



NTFP Policy Regime after FRA:

A study in select states of India

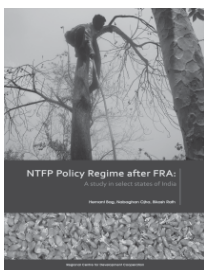
Hemant Bag, Nabaghan Ojha, Bikash Rath



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Publisher	: Regional Centre for Development Cooperation, Bhubaneswar
Editor	: Bikash Rath, Sr. Programme Manager, RCDC
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Design & Layout	: Ramakrishna Maharana
Supported by	: Keystone Foundation, Kotagiri under NTPF-Exchange Programme India
Printed at	: Perfect Print & Graphics Pvt. Ltd., Bhubaneswar
Contribution	: Rs 150/- (Rupees one hundred fifty only)



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RCDC intends to bring a policy change through this publication at appropriate level, with corresponding reflections at the ground level. Whereas the present study analysed the situation in eight states of India, the basic observations are more or less same throughout the country; hence the basic recommendations & conclusions are applicable for the country. However, some of the statistical data might have changed in the meantime, and also few policy changes might also have occurred at the state level. Readers are therefore advised to update themselves with the latest developments.

A note from the Author(s)

Non-timber forest produces (NTFPs) reveal the most dynamic and diverse aspects of forest-people relationship. Unlike timber but like firewood, many of these products are a part of the daily life of the forest dwellers. And, their economic value and significance in local livelihood is equally diversified sometimes calling for an intervention at international level. The term minor forest produce(MFP) is a misnomer for NTFPs since it sees these items from the economic perspective of timber, but the political economy of this misnomer assumed a lot of significance after the term was used in the PESA Act that gave the panchayats in scheduled areas the ownership rights over 'minor forest produce' following which the state governments tried to define or redefine MFP so as to see what liability should it mean to the Forest Department which used to have control over all kinds of MFPs or NTFPs. The Government of Odisha went a step ahead and created a pseudo-subcategory of MFP under the broad category of NTFP, and put 69 items under this sub-category. All these happened chiefly in the absence of a clear definition to the term NTFP or MFP in any of the Acts or Rules of India. The Indian Forest Act, 1927 did not clearly specify what is NTFP or MFP, rather it put bamboo & cane at par with timber although scientists know that these two actually belong to the category of NTFP.

In December 2006 the Indian parliament passed a historic bill that is now popularly known as the Forest Rights Act, 2006. This Act clearly specifies what NTFP or MFP should mean/ imply or constitute. And, after this new regime came the earlier versions of MFP/NTFP definitions adopted by the government machinery almost became invalid since in most cases these definitions could not fully correspond to the Forest Rights Act.

The present publication analyses the NTFP policy regime of select states in India in the light of the above facts, and shows that even after 3 years of the promulgation of the Forest Rights Act, 2006 the earlier regimes have not changed to conform themselves to the requirement of the said Act. This is strange and disappointing not only because it is in contravention of the Forest Rights Act, 2006 but also because many of the complexities & issues relating to the political economy of NTFPs still remain unsolved due to such kind of negligence. And all these mean a lot to the people dependent on NTFPs.

However, we are still hopeful because our survey reveals that the negligence is chiefly due to the fact that the concerned policy makers have ignored the larger implication of FRA, have overlooked some of its specific provisions on MFPs, and have confined their understanding only to the fact that FRA gives scope to forest dwellers to reclaim their land under the control of the Forest Department. Therefore, adequate sensitization and campaign may help change the attitude at the end of these people; and this publication is expected to be instrumental in that direction.

Two other unfortunate developments find relevance to mention here. The activism for and in the process of FRA has sometimes been seen, in what is known as left-wing extremism areas, as a veiled activism of/for the extremists themselves. Anti-Maoist operations have created threats therefore to people/activists demanding for such rights who are suspected to support extremism. While the general public has suffered already in the tug-of-war between the extremists and the security forces, such a suspicion overlooks the key fact that demands under FRA are legally recognized and due & timely attention to the same would be in the interest of the country. On the other hand, it is also observed that some vested interest groups are using this Act for their own advantage (even pretending as if to solve all tribal/forest/biodiversity issues through this single enactment), of course in the name of the tribals. While the dilemma of security forces and conservationists/forest officials can't be said to be totally unfounded, the solution lies actually in a constructive approach to PESA & FRA, not only as a constitutional obligation but also as a part of trust building measure.

Various individuals & agencies in the government- and non-government/private sector in the study states and also in other parts of the country have rendered cooperation during this study, either directly or indirectly, formally or informally. We sincerely acknowledge their contribution.

Our thanks are especially due to the Forest Departments of Odisha, Chhatisgarh, MP, Maharashtra, Kerala, Tamilnadu, Karnataka, and Andhra Pradesh; Forest- and tribal development corporations of study states; NTFP-EP partners, particularly Econet, Pune and Kovel Foundation, Vishakhapatnam; PRIA, New Delhi; and Sri T.V.Manjunatha, IFS, DFO, Vellore.

Nabaghana Ojha, one of the authors of this book, has in the meantime availed sabbatical leave, but the quality of his inputs is well-recognized. My colleague Hemant Bag has put a lot of effort to make this publication possible, and the credit for major part of the original text/information goes to him. I have but tried to reorganize, revise, and enrich their original study report with additional chapter/annexure/supplement so that it can go beyond its original purview and serve as a multi-purpose reference material for various stakeholders involved in the MFP sector.

