes on constraints in the implementation process, etc. It is expected that the research would help in identification of policy constraints in implementation of FRA and throw up some recommendations on required amendments to the existing law. The team has designed posters, leaflets and other Information and Communication Technology (ICT) materials on FRA and has contributed significantly in the making of documentary film title “*Swikruti*”. The organization at the same time sensitized and created mass awareness among common people.

Training and Capacity Building on Forest Rights Act

The team of the Vasundhara has played a significant role in the training and orientation of grassroots organizations, forest rights campaign groups, members of Forest Rights Committee and PRI members on Forest Rights Act, 2006 and the rules there under. These training and orientation programs have spread awareness about the enabling provisions of the Act among forest dwelling communities, facilitated legal claim making process on forest land and community forest right (CFR) and prevented violation of the Act. With continuous information support from the organisation, the forest rights campaign group like CSD has played a significant role in highlighting policy issues like caste certificate, Community Forest Resource, demarcation in forest villages and other implementation issues relating to the Forest Rights Act.

Forests forms a critical source of livelihood for the poorest in the most backward and tribal regions of Odisha. This dependence is mostly in terms of collection of various kinds of non-timber forest products (NTFPs) available in the forest. Kendu leaf, one of the most important cash-giving NTFPs, alone is generating more than one crore person-days of employment during summer. Although NTFPs constitute a major source of livelihood for poor and marginalised forest-dependent families, its market is riddled with various problems like dominance of traders, their unethical trade practices, imperfection in flow of market information, lack of

processing and storage facilities, absence of market yard, primary gatherers dealing in the market at the individual level with no bargaining power, and policy problems. With this in mind, Vasundhara has been addressing forest-based livelihood issues over the past few years at different levels. The Sustainable Livelihoods and Economic Democratisation team has been working towards facilitating collectivisation of the trade through an alternative trade network owned and managed by the primary gatherers, and on the development of a market information system.

PRADAN (Professional Assistance for Development Action)

PRADAN is a voluntary organization which enables people to dream again. It is involved in promoting sustainable livelihoods for the rural poor. Currently, it is operating in eight States namely Assam, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan and West Bengal. It works with women from poor households, organising Self-Help Groups (SHGs) and promoting various farms, forest, livestock and village enterprise based livelihoods. Over 300 professionals of PRADAN presently works with 170,000 poor families, mostly from tribal and backward communities, facilitating positive and sustainable changes in their lives.⁹³

Mr. Ashok Behera (Forest Ranger) says, *“It is known as 'Shifting Agriculture'. Essentially they are nomadic communities and so they keep burning patches of the forests for cultivation. They do not understand the value of the forests (it is evaluative as perhaps they do not have other livelihood options). We try to explain it to them a lot, but they have been doing this for generations, and now it's difficult to make them stop.”*⁹⁴

The PRADAN has taken a new initiative in 2007 by starting its first ‘Sangarshana Surakhya samith’(VSS) or Forest Coservation Society(FCS) on this front in Palami village in Kandhamal district. It is trying to make adivasis understand *how much they are dependent on the forest for almost everything. But by burning the forest destroy forest, eventually make their life and environment harmful, depleting forest resources which completely useful for themselves. People are gradually becoming aware if it. With the new funding that VSS have received for Siali*

⁹³S Mohan, ‘Siali- A Document on the Siali Leaf plate making activity of Kandhamal district, of Orissa’, PRADAN, Niti Bagh, New Delhi,2009,p.1.

⁹⁴Ibid.,p.30

*plantation, have planted 10,000 Siali plants across 10 villages. A lot needs to be done to increase the supply to match the growing demand.*⁹⁵ It is the effort of PRADAN to make the adivasis of Kandhamal realize ‘how they use forest for sal seeds, amla, harida, bahada, dhoop, bhimbread, shikakai, mahua flowers, pathaal garud, honey, gara, sal wood and piya sal wood, turmeric, mustard and importantly Lac rearing and stem of Siali leaves. Meanwhile, people of this area understand the crucial role of forest in their lives. In their own words, “*If we cut the jungles, we would have to go farther and farther away to get all our resources, we depend so much on these forests that we realize their importance now and feel that we cannot do without having them at arms’ reach. We must always have it close to us.*” They have stopped burning forests for cultivation. They make do with the existing land that they had burnt and are using it for cultivating various crops.

PRADAN to Mobilize the Community for Lac Rearing as Livelihood Activity

Lac is predominantly cultivated by economically weak tribal communities. Lac rearing is one of the most preferred livelihood options for thousands of poor tribal families living in the forest fringe areas in Assam, Chattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Odisha and West Bengal. It also helps conserve vast stretches of forests, thereby playing a vital role in protecting our bio-resources. However the major constraint regarding this are, lack of knowledge of technological advances, instability of prices, and the frequent crashing of the prices of stick lac in the local markets. Nevertheless PRADAN is mobilizing the community by making them realize as to how development lies in their own hands hence it has taken up the additional responsibility to provide guidance and training.

PRADAN Initiatives on Empowering Siali leaf-plates Makers

Four years ago, I heard about Siali leaf-plates and that an NGO named PRADAN and an organisation named KWLCL (Kandhamal Women’s Leaf Plate Cooperatives Ltd) was giving out sewing machines at a nominal monthly installment of Rs 40 per month, while giving training to people to stitch these into leaf-plates. I found the offer attractive and joined. Today earn Rs 100 a day from making 10

⁹⁵Ibid.,p.34.

chakkis, or an equivalent of Rs 3,000 a month. Once in a few days, I buy rough stitch plates from the cooperative at Rs 10 and after machine stitching the leaves, sell them back to the cooperative for Rs 20 to Rs 23. "Gradually we are able to pay back loans and we have a steady income that is reliable. Life is much better now.

Smruti Rajput, is a member of (KWLCL)⁹⁶

Kandhamal Women's Leaf Plate Cooperative (KWLCL)

Pradan's intervention has led 850 families involved in Siali leaf-plate making to organise them into a cooperative named 'Kandhamal Women's Leaf-plate Cooperative Limited'. The collective was set up with the mission of bringing about empowerment of its members, especially from the weaker sections of society, through economic and social progress by means of self-support and mutual help while carrying out the activity of leaf-plate making and trading. The objective of forming a cooperative was to ensure the best way to organise women to pool their produce and directly sell in the market thereby ensuring higher profits and the ability to determine who the cooperative wants to sell to and at what rate.⁹⁷

Manav Vikas Niyojan Samiti (MANI)

MANI is an organisation established in 1987 in Kandhamal District of Odisha. The main contribution of MANI is to empower the Self Help Groups and promotion of livelihood initiatives in the rural areas. It also trained the women on handicraft and work with the siali producers. Mr. Ashok Kumar Parida (Founder and secretary of MANI) says *"In several extremely under developed villages, the Siali leaf is used as currency to buy groceries for the family. For instance, a poor family goes to a grocer asking for 1 bag of rice. The grocer would in turn take away all the Siali produce brought by the family for that one bag, without keeping in mind the equality of the market value for each.*⁹⁸ He explains that the families in these areas are not even aware that they have the right to demand a price for their produce. In this sphere 'MANI works to help these families raise their awareness about the markets, principally by exposing them to the Siali leaf-plate market outside Kandhamal district. Another factor that deters them from producing finer quality products is the lack of

⁹⁶ Ibid.23

⁹⁷ Ibid, P.24

⁹⁸ Ibid, p.31

buyers. They have become so used to being cheated and exploited. Mr. Ashok Kumar Parida says, “*We need to do serious work with their self confidence and morale first, before any training takes place. Today Siali is their only ATM card.* The good news is that demand for the produce is increasing by the day and Kandhamal district of Odisha is one of the key suppliers to this booming industry.⁹⁹

The NGOs are found engaged in activities relating to human resource development. With a group of workers and financial support in a sound manner they made their presence felt in the tribal belts with various activities in hand. Their need based programmes are both popular and populist in nature. The plus point with them is their ability to work under disadvantageous conditions with the least infrastructural facilities at command. The successive five year plans have laid stress on the need to encourage the NGOs and voluntary organizations that they would serve as an excellent catalyst for socio-economic development of the tribal people, to spread awareness among them to access their rights.¹⁰⁰

Similarly, NGOs like ‘*AWARE*’, ‘*Seva Bharti*’ are active in many part of Phulbani district of Odisha. For instance, The Hill Khadia and the Mankadia of Similipal region of Jasipur area of Mayurbhanj district fully dependent upon MFP and has taken keen interest on conserving forest but the Kolha, the Santhal, the Bathudi and the Munda do not hesitate to cut trees and also do not take care for regeneration of MFP yielding plants. This type of activity paves the way for practices of agriculture in cleared areas. The lust for land is very great among these tribes. As a result, they deprive of their only source of livelihood. In district like of Phulbani, the Kutia Kandh cut the trees not for MFP but for agricultural purposes. In the process of doing so they collect MFP in addition to agriculture. In both these areas the NGOs have an important role to play. They can check the destruction of forests with their grassroots level workers and establishments. They can mould the shifting cultivators to adopt some other means of subsistence and the settled cultivators for adopting some alternative agricultural practices. The NGOs are coming forward to make them aware about conservation of forests.