RCDC solicits constructive feedback on the book with a clarification that although we wanted to make it more comprehensive and substantiated, several limitations including the constraints of time have curtailed this scope. I am however sure that despite all these limitations (and factual and/or printing errors, if any) this book can prove to be very useful to the policy makers and other stakeholders of NTFPs at various levels.



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ABBREVIATION

ACF	Assistant Conservator of Forest
APCFMP	Andhra Pradesh Community Forest Management Programme
APCOB	Andhra Pradesh Cooperative Bank
AMCS	Agency Marketing Cooperative Society
CCF	Chief Conservator of Forest
CF	Conservator of Forest
CFM	Community Forest Management
CGMFPP	Chhatisgarh Minor Forest Produce Federation
DFO	Divisional/District Forest Officer
DMI	Directorate of Marketing & Inspection
DR	Daily Requirement
DSMS	District Supply and Marketing Society
EDC	Eco-development Committee
FAO	Food and Agriculture Organisation
FD	Forest Department
FDC	Forest Development Corporation
FPC	Forest Protection Committee
FRA	Forest Rights Act [The Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006]
FRLHT	Foundation for Revitalization of Local Health Traditions
FSI	Forest Survey of India
GCC	Girijan Cooperative Corporation
GoO	Government of Odisha
GoI	Government of India
GoTN	Government of Tamilnadu
GP	Gram Panchayat
GPCMS	Girijan Primary Cooperative Marketing Society
JFM	Joint Forest Management
KFD	Karnataka Forest Department
KL	Kendu Leaf
LAMPS	Large Sized Adivasi Multipurpose Cooperative Society
MFP	Minor Forest Produce
MoEF	Ministry of Environment and Forest
MoPR	Ministry of Panchayati Raj

MoRD	Ministry of Rural Development
MPCA	Medicinal Plant Conservation Area
MPDA	Medicinal Plant Development Area
MPMFPP	Madhya Pradesh Minor Forest Produce Federation
MSCTDC	Maharashtra State Co-operative Tribal Development Corporation
NABARD	National Bank of Agriculture and Rural Development
NGO	Non Government Organization
NIRD	National Institute of Rural Development
NCDS	Nabakrushna Choudhury Institute for Development Studies
NTFP	Non Timber Forest Product
NWFP	Non Wood Forest Produce
OFD	Orissa Forest Department
OFDC	Orissa Forest Development Corporation
ORMAS	Orissa Rural Development & Marketing Society
PCCF	Principal Chief Conservator of Forest
PCS	Primary Cooperative Society
PESA	Provisions of Panchayat (Extension for Scheduled Areas) Act
PRI	Panchayat Raj Institution
PS	Panchayat Samiti
RCDC	Regional Centre for Development Cooperation
SFM	Sustainable Forest Management
SHG	Self Help Groups
SJGSY	Swarna Jayanthi Gram Swaroggar Yojana
TAP	Tamilnadu Afforestation Programme
TBO	Tree Born Oilseed
TDC	Tribal Development Corporation
TL	Tendu Leaves
TDCC	Tribal Development Cooperative Corporation
TKP	Tamarind Kernel Product
TRIFED	Tribal Cooperative Marketing Development Federation
TP	Transit Pass/permit
TSCS	Tribal Service Cooperative Society
UFPL	Utkal Forest Products Limited
VFC	Village Forest Council
VFPC	Village Forest Protection Committees
VSS	Van Samrakshyana Samiti
WRI	World Resources Institute

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INTRODUCTION

Background

The initiation of a new forest development strategy in India based in part on non-wood forest resources has attracted international attention (Campbell, 1993). It is widely recognized that non-timber forest products (NTFPs) provide substantial inputs to the livelihoods of forest dependents populations, many of whom have limited to non agricultural income earning opportunities (Chandrasekharan, 1994; FAO, 1991). These socio-economic concerns, together with a concern for forest loss and a decline in timber extraction potential, have necessitated changes in India's forest management systems. India is beginning to experiment with forest management strategies already in place in parts of the Amazon region (Gradwohl and Greenberg, 1988), and which place livelihood and ecological considerations before revenue maximization concerns (Falconer, 1990; Hobley, 1996; Nepsted and Schwartzman, 1992; Peters et al. 1989; Schwartzman, 1989).

There are inherent complexities involved in managing a forest for NTFPs. The products are diverse, production is uncertain, and markets are imperfect. Where NTFPs have a high commercial value, over exploitation has often occurred and the product has become scarce (Plotkin, and Famolare 1992; Falconer, 1993); in many more cases, the underdevelopment of a commercial infrastructure is an obstacle to effective NTFP management (FAO, 1985). Most past researchers on NTFPs have been sites specific, and conducted with reference to either commodity markets or household needs or biological characteristics.

Developing a sound policy requires careful analysis of all the above aspects as they relate to the forests, which are typical of a region.

In many countries there is no NTFP policy as such, or at least no effective and consistent NTFP policy. In order to develop appropriate management techniques, policy makers will need to understand the extractive practices being followed by forest-dependent populations and other forest user groups, the economic opportunities associated with different production systems and the politico-economic-legal constraints on collection and use.

Economic Potential and Significance of NTFPs

After review of literature of economic potential and significance of NTFP in the livelihood to the forest dwelling community, and revenue of state, etc. it was found that different scholars' researches have highlighted the economic potential and significance of NTFP from macro-potential at national and global levels, while quite a few of them also presented micro-pictures at village or household levels. While the depiction of macro-portals relied on indicators like the gross values of NTFP, dependence of livelihoods or employment potential, return/contribution to the state exchequer and their trade potential etc; the micro-pictures have been presented through indicators like 'percentage share of income of households' and 'return to the household per unit time' to make claims on potential of NTFP as a sustainable development option for the poorest.

Economic Potential and value of NTFP

India possesses a rich bounty of NTFPs in state managed forests. Over 50% of forest revenues and 70% of forest export income come from NTFPs (Shiva, 1994). In India, the major source of both self-employment and indirect employment in forestry is the collection, processing, and sale of a wide range of NTFPs. Although the designation 'minor' may give the impression that this sub sector is of low value, in 1986 NTFPs accounted for almost 40% of forest department revenues, 75% of net export earnings from forest sector revenues, and 75% of net export earning from forest produce. Small-scale forest based enterprises, many of them reliant on NTFPs, provide up to 50% of income for 20-30% of the rural labour force in India (Campbell, 1994; Appasamy, 1993; Chopra, 1993). Of the total wage employment in the forestry sector, NTFPs perhaps account for more than 70 percent (Gupta and Guleria, 1982a). More important is the opportunity for self-employment, which these enterprises provide to the forest dwellers, around 3.3 million person years.

Non Timber Forest Products (NTFP) or Minor Forest Products (MFP) (an estimated 3000 plant species yield one or other NTFP) provide substantial inputs to the livelihood of forest dependent communities especially the tribals. A study of Ministry of Forests & Environment (June 1999) has observed that some 50 million tribal people depend on Minor Forest Produce (MFP) for meeting their subsistence and economic needs. Some estimate that NTFP contribute US\$ 208 million to the Indian economy while another calculation places the revenues from NTFP at US\$ 645 million (Lele et al., 1994). Another figure offered by Poffenberger estimates that the total annual value of NTFP from the central Indian tribal belt alone exceeds US\$ 500 million (Poffenberger, 1990). Still another estimate indicates that it's state governments earn roughly Rs 2000 million per annum from NTFP trade in the form of royalty, fees, sales profits, licenses and so on (Mitchell et al 2003). All the estimates, despite their variations, lead to the conclusion that collecting and processing of NTFP are economically significant activities for forest dependent tribals.

About 70% of NTFP collection in India takes place in the central Indian States of the country. Women are the mainstay of most small-scale forest based enterprises. Perhaps the largest employer of women in this sub-sector is the bidi industry, where women are employed to collect Kendu/Tendu leaves and to roll them. Estimated employment is of the order of 106 million person days in collecting activities and 675 million person days in the processing of products.

One of the indicators, which were used to show the economic potential of NTFP, was the gross economic value of NTFP per unit area for a unit of time. There are also estimations showing contribution of share of NTFP to the GDP in India. The contribution of NTFP and eco-tourism to the Forestry Sector's was gross value of Rs 259.85 billion, which is 16% of total revenue (Duchesne and Wetzal, 2002). Similarly, Chopra (2006) estimates the all India average value of NTFP to be Rs 1671.54 per hectare and Rs. 41.89 billions as the estimate of gross value of NTFPs harvested on average in India. However, a field study in Sathy Forest Range of Western Tamil Nadu found income from different NTFPs to be Rs. 2720 per hectare (Sekhar et al., 1993).

Dependence on NTFP along with its employment potential

In general, forest fringe communities and upland farmers are more dependent for their livelihood on NTFPs than lowland farmers for: a) earning cash income; b) satisfying household needs such as fodder, medicine, shelter, and other household goods; 3) sourcing traditional

agricultural inputs such as leaf litter, wild plants, small tools and water; and 4) obtaining supplementary foods such as roots, tubers, vegetables, fruits and grains for the family. Due to their physical remoteness, linkage between local community and forestry is traditional and they are economically & ecologically inseparable from each other. Their dependency on the forest resources is both historic and cultural so much so that they constitute an integral component of the forest ecosystem of the region.

It is claimed that 1.6 million person years of employment in India are from NTFP while the forestry sector in total provides 2.3 million person years of employment. (Shiva & Mathur, 1998). As per another study NTFP collection accounts for 1062.7 million person days (2.9 million person years) of employment in India, while a similar figure applied to Madhya Pradesh would amount to 233.8 million person days (Khare and Rao, 1993). Studies in Indian states of Orissa, Madhya Pradesh, Himachal Pradesh and Bihar have also indicated that over 80% of forest dwellers depend entirely on NTFP, 17% landless depend on daily wage labour mainly on collection of NTFP and 39% people are involved in NTFP collection as a subsidiary occupation (Negi, 1993). Another estimate put that the forest-based small-scale enterprises, many of them based on NTFP, provide up to 50% of income for 20 to 30% of the rural labour force in India (Campbell, 1993). Some other substantiation around NTFP dependence are based on indirect assumptions like the 'dependence of nearly five hundred million people living in and around forests in India on NTFP for their sustenance and supplemental income' (Tewari, 1994) or the 'receiving of substantial proportion of their cash and in-kind income from NTFPs by most of India's 50 million tribal people'. It is also estimated that in tribal areas of Orissa, India, more than 80 percent of the households depend on forests for incomes ranging from 30% to 50% every year (RCDC, 2007).