⁹⁹ *ibid*

¹⁰⁰ Collection and sale of MFP among the tribes of Orissa: A socio-structural and economic analysis, *SCSTRTI*, Bhubaneswar, Orissa, pp.53

Bibek Patnaik who is part of the Mayurbhanj federation says: “*The Mayurbhanj Mahasangh*” takes a somewhat different approach from that of many other district federations, which is completely run by the people, without any direct support. The sense of participation and ownership by communities is also exemplary. The apex federation at the state level is called the *Odisha Jungle Manch*. This is the collective with several tiers of functioning bodies down to the village level; even family units have placed communities in an excellent bargaining position while dealing with the state, especially the forest department. It has also provided the much desired public platform for experience sharing apart from making conflict-resolution smooth and effective within or outside the village area. A movement that started as a spontaneous response to the state’s apparatus on forest-based village economies has now evolved into an empowering collective, without communities having to lose their diverse identities and democratic values.

Deogarh Zilla Bhumihin Sangrami Parishad

Around 33% and 15% of the population of Deogarh district belongs to the scheduled tribes and scheduled castes respectively. This is home to one of the most vulnerable community called Paudi Bhuyan. In the meantime the historic legislation of Forest Rights Act brought a ray of hope but the implementation of the same in the grassroots level has come across serious violation of the letter and spirit of the Act. **Deogarh Zilla Bhumihin Sangrami Parishad** is a platform of landless people for struggle against poverty which has taken an initiative to follow, monitor and appraise the implementation throughout the district. It is found that there are serious callousness and apathy from the district administration and no steps are being taken to implement the Act in its letter and spirit. Time and again the parishad has shared and appraised the concerns of tribals and other traditional forest dwellers but the administration has not taken things proactively. Following are some of the critical issues raised for the implementation of Forest Rights Act in the district and demanded to address them. Individual right recognition process is not being followed up as per the law. The claimants are not intimated about the status of their claim by which they are being deprived of appeal as per the provision of the Act. Even if Deogarh has the distinction of being a front-runner in community forest management having 600 forests protecting communities not a single CFR has been recognised so far. The

District Level Committee in its last DLC meeting stated that no CFR recognition will be allowed in VSS area which is a blatant violation of the Act. The Parishad has identified 9 forest villages in Reamal block of Deogarh and facilitated the process of claim making for conversion of forest villages into revenue villages as per the provisions of the Act. But no step has been taken by the administration for the conversion. Hence these villages are suffering from different counts and no schemes are being allowed there for being forest villages. The Paudi Bhuyans are being deliberately alienated from their traditional practice by not allowing to claim under FRA. Even there are cases where the verification team has not taken into consideration the claims made on the “Podu Land”. There are cases in certain villages where the recognised land under forest Rights Act is being encroached by other powerful groups from the community. Such cases should be dealt with strongly. The government is still collecting encroachment fine from people which is a violation of Forest Rights Act. After demand all of this they warned both the district administration and the State government to resolve the issues raised otherwise they would strongly protest against them.¹⁰¹

Badrama Abhayaranya Bikash Parishad

Badrama Abhayaranya Bikash Parishad is a federation of people working primarily on the issue of protection of wild life as well as ensuring rights of people within protected area of Deogarh district. Since the enactment of the act the Parishad has been instrumental in awareness building measures and facilitating FRA in the sanctuary area. Badrama Abhayaranya Vikas Parishad has submitted a memorandum to the district administration where they have demanded that the work on community claims be expedited. Community claims from the sanctuary area was neglected in the verification process. They also demanded action against forest officials who have held that community rights cease to exist after declaration of the sanctuary. The Parishad has taken initiative to form committees under Section 5 of the Forest Rights Act. The committees are now in the process of developing community conservation plans for protection and conservation of community forest resources claimed under the Act.¹⁰²

101 Report by Odisha Diary Bureau; Bhubaneswar

102 Forest Right Act update from Orissa, *Swikruti*, June 2009, pp.3

Student or Intellectual Groups

The All India Students Association (AISA), Democratic Student Union (DSU) and various other student organizations have from time to time staged protest and campaign programme at local as well as national level against POSCO, Vedanta project in Odisha for violating norms and rules of tribal's right. Students and professor from institutes like XIMB, KIIT, NIIS, VISVA-BHARATI, and TATA-DHAN have been involved in the FRA process for its implementation. Through the continuous efforts of students, intellectuals, NGOs articles on issues like Forest Rights, Biodiversity Conservation have been published in development and conservation journals like 'India Together' and 'Vedam books' etc. For example, *Subrat Kumar Sahu is an independent writer and filmmaker based in New Delhi. He was formerly with 'Terra Green', a magazine on the environment and sustainable development. He was awarded the Infochange Media Fellowship 2009 to research the history of community forest management in his native Odisha.*

The member of Technical Support Group (TSG) wrote to the Union Tribal Affairs Minister for the speed of notification of the rules of the ST and OTFD FRA, 2006 by which legislation could be implemented. Signatories to the letter are, Prof Nandini Sundar, Pradip Prabhu, Dr.S.R Sankaran, B.D Sharma, Madhav Gadgil , Ram Dayal Munda and Smita Gupta.¹⁰³ During the National Committee on Forest Right Act organized by state level consultation on the implementation of the FRA, 2006 people from all districts of Odisha, even of the local tribal communities and several NGO were present. As a part of this other active networks such as the "Ekta Parishad", "Odisha Jungle Manch", "Odisha Adivasi Manch" and Odisha Protected Area Network' and several community forest protections Mahasangha had participated in it. After the end of consultation programme there used to be a written or oral submission presented by representative of Primitive Tribal Groups and from civil society organizations.¹⁰⁴

103 The Hindu, December 20,2007

104 Orissa State Level Public Consultation, July 22nd 2010, Bhubaneswar, MOEF and MOTA..

The Media

Intelligentsia as well as the media are gradually being sensitized to discuss various issues related to tribal's right to forest, environmental governance which, in the long run, can bring about changes. It has been a major element in the whole process leading to the FRA. It has been opposing activities of the government on the ground that tribals and their future generations cannot be torn apart from the mainstream. For instance the '*Forest Rights: Jung Jungle Aur Jungle Ke Logo Ka*' is a short documentary video produced and directed by Purabi Bose with good research based on field work data collection depicts the voices of the marginalized scheduled tribes. The story told through voices of Bhil tribe provides further insights on the issue of participation which has increased due to the implementation of the Forest Right Act 2006.

Campaign for Survival and Dignity

The Campaign for Survival and Dignity has fought against the cases where the private corporations have forcibly taken forest land from tribals. It has brought to light issues related to how in the name of public good the government has handed over community forest land to private companies and also in the process of special economic zone provision of government it has denied rights to tribals. The Campaign for Survival and Dignity (CSD), Odisha, a large network of tribals and forest dwellers has struggled hard to get the historic Forest Rights Act, 2006 enacted by Parliament today. The FRA-2006 is being seen as a necessary step towards securing their ultimate and professed aim for bringing a new democracy in the forests.

As it has also a pivotal role in the implementation of the FRA the Campaign for Survival and Dignity(CSD), by spearheading the cause of tribal uplift, feels that the tribals and forest dwellers have undoubtedly been victims of a 'historic injustice'. The members of the CSD are raising the concerns over the violation of Forest Right Act implementation in Odisha.¹⁰⁵ Criticizing the Government's recent decision for special funding to more 5000 VSS. CSD members criticized the Government for pumping fund leading to community conflicts. "It is unfortunate that in the name of plantation, people of Odisha have been burden with the JICA loan, the CAMPA fund

¹⁰⁵S Ghosh, National Forum of Forest People and Forest Workers (NFFPFW), and Campaign for Survival and Dignity (CSD), India.

has been mismanaged by the FD in the name of Plantation”. It has been constantly reviewing the process of FRA implementation at different level in Odisha. Hereafter CSD member send notice to the government of Odisha on 3rd November 2009. This notice was against the non recognition of Community Forest Rights as well as regarding how in the name of environment or climate change and different security concern the tribal forest dwellers are being harassed.106 CSD has alleged that even after the enactment of FRA and 30th July 2009 MoEF circular, a number of projects involving forest land have been cleared in the State without Forest Rights Act compliance. It rightly argued that if this illegal and arbitrary final clearance is not revoked, it would be the precedent in each and every case. The campaign has appealed to both the Governments immediately to revoke the final forest clearance given to different projects.

NGO and Gram Sabha

The Forest Department plays a divisive role in the village community. The forest rights Act, 2006 totally disregard the current forest protection and management system undertaken by Joint Forest Management. JFM very clearly empowered the Gram Sabha or the village community to protect their forest, wildlife, biodiversity and have provision to form Forest Protection Committees at the Gram Sabha level. However, the forest departments in the name of plantation programme have been evicting the forest dwellers and reducing them to a miserable situation. Though NGO at the grass root level have succeeded a great deal in creating awareness, the ‘Gram Sabha’ in this respect could play a major role in educating the forest dwellers in weights and measures and also by a number of production cum training programme centers in the remote areas. Awareness campaign through NGOs may be taken up in the remote tribal areas to make tribals conscious of their legitimate dues in course of sales network which could create an environment for tribals to do away with exploitation.

Villages of Kotgarh, Jharighati has reported that during the verification of claims in the village the technical support team consisting of person from revenue and forest department has offered to increase the boundary of the community forest

resource reflected in the community claim. Thankfully the Gram Sabha has rejected the offer and has clarified to the officials that they are not supposed to interfere in the process of determination of rights including determination of Community Forest Right which is a prerogative of the Gram Sabha.¹⁰⁷

Organised Mass Movement

Legislation often does not address the complexities of forest tenure and access to forest resources. Even the law which allows the communities and individuals to claim title do not properly talk about indigenous group or benefit of each section. As a result of growing tension between forest protection groups and the forest department over-exercising rights over the state's forests, villagers have come up to realize the need for a coordinated institutional arrangement among themselves. After this towards the late-1990s, began a process of alliance-building among CFM groups, both at the grassroots as well as the state level. Starting from a very much localised phenomenon of cooperation between villages, this alliance-building process led to the setting up of several formal federations at various levels. By June 2001, seven district-level federations and one state-level federation had been formed." Prabhat Mishra from RCDC says that, today there are district-level federations both formal and informal in as many as districts in the state. Among them, the Mayurbhanj Jungle Suraksha Mahasangh and the Nayagarh Jungle Suraksha Mahasangh are the strongest.

Movement in Odisha

In the era of liberalization and privatization, a sizeable number of mineral processing industries are coming to invest in the mineral-rich state of Odisha. As a result, there is largely an involuntary displacement of the marginalized sections including tribals. The resistance leading to agitation end up finally government's brutal suppression, as in the case of TISCO at kalinganagar, Vedanta at lanjigarh, Utkal Alumina at Kashipur and POSCO at Paradip, which of course are still is going on. The government deals their resistance with heavy hand.¹⁰⁸ Even, the Tribals with the help of this type of resistance movement are questioning the paradigm of development itself which is heavily loaded against them. Livelihood of tribal is in

¹⁰⁷ Forest Right Act update from Orissa, *Swikruti*, August 2009, vol.1, Issue 2, pp 6-7.

¹⁰⁸ K C Das and KC Samal, 'New mega projects in Orissa: Protest by potential displaced persons', *Social Change*, Vol.38, No.4, December, 2008, pp.627-644.

turmoil across the country. In the past there were many successful protest agitations in the state, such as, the Gandhamardhan agitation against BALCO and the Chilika movement opposing the TATA. Recently, be it Kalinganagar, Dinkia, Kashipur, Niyamgiri or Keonjhar the ordinary villagers, tribals, farmers and forest dwellers have put up a brave movement against all odds in order to save their land and livelihood. People involved in these movements are the tribals whom till yesterday the state called simple and innocent and left them more or less untouched. They are the forest dwellers for whom the state is claiming to have made many policies. They are the peasants and fishermen who put in hard work to make a living in the agricultural fields or water resources. They are the landless workers who constantly remind us that the state has not only abandoned Land reforms but it also has abandoned them. Now they are branded as ‘anti-development’, ‘Maoists’ or people creating ‘lawlessness’. In this context it is worthwhile to move to discuss some basically livelihood movements by the tribals in Odisha.

Niyamgiri Movement

Vedanta project is huge but controversial mining project in the south west part of Odisha which is exactly in Niyamgiri hill of Kalahandil district. Niyamgiri is regarded by the local people as home to primitive Dongria tribes. It is known for its rich biodiversity, dense forest, wild animals and perennial water streams. South Odisha was targeted for mining extraction by Anil Agrwal’s Vedanta Alumina in 2002. Importantly without any forest and environmental clearance Vedanta started its work and gave serious danger to the livelihoods of Dongria Kandhas. As a consequence of the plunder of natural resources, which is being done in the name of development under the patronage of the state in Odisha, people surviving on those resources such as land, water and forest for generations are living now under constant threats of displacement and deprivation. In the name of investment in the state, all foreign and Indian companies are gradually taking control over those precious resources. Hence, Vedanata Virodhi agitation has been taking place in Niyamgiri. This continuous movement by the peoples and their resistance did catch the eye of the government. The result being the formation of a expert committee. The expert members of the N. C. Saxena Committee personally visited Niyamgiri and were shocked to see its rich biodiversity which had been suppressed by the state forest department and Vedanta.

They recommended to stop mining in Niyamgiri and also to stop Vedant's Lanjigarh alumina factory until the company does not get assurance of raw materials from anywhere else other than Niyamgiri.

There are some organizations which are working against this project like '*Niyamgiri Surakshya Samiti*', '*Niyamgiri Surakshya Sangram Juba Bahini*'. India's rapid economic growth has generated huge demand for raw materials. Weak law enforcement has allowed massive environmental damage from mining and other extractive industries. As Lingaraj Azad, a leader of the Save Niyamgiri Committee, vociferously argues that the Dongria Kondh's campaign is "not just that of an isolated tribe for its customary rights over its traditional lands and habitats, but that of the entire world over protecting our natural heritage". Vedanta, which wants the bauxite for an alumina refinery it has built near the hills, requires clearance under the country's forest and environmental laws. But though it had obtained provisional permission, it failed to satisfy laws protecting the forests and granting rights to local tribal groups.¹⁰⁹

Anti-POSCO Movement in Odisha

It is quite painful for any responsible citizens of an independent, democratic nation to realize that its elected representatives are willing to serve any erring corporation even if the people who have elected them suffer in terms of life, livelihood and peace. Odisha is one of the poorest states in India which as an agrarian society, approximately 60% of its people are completely depending on agriculture. But still poverty, unemployment persists there, no matter whichever political party is in power. That is why industrialization is one of the suitable steps towards development. But it is the faulty and failure of government policies on agricultural sector that has favored multinational corporations like POSCO which hugely acquired the forest land in which tribal are reside. The other face of development is lots of displacement which is still going on due to '*POSCO, Police and Prasaran*'s misutilisation of "*Jala Jami Jangala*". Indigenous peoples are losing their lands and livelihood. It is no wonder that the locals have raised their voice for the protection of their thriving *paan, meen and dhaan* livelihoods and resisted forceful acquisition of

¹⁰⁹ J Burke, *The Guardian*, Delhi, 8 April 2012

land by the state government. The government is however hell-bent on acquiring land and using all its strength and might for POSCO. But the resistance refuses to remove them from their land.¹¹⁰ The agitation has now entered into the seventh year. Movements across the country and intelligentsia have expressed solidarity with the movement and supported the cause of people. The 'Lok Sakti Abhiyan' welcomed the decisions of the National Green Tribunal to suspend the arbitrary, unjustified and uncalled for green node given to the so-called mega steel project POSCO on January 31, 2011 by the Ministry of Environment and Forest (MoEF) of Government of India. The President of Lok Sakti Abhiyan and petitioner in the NGT against POSCO Sri Prafulla Samantara who claimed that, 'it is indeed the victory of the people of Dhinkia, Jagatsinghpur who have sustained their struggles against this giant steel company at a huge cost to their life, liberty, peace and happiness for the last 6 years'. Villagers of Gobindapur, Jagatsinghpur have formed '*Baji Rout Baluta Sangha*' which includes more than 1000 children. Similarly *Seema Surakshya Sanga* comprising more than 1000 young men and women prevented entry of police force and administration in the proposed plant area what they say is a last ditch attempt to protect their land. Villagers near the border of Gobindapur village formed three tier human barricades comprising of children, women and age old persons. Villagers gathered in large number without caring for scorching summer and hot sand.¹¹¹

POSCO Pratirodh Sangram Samiti (PPSS)

Posco Pratirodh Sangram Samiti is a nongovernmental organization under the leadership of Abhay Sahoo started from the Villages Nuagaon, Dhinkia, Gadkujang; Erasama Block; Jagatsinghpur District of Odisha. They are protesting against establishment of POSCO.