The dependence on income from NTFPs has been shown to be inversely related to the size of landholdings in Orissa, India (Fernandes & Menon 1987). Other important features related to 'income from NTFP' have been highlighted by some studies are its seasonal nature; its implication as filling in cash-flow gap, and in helping to cope with particular expenses or to respond to unusual opportunities. In Orissa, about 10-12 millions of poor tribals and forest dwelling community, who are landless or marginal farmers mostly belonging to Scheduled Caste and Scheduled Tribe communities also depend critically on forests for subsistence and much needed cash during the lean summer months (RCDC, 2007).

While the first set of indicators above clearly demonstrate the critical dependence of the poorest on income from the NTFP, the next sets define the conditions under which the

poorest uses this dependence to earn an income. As can be seen, the income to the poorest is not directly proportionate to its dependence; rather there are many other factors like location of market, temporal character of production, cash-flow/crop situation of the poorest and even emergencies which act as regulators/filters in between. Even the systems of (customary and de jure) tenure and other structural features including power relations etc also control the access to NTFP and decide to a great extent the return to the poorest from it. The ecological factors like location of NTFP (niche) and harvesting practices etc. also influence the present and future income of the poorest. With all these filters compounding the uncertainties and risks in accessing NTFP income by the gatherers, it is only left to the poorest. India's National Forest Commission (MoEF, 2006) quoting studies also agree to this fact that the financial return to wages involved in NTFP collection and primary processing is often very low, leading only the poorest to be involved in collection of NTFPs.

Impact of education & poverty alleviation schemes on NTFP collection

Findings of a study in the Mysore district by Department of Agriculture Marketing & Cooperation, Bangalore suggested that "the dependence of tribals on NTFPs is more out of necessity than choice. NTFPs activities provide them with a cushion to absorb the surplus labour force in the family and this provides a major source of income to sustain themselves in the absence of adequate productive resources. The regional economy in the tribal area has displayed strong backward and forward linkages with NTFPs collection. This suggests that any effort to sever the connection with NTFPs can seriously undermine the income and employment in the short term"(DMI, 2010).

The above finding was particularly referring to restrictions on NTFP collection by the Forest Department, but one of its points, i.e. the potential of NTFP-based livelihood to absorb surplus labour is to be analysed here. While on an average NTFP collection does have a potential to absorb surplus labour, the reality may vary significantly from area to area and from season to season. While there is an understanding that NTFP development can help in poverty alleviation, and hence should be a part of poverty alleviation projects; the vulnerability of NTFP-based livelihood due to seasonal variations in productivity, and the out-of-control (for the primary collectors) market dynamics, etc. also made this conclusion that such a livelihood base is comparatively insecure and hence there need to be some kinds of support to ensure a minimum secure income for the people dependent on NTFP collection. Mahatma Gandhi NREGS thus has two scopes: one, to provide minimum 100 day's work; and second, to

create/increase the NTFP resource base through afforestation activities. PDS and other such schemes provide rice at nominal prices to BPL people. Where these schemes have been effectively and sincerely implemented, people's dependency on forest produce has been expected to be reduced though there might not be sufficient study findings to substantiate this. For instance, the CSE survey in 2008 in the Sidhi district of Madhya Pradesh got to know from local organizations that NREGS had led to reduction in forest dependency though it was still too early to conclude this because the critical dependency on forest produce, particularly in absence of any other viable source of income, requires intensive alternative arrangements for its substantial reduction which through NREGS may take years because the potential of this scheme has been often found underutilized or misutilized by the authorities, depriving the target people of its benefits. However, local reports (informal) in Odisha do suggest that employment assurance schemes and poverty alleviation schemes have actually reduced availability/engagement of people for agricultural work(as wage labourer) and NTFP collection. The fact seems to be that people now have more choices, and unless they feel satisfied that the conventional practice would fetch them an income at par with that from the newly available opportunities, they hardly opt for that unless otherwise necessary. However, this is not a universal case because there are still many remote areas where the government schemes are not implemented properly and people have to depend on conventional systems like NTFP collection.

Growth of educational status, particularly with a higher secondary degree or graduation, is likely to have its impact on NTFP collection because the present educational system primarily creates a tendency in the student to prefer a more secure and more beneficial livelihood than NTFP collection or agriculture.

Gender and NTFP

Gender focused studies on NTFP highlight the higher incidence of women's involvement in NTFP activities (Falconer 1990) and higher income from products of the commons was found to represent 27% of women's local non-farm income, as compared with 10% for men (Hopkins et al. 1994). In the employment front, women's employment in forest based enterprises in India was estimated to be approximately 571.533 million days annually of which 90 percent is in small scale enterprises using NTFP (Khare, 1989). Total women labour engaged in the collection of forest produce in Orissa is as high as 300 million woman days. Throughout India, collection of tendu leaf generates part time employment for 7.5

million people - a majority of them tribal women (Arnold, 1995) while in Orissa, among the 1.7 million (approx.) pluckers (to include at least one associate of the registered pluckers) of KL most are women/girls. This of course makes some of them vulnerable to serious health hazards like TB and cancer when they roll bidis therefrom, using tobacco.