The other group is *Nav Nirman Samiti (NNS)* a voluntary effort spearheaded by the Rashtriya Yuva Sangathan the youth wing of the Sarvodaya Movement that follows Gandhian principle, the group is active in Nuanga locality. NNS is against the project which is threatening to take away the livelihood of villagers Social activist

¹¹⁰B Mishra & B K Nayak, 'Paan or POSCO?' *Economic and Political Weekly*, 2011, Vol. 45, Nos.27, p.12.

¹¹¹ "POSCO Ku Birodha: gadha hela baluta sangha," Opposition to Posco; formation of childrens club, published in Odiya news paper 'The Dharitri', 19 June 2011.

Medha Patkar supporting the protest said that, civil rights groups would stand by the people agitating against POSCO's mega steel project in Odisha and demanded that Chief Minister Naveen Patnaik visit the area immediately. Accusing the chief minister of adopting a callous attitude towards villagers, Patkar asked "Why can't Naveen come down to Dhinkia for the people while he rushes to Delhi for talks with the South Korean President for the POSCO project." "Why are you using the police to beat up villagers for a foreign company? Is not it illegal to acquire land of farmers without their consent? The state government and the Centre have no right to acquire land at gunpoint," Patkar told protestors who have been on dharna at Gobindapur. Stating that the chief minister must take the consent of the people before attempting to acquire land, she claimed "the state government's action was unheard of even during British Rule.¹¹² Swami Agnivesh on 18th June 2011 provided his full support behind the people agitating against the South Korean steel major POSCO and demanded withdrawal of police force from the area. Swami Agnivesh, president of the Arya Pratinidhi Sabha, announced his support to the agitating people after he visited the seaside villages located in the proposed plant site of POSCO. He said "I am surprised that the government has been trying to demolish such a well developed agrarian economy to set up a steel plant."¹¹³ The communities are resisting the acquisition of their forest and fertile land on the coast for the illegal POSCO steel-power-port-mining project - the single largest investment of recent times that mainly benefits rich American corporations, including Warren Buffet, as alleged by the AISA in its statement. Besides AISA, other groups including Campaign for Survival and Dignity, Delhi Solidarity Group and National Forum of Forest People and Forest Workers took part in the protest held outside Odisha Bhawan in New Delhi.¹¹⁴

Vana Sangraksyana Samiti and People's Participation Forest Management

¹¹² Civil rights groups will stand by agitation against posco.PTI.21 June, 2011.
http://www.moneycontrol.com/news/business/civil-rights-groups-will-stand-by-agitation-against-posco_558817.html.

¹¹³ Swami Agnivesh against Posco project. 16 Aug, 2011.
<http://news.chennaionline.com/newsitem.aspx?NEWSID=33590a66-9f6f-4aaf-a4ae-73fab1a6f0cb&CATEGORYNAME=NATL>

¹¹⁴ Students body, civil society protest against POSCO project. 14 June, 2011.
<http://news.in.msn.com/national/article.aspx?cp-documentid=5206266>

The changing title of Joint Forest Management to Community Forest Management (CFM) is not sufficient to achieve flourishing growth of forests in tribal areas. The tribals must participate in the programmes of the VSS to achieve the very purpose of the initiation of the members who are in transition of learning in the direction of transparency, accountability, and self-management of the group to get more benefits from the Government. The message of partnership between forest officials and tribal communities in the preservation of forests and environmental protection has been just reached. Government of Odisha has taken up afforestation of certain portions of the degraded forests with local People's participation. These projects were observed to have yielded rich dividends to the public, forest department and the forest lovers. Development of small patches of forest land with selected tree species, which are of immediate benefits to the forest dependants and long-term benefits to the society and to the government was well tried with the active participation of Van Samrakshana Samithi (VSS).

Social forestry

The forest policy in the FRA-2006 is a right based framework of democratic forest governance. But at the same time this act is going to be talked more about the duty bound for the tribals, which would create a mindset of ignorance of tribal right by the mechanism of state apparatus. Social forestry is not merely a programme of planting trees, it involves a series of interrelated activities which culminate into utilizing either unutilized or ill-utilised land. It calls for a process of socio-economic change with continuous participation of local community at all levels of programme implementations. Social forestry cannot be divorced from the total forest policy. What the nation needs today is social forestry policy along with social forestry. Its main objective is not only for protection of environment and ecological balance but also meeting the basic needs of the forest dwellers for fruits, roots and flowers, fodder, fuel. The social forestry emphasizes direct participation of the people in the implementation programme. The need for social forestry and mixed forest is more for the benefit of tribals than commercial plantations which mainly help industries. Efforts are also called for the increase in the production of Minor Forest Produce as the finished product which as a process will create opportunities for gainful employment. Which resulted to take into account all vital matters relates to the interests of economic development of tribals and in this sphere, civil society groups

make a sense that; by making conservation of the natural environment not merely a duty of the tribal forest right dwellers, but also a right of forest communities that in accordance with their traditional pattern they protect the forest. They demand 'State forests' will thus make way for 'People's forests', which is to be preserved and protected by the right holding individuals and communities themselves as citizens of the forest.

In a nutshell, it can be concluded that there is an immense need for different NGOs to promote activism within the tribals to build up resistance against injustice and violation of their other rights. There should be more NGOs to create a channel of district, state and nationwide efforts to protect tribal's forest right and livelihood. I think it is possible only after the proper implementation of this Act. Furthermore it is a tedious task to undertake any development process in the schedule area due to lack of cooperation by the native forest dwellers. Moreover, the central demand of the organization based in Odisha related to going against the prevailing definition of development as provided by the market and the state. This is the need of the hour to look for alternatives emerging out of people's struggles and human rights movements. In other words, development should be for protection of the rights of the people and the prosperity or greater good for the larger numbers. It is here, I feel, that the role of social workers, social service agencies, development practitioners and field executives is decisive for the successful implementation of FRA. For, it is they who will have to spread awareness and inculcate the culture of participation of tribal people.

Moreover, there are so many other organizations' in Odisha which have taken increasing responsibilities in the development sector. These are 'Adivasi Morcha', 'Jungle O Jami Adhikar Kriyanustan Committee', 'Swadeshi Jagarana Mancha', 'Bisthapan birodhi Janamancha', 'Chashi Mulia Adivasi Sangha' etc. A large number of them have demonstrated their effectiveness in working out alternate strategies in generating people's power and harnessing it for development processes showing their solidarity with local struggle. Hence, I think, the call of the hour is to involve the above organizations in the implementation programme which certainly will enable tribals to get their rights whereby making FRA successful.



CONCLUSION

Conclusion

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, though very, very belated, is undoubtedly a historic legislation. The Act, which has also been called the Forest Rights Act, the Tribal Rights Act, the Tribal Bill, and the Tribal Land Act, is a breakthrough for the simple reason that the State, through this Act, not only recognizes the ‘historical injustice’ meted out to the forest dwelling tribal communities and the other non-tribal forest dwellers but also attempts to undo this ‘historical injustice’ by giving a legal basis for their rights to forest resources which was long neglected. To put it simply, the Forest Rights Act, which is a law now, basically pertains to the rights of the forest-dwelling communities, both tribals and non-tribals to land and other resources that were denied to them over decades as a result of the continuance of colonial forest laws in India. Thus, it is due to this historic importance of this Act to the lives of the poor tribal dwellers that I have made an attempt in my dissertation to study the implementation of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, taking a case study of Koraput and Kandhamal districts of the state of Odisha.

In order to do so, the work has been divided into four distinct chapters which taken together discusses the broad issues like the importance of the forests in the lives of the tribals and the other people residing in and around the forests and the necessity of forest policy, the historical backgrounds and the provisions of the Forest Rights Act 2006, the alignment of the Central Act in the state of Odisha, the implementation of the Act, and finally the role of the Civil society organisations in the implementation of the Act. Thus, for drawing conclusions of the work it is worth reiterating the main points of the above chapters.

It has been discussed in detail in the first chapter that there exists symbiotic relationship between the tribals and the forests where they reside. It is because of the fact that forest is the lifeline of the forest dependent people in general and the tribals in particular. It can be argued, though debatable, that they are virtually nonexistent without the forests. As it has been shown in the first chapter forests are the only source of livelihood in case of the tribals and their identity itself takes shape vis-à-vis

the forests. Similarly, as even most of the environmentalists have agreed, the forests are much safer watchful eyes of the tribals in particular. Hence, the relationship between the tribals and the forest is a reciprocal one.

Then, it is because of this important role of the forests in the life of the forest dwelling people in general and the tribals in particular there is the need of a systematic and tribal-friendly forest law in India. It, though pretty late, was provided to these people with the passage of the FRA 2006. In this context it is pertinent to say that from the history of forest rights in India prior to the FRA 2006 what comes out very clearly is the systematic deprivation of the right to forest of the forest dependent people. Moreover, in 1894, for the first time British government declared Forest Policy Resolution. The overbearing intention was that of commercialisation of forests and increase the state control over forests to supplement revenue without paying attention to the environmental degradation or towards the tribal rights. After independence, realising the importance of forests, the government of India envisaged maintaining forest cover over its geographical area. However here also importance of forests towards providing raw materials for defence requirements, communication, industries and for maximization of annual revenue was stressed while environmental concern and the dependence of tribal people on forest resources for their livelihoods were not given due importance. Rather government of India perceived the dependence of rural poor on forest as a major cause of deforestation and forest degradation. Accordingly, the 1972 wild life protection was formulated to check human intervention in the forests. In 1976, the National Commission on Agriculture stated that it is imperative that priority be given to industrial development over individual and community needs.

The problems of these communities were further compounded after passing of the Forest (Conservation) Act, 1980 when even the development activities carried out by tribals in their habitations were termed as non-forestry activities. The National Forest Policy of 1988 principally aimed at ensuring environmental stability and ecological balance between all life-forms. Here in this act tribal and rural needs were taken into consideration by protecting interest of tribals who depend on forest. However this right was limited by the concern regarding the carrying capacity of forests. Thus, this historical account shows the gradual shift in the government's

forest strategy, from a State-centric approach to a people centric one. The Forest Rights Act, 2006 is a culmination of this change in perception and recognition of the rights of forest dependent people. As we start dealing with the provisions of the FRA 2006, the first and an important provision is the one dealing with the tribal rights over land. Though the act gives an impression that it has a balanced approach with reference to community and individuals rights, when implemented it tends to be inclined towards individual rights over forests. This particular provision defeats the very purpose and intentions of this act. The tribal lands are often usurped by the industrialists for mining and other commercial activities, more often by taking advantage of the veracity of tribals. More individual claims leads to recognition of more lands which indirectly leads to legitimization of the illegitimate problem of land acquisition and displacement. One major reason behind this is lack of awareness and advocacy among the tribals. Here it is important that the bureaucracy realizes its role and adopts a proactive approach towards educating tribals about their rights and responsibilities.

An inherent feature of this act is the intention to amalgamate and integrate tribals to the national mainstream. That is to say, it recognises the fact that Tribals can no longer continue to live in isolation. Their living conditions in the forests are pathetic enough and easy access to forest produce for sustenance is no more available. It may not be possible to provide them with basic amenities of education, electricity and health care without ruining the health of an already fragile ecosystem. Tribals are extremely dependent on forest resources and they are socially, economically, and emotionally attached to the forests, their alienation from forests may thus be rather challenging. Thus there is an impending necessity to integrate indigenous people along with their skills, encouraging mutual exchange between tribals and the outside world and thus bringing about a process of change which is mutually beneficial to all. Only giving land rights to them are not the solutions to the varied problems that tribals face in the ever modernizing society. But it should be said here that just by giving forest land rights and rights with regard to the forests to these historically marginalised people mainstreaming them in any sense will not be possible. Hence, attempts to integrate them into mainstream society can only be done in a planned, systematic manner. For example, the modern know-how could offer value to indigenous people's knowledge of traditional medicine, best health practices,

traditional practice of organic farming, simple and peaceful life style. On the other hand, tribals could learn inter-personal soft skills of the outside world to which they are not exposed. We must conserve what the tribals themselves consider the element in their culture and they must imbibe and assimilate the rich cultural heritage of other populations and thus, integrate with them not only at the social plane but also at the emotional plane. Towards this effect the act would help widen the use of tribal indigenous knowledge in collection of NTFPs. It is therefore important that the indigenous skills, knowledge and experience of the forest dwellers gained over the years is enhanced and fully utilized for maximizing benefits of all the stakeholders.

Important Benefits of the FRA

First and foremost, it confers legal entitlements on the lands the forest dwellers were cultivating for centuries. The basic benefit is the legal right – household tenure over cultivated forest lands, and a legal basis for collection of forest products and grazing. These rights lay the foundation for a change in the social status of hitherto marginalised households. They can then expect to be free from regular harassment from forest department field staff. Furthermore, they anticipate increased livelihood security and consequent dignity and social status. Rights would also help to resolve land disputes among the members of the community.

Furthermore, if the government makes a special provision for accepting inalienable titles as collateral, legal rights are likely to allow access to credit on the basis of land titles. Right holders may also be expected to be able to better access a range of government development programmes and normal service provision such as agriculture extension and land improvement schemes. Other developmental agencies will be mandated to work in the forest areas, which will have far-reaching effects on the development of forest-dependent communities, particularly programmes like the Mahatma Gandhi National Rural Employment Guarantee Act (MGREGA) and microcredit schemes. Most forest-dwelling families have been regarded as encroachers on forest land, as we have seen in the second chapter. The FRA aimed at providing poor people rights to forest land already occupied by them and access to forest produce for livelihood purposes. It cannot be denied that this Act has good potential as a pro-poor measure, but, effective and transparent implementation is the key. It is here that civil society, political parties and academia need to put pressure on

policymakers and ruling governments. Implementation of the FRA will definitely impact the forest-dependent people in terms of livelihood security. This is all the more important in the case of Odisha, because, as I have shown in chapter 3, it is here e largest numbers of tribes are located. And it also homes some of the most vulnerable Primitive Tribal Groups whose lives are completely dependent on the forests. But the point that needs to be driven home is that barring a few districts, the implementation of the FRA, 2006 in most of the districts of Odisha is not up to the mark, even though it is one among the states that has done decently well in the implementation of the FRA. It must be said, as it has been discussed in chapter 3 that despite a number of laws in place for the other forest dependent and tribal people their condition is still worse. Hence what is needed is the efficient implementation of the FRA in its letter and spirit. Hence, it is here the role of the civil society organisations becomes crucial. They in fact need to play a much larger role than they have played till now. Of course, the civil society organisations have played a commendable role with regard to the rights of the forest dwellers, as I have shown in my 4th chapter, but they need to be much more active for the implementation of this Act.

Some Suggestions for the Successful Implementation of the FRA

As we know, most of the tribal people who reside in the forests are non-literate, more so, especially in legal affairs and do not easily speak the state language imposed upon them. Hence, what is important is that they all need competent and sensitive translators who can listen and interpret their claims with sympathy and understanding. In fact, the various tribal people and forest dwellers need to be explained about the act and what it entails, their rights as well as their duties in forest lands over which they are to get a legal status. They should also be educated to enhance and rejuvenate some of their traditions of forest management that have been lost due to their status as “encroachers” for many years.

The Gram Sabha that has been given such a huge responsibility in initiating the process of claims, etc. needs to be further strengthened. Also crucial is an independent monitoring mechanism to show what impact the Act's implementation is having and to suggest corrective action where necessary.

In spelling out the composition of the various committees that the Act establishes at the sub-divisional, district and State levels, State governments must include environmental and social action groups, because, such members can act as critical checks against the misuse of the Act. Again, it is important to stress proactively that the rights aspects of this Bill be harmonised with the conservation provisions of existing laws. Moreover, it is the conservationists and human rights advocates who need to join hands for the successful implementation of the FRA along with the State and other civil society organisations. Or else, both interests of rights of the forest dwellers as well as that of environment will be defeated by powerful corporate and commercial interests that are on the upsurge owing to the mad rush to achieve a 10 percent rate of growth. As we know, even as the government gives forest rights to Adivasis, it is opening up Adivasi and other forest areas in Chhattisgarh, Jharkhand, Odissa and elsewhere for mining, industries and the like. Above all, it can still be believed that if the plans of the FRA are executed satisfactorily, there is every possibility that the forest dependent people will have a meaningful future.

Thus, by and large this dissertation has dealt with secondary sources of data with a specific policy perspective and challenges to its implementation. The analysis is primarily based on the available literature and has not undertaken any primary data collection and field work. The next level of research on the subject must undertake serious field work to understand the problems and perceptions of the tribals that intersect with the perceptual and structural constraints in the policy implementation of the FRA 2006.



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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० २] नई दिल्ली, मंगलवार, जनवरी २, २००७ / पौष १२, १९२८
No. 2] NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:—

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

No. 2 of 2007

[29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribe pastoralist communities;

(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (j) of article 244 of the Constitution;

18 of 2003. (n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;

(o) "other traditional forest dweller" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means—

40 of 1996. (i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

53 of 1972. (q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II

FOREST RIGHTS

3. (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

Forest rights of
Forest dwelling
Scheduled
Tribes and
other traditional
forest dwellers.

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

69 of 1980.