In the present decade an important phase has been established thanks to the pioneering efforts in the previous decade. This phase marks the dignification of NTFP-based livelihood for women through various capacity building support augmented with market linkages. Women, who earlier used to produce raw platters at home, now work in some central facility and with machines to produce more appealing products from the same NTFP. This gives them a better identity not only in terms of economic upliftment but also in social terms since they now work as trained & skilled NTFP processors. Production of Garcinia juice in Karnataka and Siali leaf plates in Odisha are few examples of this. Collectivization of trade through establishment of women's self-help groups/cooperatives, and better value addition techniques sometimes with mechanization have been facilitated by government- and non-government agencies for the empowerment as well as economic upliftment of women which has led to this kind of change. NTFP trade through such means has not only enhanced their bargaining power with some influence on the market, but has also built up their linkages with financial institutions to avail financial support.

Some NTFPs like tree bark are usually collected by men. Cultivation of lac is male-dominated. This is chiefly because of the physical labour required in these activities. However, the situation has changed a lot resulting in reduced scope for exclusively male-dominated NTFP collection. For instance, the large scale exploitation of *Litsea glutinosa* bark in 1990s could not sustain itself for a longer period because the unsustainable extraction led to the drastic reduction in the concerned resource base.

Contribution to the state exchequer

This is also another very important indicator in countries like India, where not only does the state own most of the forest, but also looks at them as a source of revenue. Prior to independence the commerce of NTFP was not much diversified, and except but few products like lac, kendu leaves, bamboo, and tan-stuffs like myrobalans, etc. most of the NTFPs were either unutilized or their use was confined at domestic level. In and after 1960s some revolutionary changes took place in the trade after R&D work established commercial utilities for otherwise obscure products like sal seeds; and many new NTFPs soon turned out to be

a source of income. In Odisha, for example, the famous entrepreneur Jagdish Lath had acquired (of course in the name of a company) a lease for as many as 29 NTFPs most of which were previously ignored. Similarly, the Karnataka (then Mysore) Forest Department counted only bamboo & cane (besides sandalwood and ivory) as significant non-timber forest products of commercial importance during 1955-56, but by 1992-93 as many as 24 MFP items found reference in its annual report, which rose to 36 by 2003-04 (vide Annual Administration Reports of the Karnataka Forest Department for the concerned periods). As a result, it is not surprising to know that in India, over half of its forest revenue and seventy percent of export income used to be contributed by NTFP (Sekhar *et al.*, 1993). Growth of revenues from NTFP also used to be higher than timber (Gupta & Guleria, 1982) particularly after there was a ban on green felling. In Orissa also, the revenues from NTFPs was more than 90 per cent of the total forest revenues in the new millennium (GoO, 2002). The annual revenue from timber, which was more than Rs 200 million during 1990 in Orissa, has reduced to a mere Rs 50 million, whereas the revenue from non timber forest produce including bamboo and kendu leaves was in excess of Rs 900 million annually, as against Rs 250 million in 1985-86.

These estimates and indicators clearly pronounce the growing importance of NTFP revenue to the state in the wake of decreasing timber revenue. Though the decrease in timber revenue in India can be attributed to ban on green felling in many states, the increase in revenue from NTFP has often become the justification for shift towards NTFP-based forest management. But as the motive remain in most cases to enhancing the state revenue, concerns of NTFP-dependent poorest has often got relegated in the priority list.

Recent policy changes however reversed the situation to some extent. Whereas many states adopted a pro-people (particularly pro-tribal) policy partly because of political interest and partly because of the provisions under central Acts like PESA, they attempted to implement a system that lets the poor forest dependent people use the local NTFPs for their own development, without interfering much in this collection except for restricted items or restricted areas, etc.. As such, the revenue from NTFPs has been reduced significantly for the state exchequer as observed in Tamil Nadu and Karnataka. For instance, in 2003-04, the income of the Karnataka Forest Department from non-timber forest produce (bamboo, grass, and other MFPs) was only 5.50% of the total receipt (Govt. of Karnataka, 2004). In Odisha, after 69 items were handed over to GPs, the only notable sources of revenue now remain for the state exchequer from NTFPs is bamboo, kendu leaf, and sal leaf. On the other

hand, in Chhatisgarh and Madhya Pradesh the net income from state monopolies in NTFPs is shared with the primary collectors.

Trade Potential

One of the key drivers behind promotion of NTFP-based development has been its trade potential with globalization and herbalization of economies. Commercial NTFPs are estimated to generate Rs. 3 billion (US\$ 100million) annually in India. It exports a large number of NTFPs to other countries earning foreign exchange revenue to the tune of Rs. 10 billion (US \$ 384 million) annually. India holds or used to hold monopoly in world trade over some of the NTFPs as Karaya gum (*Sterculia urens*), myrobalans (*Emblica officinalis*, *Terminalia chebula*), and Sandalwood chips & dust (*Santalum album*). The export of NTFPs has grown by 20-25% over the past few years and during 2006-07, India earned Rs 39.7 billion from export of NTFPs and their value added extracts (Ganguli, 2007).

These figures substantiate the potential of NTFP to global trade and also indicate the massive growth that it is poised to follow in the wake growing global preference towards herbal products. However, with question marks on the market and on its inherently inequitable character there are apprehensions of more gain to the rich and squeezed return to the poorest. Even with an idealistic assumption that 50% of the export earning goes to the poorest (numbering 120 million, assuming 50% of the BPL population of India is getting that return), per person return per year comes to only Rs 165/per year (US \$4.1).