(a) schools;

(b) dispensary or hospital;

(c) *anganwadis*;

(d) fair price shops;

(e) electric and telecommunication lines;

(f) tanks and other minor water bodies;

(g) drinking water supply and water pipelines;

(h) water or rain water harvesting structures;

(i) minor irrigation canals;

(j) non-conventional source of energy;

(k) skill upgradation or vocational training centres;

(l) roads; and

(m) community centres:

Provided that such diversion of forest land shall be allowed only if,—

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

69 of 1980.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Offences by members or officers of authorities and Committees under this Act.

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

Cognizance of offences.

CHAPTER VI

MISCELLANEOUS

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of authorities, etc., to be public servants.

Protection of action taken in good faith.

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency.

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

40 of 1996.

Power to make rules.

14. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. N. CHATURVEDI,
Secy. to the Govt. of India.

ANNEXURE - I

[See rule 6(1)]

FORM - A

CLAIM FORM FOR RIGHTS TO FOREST LAND

[See rule 11(1)(a)]

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe : Yes/ No
(Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No
If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age:
(including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - a) for habitation
 - b) for self-cultivation, if any:
(See Section 3(1)(a) of the Act)
2. disputed lands if any:
(See Section 3(1)(f) of the Act)
3. Pattas/ leases/ grants, if any:
(See Section 3(1)(g) of the Act)
4. Land for *in situ* rehabilitation or alternative land, if any:
(See Section 3(1)(m) of the Act)
5. Land from where displaced without land compensation:
(See Section 4(8) of the Act)
6. Extent of land in forest villages, if any:
(See Section 3(1)(h) of the Act)
7. Any other traditional right, if any:
(See Section 3(1)(l) of the Act)
8. Evidence in support:
(See Rule 13)
9. Any other information:

Signature/ Thumb Impression
of the Claimant(s):

FORM - B
CLAIM FORM FOR COMMUNITY RIGHTS
[See rule 11(1)(a) and (4)]

1. Name of the claimant(s):
 - a. FDST community: Yes/ No
 - b. OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as *nistar*, if any:
(See Section 3(1)(b) of the Act)
2. Rights over minor forest produce, if any:
(See Section 3(1)(c) of the Act)
3. Community rights
 - a. uses or entitlements (fish, water bodies), if any:
 - b. Grazing, if any
 - c. Traditional resource access for nomadic and pastoralist, if any:
(See Section 3(1)(g) of the Act)
4. Community tenures of habitat and habitation
for PTGs and pre-agricultural communities, if any:
(See Section 3(1)(e) of the Act)
5. Right to access biodiversity, intellectual
property and traditional knowledge, if any
(See Section 3 (1)(k) of the Act)
6. Other traditional right, if any:
(See Section 3(1)(l) of the Act)
7. Evidence in support:
(See Rule 13)
8. Any other information:

Signature/ Thumb Impression
of the Claimant (s):

Dsistrictwise No. of PTG households and distribution of Titles under FRA, 2006

As on 31.01.2012

Sl. No.	Name of the District	Name of the Micro Project	Name of the Block	No. of households	Claims received by FRC	No. of Claims verified by FRCs & sent to Gram Sabha	No. of Claims approved by Gram Sabha (GS) & sent to SDLC	No. of Claims approved by SDLC (Sub-Division wise) & sent to DLC	No. of Claims approved by DLC for Titles	Certificate of Titles distributed	Area (in acres)	No. of Claims on non-Forest Govt. land verified for settlement under OPLE	No. of Claims on non-Forest Govt. land verified for settlement under OGLS	No. of PTG households distributed with Title on non-forest land	Area (in acres)	Remarks & Gap between Col 11 against Col 5
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Mayurbhanj	HKMDA, Jashipur, 18-Vill.	Jashipur & Karanjia	659	182	182	182	182	182	182	200.83					
		LDA, Morada, 12-Vill.	Suliapada & Morada	874	617	617	617	617	617	617	465.19					
		Outside Micro Project areas			482	482	482	482	482	482	141.11					
			Sub-Total_Mbj	1533	1281	1281	1281	1281	1281	1281	807.13					
2	Angul	PBDA, Jamardihi	Pallahara	1242	1242	1242	1242	1122	991	991	415.91					
3	Keonjhar	JDA, Gonasika (35 villages)	Banspal	1728	1895	1893	1893	1853	1853	1853	3148.01	210	112			
		Non-JDA Area having PTG Population	Banspal, H.Pur, Telkoi & Ghatagaon		3190	2596	2458	2458	2458	2458	2702.85					
			Sub Total Keonjhar	1728	5085	4489	4351	4311	4311	4311	5850.86					
4	Sundargarh	PBDA, Khuntagaon	Lahunipara	999	957	679	679	508	463	463	423.36					
5	Gajapati	SDA, Chandragiri, 32 - Vill.	Mohana	1128	1084	1084	1084	1084	1084	1084	1932.63					
		LSDA, Serango, 21 - Vill.	Gumma	1365	1022	1022	1022	1022	1022	1022	1760.73					
			Sub-Total_Gajpati	2493	2106	2106	2106	2106	2106	2106	3693.36					
6	Ganjam	TDA, Tumba	Patrapur	981	980	459	459	459	459	459	1163.20					
7	Rayagada	DKDA, Chatikona	Bissam-Cuttack & Muniguda	1430	1465	1465	1363	1348	1348	1348	2197.00					
		DKDA, Parsali	Kalyansinghpur	615	661	661	532	532	532	532	867.00					
		LSDA, Puttasinghi	Gunupur	919	1005	1005	802	802	802	802	1307.00					
			Sub-Total_Rayagada	2964	3131	3131	2697	2682	2682	2682	4371					
8	Malkanagiri	BDA, Mudulipada	Khairput	1585	1468	1468	1468	1265	1265	1265	3148.45					
		DDA, Kudumuluguma	Kudumuluguma	1592	1450	1064	1064	1064	1064	1064	2420.02					
			Sub-Total_Malkangiri	3177	2918	2532	2532	2329	2329	2329	5568.47					
9	Kalahandi	KKDA, Lanjigarh	Lanjigarh	591	561	561	310	310	310	310	313.80	31				
10	Kandhamal	KKDA, Belghar	Tumudibandha	1325	1210	1210	1210	1210	1210	1210	2693.00					
11	Deogarh	PBDA, Rugudakudar	Barkote	968	972	946	946	799	799	799	494.00					
12	Nawapara	CBDA, Sunabeda	Komna	519	519	519	250	204	204	204	602.48					
TOTAL				18520	20962	19155	18023	17321	17145	17145	26396.57	241	112			

Status of implementation of the Forest Rights Act, 2006 in the State (Odisha) (COMMUNITY CLAIMS) (As on 31.01.2012)