Contribution to livelihood

This is one of the indicators taken up by most of the researchers undertaking micro-level studies at village or household level. It has been estimated that many village communities in India derive as much as 17-35% of their annual household income from sale of the NTFP (Tewari, 1994). In Orissa, up to 40% of the income of the rural poor comes from the collection of forest products (Dash, 2001)¹. Income from different NTFPs in Sathy Forest Range of

¹A recent study by the Centre for People's Forestry(CPF), Hyderabad in Keonjhar, Phulbani, and Nabarangpur Forest Divisions of Odisha was shared in a consultation on 28th June 2010 at Bhubaneswar in which the following information was revealed:

- The study covered 757 house holds covering 33 villages falling under 15 ranges of Keonjhar, Phulbani and Nabarangpur Forest Divisions.
- Approximately 46 per cent people go a distance of 6 to 10 km in forest to collect NTFPs and 10 per cent go 16- and above km to collect NTFPs. (PTO)

Western Tamil Nadu was found Rs. 9000 per household annually (Sekhar *et al.*, 1993).

India's National Forest Commission (MoEF, 2006) quoting a study states that the average annual income per household from sale of NTFPs (excluding Kendu leaves, which was the major revenue earner at Rs 471/ per household per season) in Orissa villages was Rs. 726, while in the Jharkhand villages it was Rs. 934. In terms of share of total household income, the income from sale of NTFPs varied from an average 1% in certain villages to 48%, with an overall average of around 19%. The Commission while agreeing that in terms of share of total annual household incomes these might not appear highly attractive in the first instance, argue NTFP incomes to be an important factor of earnings for the poor since they come at a time when income from regular sources is negligible.

NTFP provide about 40% of total official forest revenue, 55% of forest based employment and nearly 400-500 million people living in and around forest of India depend on NTFPs for their sustenance and supplementing their meager income (WRI, 1990, FAO, 1988). The study in Nepal (Chhetri, 2006) exposes the fact of higher dependence of and lower return to the poorest from NTFP. Even in India, where the rural poor living below poverty line earns less than Rs 4416/ per year, the average income from NTFP comes to only Rs 839/ (US \$ 21) per poor per annum (19% of total income as per MoEF, 2006). This income also seems to be in line with NFC quoted study in Orissa, where income from NTFP (including Kendu leaves) was Rs 1197/-.

Trade-exploitations in NTFP

This micro-economic indicator exemplifies the socio-economic exploitations that a poor NTFP gatherer faces by describing the share of the market price that comes to him/her. Many authors have also tried to quantify and compare that return with minimum daily wage (often prescribed by the State) to show the level of exploitation and deprivation of NTFP gatherers/collectors. Investigations in NTFP trade-channels in eastern Indian states have

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- The average income of a family from NTFP collection is Rs. 863 in Keonjhar, Rs. 607 in Phulbani and Rs.1120 in Nabarangpur division
 - The primary occupation in the study area is agriculture and wage labour
 - They collect NTFPs for 10 to 15 days per month in a peak season.
 - Share of income from NTFP collection is only 12 percent of their total income. Income from fuel wood (used for home consumption), Siali leaf and sal leaf shares the largest.
 - Food items constitute almost 85 per cent in the total NTFP collected.

revealed that intermediaries pay only 16-20% of the market price to collectors and quite often, such prices turn out to be just 20-25% of their prevailing minimum daily wages. According to a study by IFAD (2000), it was found that NTFP collectors in Kandhmal district, Orissa, India in the year 1997-98 received prices of NTFPs in the range of 1/4th to 3/4th of the minimum price fixed by government. A bundle of 50 sal (*Shorea robusta*) leaf plates, which is procured at source in Orissa, India, at less than Rs.12 (US \$ 0.3), are exported from Kolkata at Rs.932 (US \$ 23). (Satapathy, 2001), similarly, the Sal resin procured at Rs.20 (USD 0.50) per kg is sold at Rs.80 (USD 2.00) per kg. There were at least four levels of intermediaries between the gatherers and Indian processing companies in Nepal, and while the Delhi price for dried jatamansi (*Nardostachys jatamansi*) rhizome was US\$2.26 per kilogram, gatherers in Humla, Nepal received just US\$0.36 per kilogram (16%).

This indicator reflects the deplorable status of the poorest NTFP gatherers, who usually end up with very low returns, which is often much less than the minimum daily wage, though NTFP trade channel beyond the gatherers and state revenue often corner higher share.

Impacts of NTFP studies and discourses on policies in India

The discourse on NTFP and the emerged figures for macro and micro-economic indicators contributed significantly to the change in outlooks towards and the policies on NTFP. Starting from introduction of NTFP-based management in the working plans and more focus on their silvicultural aspects, there have been shifts in policies to enhance community rights and control on NTFP and their trades. Some examples are elaborated below:

- **NTFP-based forest management**

To make up the revenue loss from timber, Non-Timber Forest Products (NTFP) have been globally considered as an alternative source of earnings from the forests. FAO also recommends that NTFP should be integrated into the main stream of forest management planning and execution (Shiva & Verma, 2002). As per the provisions of National Forest Policy, 1988, Government of India, JFM activities should concentrate on NTFP management i.e. regeneration, development and sustainable harvesting of NTFP which can be given free or concessional rates, as per the existing practice in degraded areas under JFM.

The National Working Plan Code, 2004 makes NTFP (overlapping) circle plan mandatory in the forest working plans.

- **NTFP rights**

The community rights on access and ownerships on NTFP have been facilitated in India through different legislation in nineties. The circular of 1st June 1990 on Joint Forest Management (JFM) in India states "the beneficiaries should be given usufructs like grasses, lops and tops of branches and minor forest produce". Accordingly, most State JFM orders provide members of Partner village institutions free access to specified NTFPs. The Panchayat (Extension to the Scheduled Areas) Act, 1996 of Government of India extends the provisions of the Panchayat (unit of local self governance at village level) Act to the Scheduled (Tribal) Areas and confers ownership right on various resources, including ownership rights on NTFP to Panchayats/Gram Sabhas.

Similarly, Forest Rights Act (FRA) 2006 clearly defined the MFP. According to FRA, 2006 Minor Forest Produces' include all non timber forest produces of plant origin including bamboo, bush wood, stumps, cane, tussar, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like. As per the Act, the eligible communities can claim for right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside the village boundaries.

- **NTFP rights for VSS and EDC**

Whereas VSS members have normally been entitled for collection of NTFPs from Reserve Forest and other forest lands excluding PA, their counterparts in the Protected Areas(PA), which are known as Eco-Development Committees(EDC) hardly enjoyed this privilege chiefly because the norms are different for Protected Areas. Kerala's 'Operational Guidelines for Implementation of Eco-Development Programme'(January 1998) allowed EDC members to collect NTFPs outside the core area of PA, subject to silvicultural restrictions. However, in the year 2000 and thereafter Supreme Court ruling and amendments in Wildlife Protection Act made things difficult for EDCs. As the 2008 version of the JFM resolution of Orissa government expressed clearly, participatory forest management will include PAs but outside core areas and mangrove wetlands, and although people living in & around PAs have suffered a lot because of restrictions on their forest dependency, the legal provisions as well as the limitations of sensitive eco-system like the mangrove wetlands(which by nature lag behind other forests in respect of their

capacity to generate NTFP) require alternative arrangements for the local people (and hence EDCs can't enjoy the same benefit allowed to VSS so far forest collection is concerned). EDCs are to be involved in the preparation of eco-development plans with all such alternate arrangements though tassar cultivation can also be included therein. Such a limitation for EDCs has in reality left them in lurch since it has been difficult for them to discontinue the forest dependency whereas the alternative arrangements have not been adequate.

- **Decentralizing and devolving NTFP trade**

There have been several legislations enacted by state governments in India to control trade of NTFPs with a primary objective of protecting the primary collectors from the poor forest-fringe communities from exploitative trade and patron-client relationships. State of Odisha has gone ahead in 2000 to not only denationalize most NTFPs of the State (except bamboo and Kendu leaves), but to put their transport and trade under the control of the Panchayati Raj Institutions (PRIs). Other Indian states have also passed similar laws and orders, but the number of items covered by state intervention in Orissa in March 2000 was one of the highest in India (Saxena, 2003). The NTFP (Procurement and Trade) Policy, March 2000 resolution demonstrates a strong will to make a shift in the objective of NTFP management from revenue maximization to that of sustainable rural livelihoods. It recognizes the necessity of transferring ownership rights over Non-Timber Forest Produces (NTFP) from the State to the Gram Sabhas/ Gram Panchayat and decides to do away with monopoly trading rights, which used to benefit only a small group of traders at a huge cost to millions of tribals and dalits (Vasundhara, 2005). Since 2001, District Collectors in Orissa have been given authority to fix up prices for NTFPs at the district level and later on the Panchayat Samitis were authorized for this only for those items specified under the MFP list.

Impacts of Policy Changes

These policy changes while have been quite successful in initiating a shift in forest management with more focus towards NTFP and intended NTFP-use by the local community, their impact in meeting the socially benign objective of poverty alleviation through NTFP-route has not been much. The change in right regime and devolving of trade in Orissa, India has also not been able to lead to a rapid increase in gatherers' incomes (Saxena, 2005).

And this is chiefly because of the uncertain trade dynamics over which the primary collectors have almost no control. Other factors include inconsistent policy regime in the country, and inadequate mechanism to secure the interest of the primary collectors.

Initiatives for entrepreneurship development

Understanding that poor- or no value addition is a major factor responsible for meagre returns to the primary collectors from NTFPs, many initiatives at government- and non-government level have been taken in different parts of the country in order to ensure value addition by the primary collectors². These techniques range from simple primary value addition processes (like, removing unwanted materials by washing followed by drying) to complex mechanization (as in case of bamboo products development in Tripura). Necessary technical support has been provided so that the process retains the desired physical/phyto-chemical properties, and trade transactions can be viable also (for instance, bhuineem or *Andrographis paniculata* requires shade drying, and compression is required to transport the whole plant, otherwise it would be unnecessarily bulky and the trade would not be viable commercially). Whereas such initiatives are really praise-worthy, these are sporadically implemented (because of a number of factors like limitations in respect of the project area & target groups, availability of raw material, availability of techniques, availability of electricity, etc.); and have not been able to mainstream desired value addition at all levels. Some of the obstacles have been attempted to be removed (like, for areas having no electricity, leaf-plate making machines powered by bio-energy have been designed); but mainstreaming requires an integrated approach in a campaign mode or as a special drive which is presently not seen. A small example of the problem is that bamboo artisans are given training to produce good quality decorative items, but these hardly have any local market, and the artisans have to go to big cities to sell the same which again requires money. Even if market linkage is established for them under some project, a collapsing trend is often observed after the project is over or the concerned sponsorer withdraws.