Sl. No.	Name of the Dist.	No. of Village in the Dist.	No. of villages fully covered so far (Total)	No. of 1st Gram (Palli) Sabha meetings held	No. of Gram (Palli) Sabha meetings held subsequently	No. of FRCs constituted by Gram Sabha	No. of Claim received by FRCs	No. of claims verified by FRCs & submitted to Gram (Palli) Sabha (Out of Col.7)	GRAM SABHA LEVEL					SUB-DIVISIONAL COMMITTEE LEVEL					DIST. LEVEL COMMITTEE LEVEL					No. of Certificates of Titles distributed	No. of Certificates of Titles for Forest Diversion cases U/S 3(2) out of Col. 24	Area (in acres)	Area (in acres out of Col 25)	No. of Certificates of Titles distributed to Primitive Tribal Groups (PTGs)	Area in acres		
									No. of claims approved by Gram Sabha & sent to SDLC	Area involved (in acres) and no. of families		No. of claims rejected by Gram Sabha	No. of claims remanded to FRC	No. of Gram Sabha confirming completion of recognition on claims so far (Total)	No. of claims approved by SDLC (Sub-Division wise) & sent to DLC	Area involved (in acres) and no. of families		No. of claims rejected by SDLC	No. of claims remanded to Gram Sabha	No. of Sub-Division confirming completion of recognition on claims so far (Total)	No. of claims approved by DLC for Titles	Area involved (in acres) and no. of families								No. of claims rejected by DLC	No. of claims remanded to SDLC
										Area (in Acres)	No. of families					Area (in Acres)	No. of families					Area (in Acres)	No. of families								
1	2	3	3A	4	5	6	7	8	9	10	11	12	13	13A	14	15	16	17	18	18A	19	20	21	22	23	24	24A	25	25B	26	27
1	Balasore	2691		2691	395	2691	434	424	40	126.00	400	384			24	76.00	240		16		2	52.00			2		52.00				
2	Bhadrak	1248	1210	1248	10	1248	0	0						1210																	
3	Cuttack	1857	69	1857	411	1696	19	19	15	6579.59	469	2	2	15	3	7.29	115	1		3	3	7.29	115	0	0	3	1	7.29	2.45	0	0
4	Jagatsinghpur	1230		1230	3	1230	0	0																							
5	Jajpur	1575		1407	167	1571	0	0																							
6	Kendrapara	1619		1619	0	1619	145	103	103	108.00	336	42						103	0												
7	Khurda	1355		1355	0	1317	2	2	2	0.00									2												
8	Mayurbhanj	3758	43	3738	0	3738	45	45	45	20623.55	3549			45	45	20623.55	3549				44	19393.89	3319		1	42	19393.89		16	14644.85	
9	Nayagarh	1516		1504	7	1504	91	2	2	500.00	64				2	500.00	64				2	500.00	64		2		500.00				
10	Puri	1613		1601	12	1613	0	0																							
	TOTAL CZ	18462	1322	18250	1005	18227	736	595	207	27937.14	4818	428	2	1270	74	21206.84	3968	104	18	3	51	19953.18	3498	0	1	49	19953.18	2.45	16	14644.85	
1	Angul	1632		1632	1663	1632	2	2																							
2	Bargarh	1207		1185	789	1185	2	2	2	3.50		2																			
3	Bolangir	1753		1753	1753	1753																									
4	Deogarh	774		744	648	744	61	60	60						6	13.56			41		6	13.56			6	0	13.56				
5	Dhenkanal	1030		973	63	1011	57	57	53	158.09	1473	0	0	46	105.84	938	0	0		46	105.81	938	0	0	46	37	105.84				
6	Jharsuguda	352		331	135	331	8	8	8	9.35	120	0	0	2	4.50	2	6	0		2	4.50	2	0	0	2	2	4.50	2.00	0	0.00	
7	Keonjhar	2045		2045	12910	2045	379	367	346	7782.82	23544	21	0	328	7427.51	23544	18	0		328	7427.51	23544	0	0	322	200	7418.74	251.84	20	283.68	
8	Sambalpur	1262	497	1224	1334	1222	340	340	175	10896.52	5155			78	10622.75	4493	20	90		78	10622.75	4493			37	0	325.15				
9	Subarnapur	825	3	825	837	825	15	15	15	164.13	600			6	7.15	122				1	1.20	12		5							
10	Sundargarh	1668	1668	1668	1060	1668	430	27	27	785.50				15	17	780.50	17		9	5				17							
	TOTAL NZ	12548	2168	12380	21192	12416	1294	878	686	19799.91	30892	23	0	15	483	18961.81	29116	44	140	5	461	18175.33	28989	0	22	413	239	7867.79	253.84	20	283.68
1	Boudh	1190	1164	1128	36	1164	104	104	1	12.06																					
2	Gajapati	1528	20	1449	4578	1449	109	20	20	3342.75	179			109	20	3342.75	179	0	0	1	20	3342.75	179		0	20		3342.75			
3	Ganjam	2831		2831	532	2831	62	62	52	290.13		10			34	272.13			17		24	129.78			6	24	129.78				
4	Kalahandi	2068		2068	999	2068	169	169	169	21499.76	8817				169	21499.76	8817	0	0		155	21106.75	8191		5	140	18534.60		5	192.86	
5	Kandhamal	2415		2415	1137	2415	165	165	3	3.00	50	0	0	2	0.67	35					0	0.00	0								
6	Koraput	1890	796	1890	4013	1890	330	58	58	2780.87	2950			58	2780.87	2950				58	2781	2950			51		1780.87				
7	Malkangiri	933	282	933	1372	933	131	131	117	4197.42	10863			280	79	3015.21	8123		22		73	2910.96	7797			68		2203.31			
8	Nawapara	658		585	73	658	35	35	35	2497.00	2260				20	1920.02	1528	0	15		20	1920.02	1528			5		20.02			
9	Nawarangpur	867	20	867	1058	867	84	84	74	1310.70	1480	0	0		32	1051.25	864	0	0		32	1051.25	864			20		408.25			
10	Rayagada	2469		2469	1820	2469	20	20	20	315.81	126				20	315.81	126				8	14.85	37			8	0	14.85			
	TOTAL SZ	16849	2282	16635	15618	16744	1209	848	549	36249.50	26725	10	0	389	434	34198.47	22622	0	54	1	390	33257.23	21546	0	11	336	0.00	26434.43	0.00	5	192.86
	ORISSA	47859	5772	47265	37815	47387	3239	2321	1442	83986.55	62435	461	2	1674	991	74367.12	55706	148	212	9	902	71385.74	54033	0	34	798	240.00	54255.40	256.29	41	15121

Status of implementation of the Forest Rights Act, 2006 in the State (Odisha) (INDIVIDUAL CLAIMS) (As on 31.01.2012)

Sl. No.	Name of the Dist.	No. of Village in the Dist.	No. of villages fully covered so far (Total)	No. of 1st Gram Sabha (GS) meetings held	No. of Gram (Palli) Sabha meetings held subsequently	No. of FRCs constituted by Gram Sabha	No. of Claim received by FRCs	No. of claims verified by FRCs & submitted to Gram (Palli) Sabha (Out of Col.7)	GRAM SABHA LEVEL					SUB-DIVISIONAL COMMITTEE LEVEL					DIST. LEVEL COMMITTEE LEVEL					No. of Certificates of Titles distributed	Area (in acres)	No. of Certificates of Titles distributed to Primitive Tribal Groups (PTGs)	Area in acres		
									No. of claims approved by Gram Sabha & sent to SDLC	Area involved (in acres) and no. of families		No. of claims rejected by Gram Sabha	No. of claims remanded to FRC	No. of Gram Sabha confirming completion of recognition on claims so far	No. of claims approved by SDLC (Sub-Division wise) & sent to DLC	Area involved (in acres) and no. of families		No. of claims rejected by SDLC	No. of claims remanded to Gram Sabha	No. of Sub-Division confirming completion of recognition on claims so far (Total)	No. of claims approved by DLC for Titles	Area involved (in acres) and no. of families						No. of claims rejected by DLC	No. of claims remanded to SDLC
										Area (in Acres)	No. of families					Area (in Acres)	No. of families					Area (in Acres)	No. of families						
1	2	3	3A	4	5	6	7	8	9	10	11	12	13	13A	14	15	16	17	18	18A	19	20	21	22	23	24	25	26	27
1	Balasore	2691		2691	395	2691	4595	4595	2785	1620.51	2785	1810	0	0	2785	1620.51	2785	0	0	2785	1620.51	2785	0	0	1954	993.27	0	0	
2	Bhadrak	1248	1210	1248	10	1248	202	202	202	11.18	202	0	0	1210	175	10.10	175	0	27	175	10.10	175	0	0	175	10.10	0	0	
3	Cuttack	1857	69	1857	411	1696	5767	5767	2324	1941.17	2324	2849	594	69	1419	1076.87	1419	889	16	1419	1076.87	1419	0	0	1419	1076.87	0	0	
4	Jagatsinghpur	1230		1230	3	1230	49	48	48	32.47	48	0	0	47	31.83	47	1	0	47	31.83	47	0	0	47	31.83	0	0		
5	Jajpur	1575		1407	164	1571	9170	6062	1825	1057.49	1825	4237	0	0	1815	1045.09	1815	10	0	1801	1045.09	1801	0	14	1801	1045.09	0	0	
6	Kendrapara	1619		1619	0	1619	4045	3234	3233	1065.95	3233	1	0	0	310	448.90	310	2923	0	305	441.90	305	0	5	305	441.90	0	0	
7	Khurda	1355		1355	0	1317	2164	1846	706	790.09	706	1140	0	0	670	676.44	670	0	0	630	589.69	630	0	0	630	589.69	0	0	
8	Mayurbhanj	3758	900	3738	8170	3738	37554	37554	27104	16243.70	27104	9529	921	2279	18586	11803.89	18586	5176	3342	18586	11803.89	18586	0	17	18586	11803.89	1281	807.13	
9	Nayagarh	1516		1504	103	1504	3334	2808	2808	3945.10	2808	0	0	0	2708	3945.10	2708	100	0	2654	3902.21	2654	37	0	2620	3891.14	0	0.00	
10	Puri	1613		1601	12	1613	1169	1169	1169	80.41	1169	0	0	0	670	676.44	670	1169	0	0	0	0	0	0	0	0	0.00	0	0.00
	TOTAL CZ	18462	2179	18250	9268	18227	68049	63285	42204	26788.07	42204	19566	1515	3558	28515	20658.73	28515	10268	3385	28402	20522.09	28402	37	36	27537	19883.78	1281	807.13	
1	Angul	1632		1632	1663	1632	8285	7768	7250	4024.60	7250	518	0	0	3281	1969.89	3281	3969	0	2503	1521.51	2503	629	0	2503	1521.51	991	415.91	
2	Bargarh	1207		1185	789	1185	3512	3512	2630	3689.35	2630	857	25	1117	2373.85	1117	1376	137	1117	1017	1838.76	1017	0	100	961	1726.58	0	0.00	
3	Bolangir	1753		1753	1753	1753	4796	4796	4796	8710.00	4796	0	0	1079	2465.49	1079	1357	0	1079	1079	2465.49	1079	0	0	1079	2465.49	0	0.00	
4	Deogarh	774		744	648	744	11718	11718	10118	16059.00	10118	0	0	4097	3766.00	4097	4683	864	3982	3713.00	3982	0	0	3982	3713.00	799	494.00		
5	Dhenkanal	1030		973	63	1011	12529	12529	12529	17389.57	12529	0	0	5550	7856.99	5550	5078	1901	5550	7856.99	5550	0	0	5051	7282.05	0	0.00		
6	Jharsuguda	352		331	331	331	9204	9204	9204	9427.39	9204	0	0	2354	2107.99	2354	6850	0	2354	2107.99	2354	0	0	2319	2098.71	0	0.00		
7	Keonjhar	2045	1021	2045	13748	2045	52598	52076	39976	71487.19	39976	12100	0	1113	37141	36442.51	37141	2835	0	37141	36442.51	37141	0	0	36400	35920.78	4311	5850.86	
8	Sambalpur	1262	628	1224	1416	1223	29853	29237	19319	21875.30	19319	9597	321	586	12353	16805.15	12353	4315	2621	12019	16347.11	12019	0	0	10814	14975.53	0	0.00	
9	Subarnapur	825	3	825	837	825	1561	1561	1409	3298.25	1409	0	0	3	334	650.86	334	895	0	1	326	642.07	326	0	8	326	642.07	0	0.00
10	Sundargarh	1668	1668	1669	1126	1668	53155	32556	22744	37963.11	20620	6891	0	503	13548	25903.94	13548	3042	3177	0	11957	22638.45	11957	0	1591	9218	18073.62	463	423.36
	TOTAL NZ	12548	3320	12381	22374	12417	187211	164957	129975	193923.76	127851	29963	346	2205	80854	100342.67	80854	34400	8700	1	77928	95573.88	77928	629	1699	72653	88419.34	6564	7184.13
1	Boudh	1190	1164	1128	36	1164	3499	3499	3242	4996.21	3242	0	0	0	1267	1832.22	1267	1131	844	1108	1694.07	1108	120	11	997	1146.70	0	0.00	
2	Gajapati	1528	1370	1449	4578	1449	44615	44615	28030	58842.31	28030	16585	0	1449	28030	58842.31	28030	0	0	1	28030	58842.31	28030	0	0	28030	58842.31	2106	3693.36
3	Ganjam	2831		2831	556	2831	12957	11872	8533	16085.71	8533	3185	0	0	5436	14037.17	5436	2745	250	5075	13006.35	5075	0	78	5047	12942.54	459	1163.20	
4	Kalahandi	2068	110	2068	999	2068	11378	11378	10582	15292.87	10582	0	0	0	9927	14903.12	9927	655	0	9608	14530.65	9608	2	105	9176	14094.02	310	313.80	
5	Kandhamal	2415	2335	2415	2385	2415	56137	56137	54216	86818.00	54216	1921	0	0	53709	86260.00	53709	507	0	53606	85602.00	53606	9	94	53606	85602.00	1210	2693.00	
6	Koraput	1890	1188	1890	4013	1890	33710	30738	24873	43305.51	24873	0	5865	24691	38325.00	24691	0	182	24621	38238.55	24621	0	70	23009	34881.00	0	0.00		
7	Malkangiri	933	280	933	1372	933	32893	32893	31922	81293.57	31922	971	0	282	26965	73086.64	26965	1584	662	26037	70082.23	26037	0	0	25183	64302.64	2329	5568.47	
8	Nawapara	658	89	585	75	658	9162	9162	9137	21320.00	9137	0	0	158	5054	13210.67	5054	0	4083	5054	13210.67	5054	0	0	4385	11395.00	204	602.48	
9	Nawarangpur	867	454	867	1095	867	36084	35040	35040	66729.52	35040	0	0	0	32423	65629.66	32423	174	0	32423	65629.66	32423	0	0	30411	58831.94	0	0.00	
10	Rayagada	2469	1602	2469	1820	2469	30053	28147	28147	43823.00	28147	0	0	1758	16714	27243.00	16714	5770	3109	15212	24795.00	15212	0	1206	15212	24795.00	2682	4371.00	
	TOTAL SZ	16849	8592	16635	16929	16744	270488	263481	233722	438506.70	233722	22662	5865	3647	204216	393369.79	204216	12566	9130	1	200774	385631.49	200774	131	1564	195056	366833.15	9300	18405.31
	ORISSA	47859	14091	47266	48571	47388	525748	491723	405901	659218.53	403777	72191	7726	9410	313585	514371.19	313585	57234	21215	2	307104	501727.46	307104	797	3299	295246	475136.27	17145	26396.57

Convergence of Forest Land (Addl Format - III)

As on 31.01.2012

Sl. No.	District	Forest Right Holders - Individual / Community	No. of Certificates of Titles distributed	No. of Rights holders covered under various Govt. Schemes schemes for their benefit							Total (Col 5 to Col. 11)
				IAY	Mo Kudia	Mo Pokhari	Land Dev. Under MGNREGS	+National Horticulture Mission	+ National Bamboo Mission	+ Other Programmes (Please mention the programme)	
1	2	3	4	5	6	7	8	9	10	11	12
1	Balasore	Individual	1954	227	305					50	582
		Community									0
2	Bhadrak	Individual	175	33	15					22	70
		Community									0
3	Cuttack	Individual	1419	460		6	321	24			811
		Community									0
4	Jagatsinghpur	Individual	47	6	39	2					47
		Community									0
5	Jajpur	Individual	1801	31	5	4	140	5			185
		Community									0
6	Kendrapara	Individual	305	34	3	5	121			53	216
		Community									0
7	Khurda	Individual	630	479	2						481
		Community									0
8	Mayurbhanj	Individual	18586	299	273	367	80			2560	3579
		Community									0
9	Nayagarh	Individual	2620	41		210	408	17			676
		Community									0
10	Puri	Individual									0
		Community									0
	Total CZ	Individual	27537	1610	642	594	1070	46	0	2685	6647
		Community		0	0	0	0	0	0	0	0
1	Angul	Individual	2503	14	0	25	498	1			538
		Community									0
2	Bargarh	Individual	961	114	0	155	20			32	321
		Community									0
3	Bolangir	Individual	1079	61	6	45	258			10	380
		Community									0
4	Deogarh	Individual	3982	182	20	53	71		26		352
		Community									0
5	Dhenkanal	Individual	5051	223	1	852	40				1116
		Community									0
6	Jharsuguda	Individual	2319	12	62	29	178	53			334
		Community									0
7	Keonjhar	Individual	36400	820	420	158		0		1143	2541
		Community									0
8	Sambalpur	Individual	10814	742	39	53		28		158	1020
		Community									0
9	Subarnapur	Individual	326	34		1	0	3			38
		Community									0
10	Sundargarh	Individual	9218	327	112	396	800	24	1	35	1695
		Community									0
	Total NZ	Individual	72653	2529	660	1767	1865	109	27	1378	8335
		Community		0	0	0	0	0	0	0	0
1	Boudh	Individual	997		19	19	16	7			61
		Community									0
2	Gajapati	Individual	28030	9400	45	30	852	525		500	11352
		Community									0
3	Ganjam	Individual	5047	141	48	17		65			271
		Community									0
4	Kalahandi	Individual	9176	387	3	38	167	0	0	3	598
		Community		0	0	0	0	0	0	0	0
5	Kandhamal	Individual	53606	272	593	72	18958	122	0	0	20017
		Community									0
6	Koraput	Individual	23009	370	58	289	3916	622		2229	7484
		Community								17	17
7	Malkangiri	Individual	25183	1345	125	599	1124	2726		3919	9838
		Community									0
8	Nawapara	Individual	4385	32	12	157	1580				1781
		Community									0
9	Nawarangpur	Individual	30411	125	0	380	2141	104		37	2787
		Community									0
10	Rayagada	Individual	15212	1052	65	313	1431	164	1	1327	4353
		Community									0
	Total SZ	Individual	195056	13124	968	1914	30185	4335	1	8015	58542
		Community		0	0	0	0	0	0	17	17
	ORISSA	Individual	295246	17263	2270	4275	33120	4490	28	12078	73524
	ORISSA	Community		0	0	0	0	0	0	17	17