²For instance, findings of Orissa Forestry Sector Support Project (OFSSP) survey in the NTFP sector in 6 districts (72 villages) of Odisha indicated that the because of the interventions under the OFSSP the volume harvested (NTFP) and income therefrom has grown from 46% to 100%, NTFP now accounting for about 24% of the total income. Further, the survey identified that 19 NTFPs were of major importance in the livelihood, and two-third of the collection was sold directly to the traders.

Collectivization of trade through SHGs or self-help cooperatives is another effective strategy, but these also have not been much successful though there may be exceptions. One of the reasons of the underutilization of its potential is that such groups are not supposed to indulge in any kind of malpractices which traders usually adopt to evade taxes and compensate losses.

However, both collectivization and value addition initiatives are the much required progressive steps, and the government has to make policy-level revisions (like, exemption of tax) to help realize their best potential. Of course some favourable decisions have been taken by the government(s) in few cases, but much more needs to be done.



OVERVIEW OF THE STUDY AREA

Location

The Eastern Ghats (located between 10° 05' and 22° 30' N latitude and 76° 23' and 86° 50' E longitude) stretch across the states of West Bengal, Orissa, Andhra Pradesh and Tamil Nadu and are a series of discontinuous low ranges running generally northeast-southwest parallel to the coast of the Bay of Bengal. The largest single sector of these ghats, is found in the Dandakaranya region between the Mahanadi and Godavari rivers. This narrow range has a central ridge, the highest peak of which is Arma Konda (5,512 feet) in Andhra Pradesh. Further south in Tamil Nadu they form several low ranges of hills Sirumalai, Kollimalai, Pachamalai, Shevaroy, Kalrayan Hills, Chitteri, Mettur Hills, etc. The Bilgiri Hills, which run east from the Western Ghats to the Kaveri River, form a forested ecological corridor that connects the Eastern and Western Ghats, and allows the second-largest wild elephant population in India to range between the South Eastern Ghats, the Biligiri and the South Western Ghats.

The Western Ghats are a mountain range, which run along the western edge of the Deccan Plateau, and separate the plateau from a narrow coastal plain along the Arabian Sea. The range starts south of the Tapi River near the border of Gujarat and Maharashtra, and runs approximately 1600 km through the states of Maharashtra, Goa, Karnataka, Kerala, and Tamil Nadu, to Cape Comorin or Kanyakumari, the southern tip of the Indian peninsula. The average elevation is around 900 meters. This

range is also known as the Sahyadri mountains in Maharashtra, Karnataka, and Malabar region in Kerala. These Ghats are renowned for their biodiversity, harboring several endemic flora and fauna and serving as important wildlife corridors, allowing species like elephants to move seasonally between the ranges.

Area and People

The total geographical area of India is 3,287,240 square kilometers and total population of India is 1,028,737,436 (as per census 2001) out of which 532,223,090 are male and 496,514,346 are female. In the study states Maharashtra has the highest population (96,878,627) and Chhattisgarh the lowest population (20,833,803). The percentage of scheduled tribe in Chhattisgarh is high, which is 31.76%, followed by Orissa (22.13%) and Madhya Pradesh (20.27). The density of population is high in Kerala (819), followed by Tamil Nadu (480) and Maharashtra (315).

Table 2.1: Area and People(2001 Census)

Sl. No.	Name of the states	Area in Sq.km	Total population	ST Population	% of STs in the State	Density	Sex Ratio
1	Maharashtra	307, 713	96,878,627	8,577,276	8.85	315	922
2	Chhattisgarh	135,191	20,833,803	6,616,596	31.76	154	989
3	Madhya Pradesh	308,425	60,348,023	12,233,474	20.27	196	919
4	Orissa	155,707	36,804,660	8,145,081	22.13	236	972
5	Andhra Pradesh	83,743	76,210,007	5,024,104	6.59	277	978
6	Tamil Nadu	130,058	62,405,679	651,321	1.04	480	987
7	Karnataka	191,791	52,850,562	3,463,986	6.55	276	965
8	Kerala	38,863	31,841,374	364,189	1.14	819	1,058

Tribal people

Both the ghats are home to tribal communities, some of them being forest gatherers and others are agriculturists or both. The Central Indian region has the maximum tribal concentration. The major tribes of the area are the Santhals, Ho, Baiga, Abhujmaria, Muria, Gond, Munda, Birhor, Paraja, Kondhs, Bonda, Bhumij, Gadabas, Bhuinyas and Saora. The major problems of the tribes are economic backwardness, exploitation by non-tribals, land alienation, prevalence of diseases, and displacements due to industrial purposes. The major tribes of south Indian states are Toda, Koya, Chenchu, Allars, etc. The major problems of the tribals of this region also are more or less the same as their brethrens in Central India.

It may be mentioned here that not all tribals are enlisted as scheduled tribes though they are forest dwellers and depend on forests. The Kamars, also known as Paharias, are recognized as ST in Chhatisgarh whereas not so in neighbouring Odisha despite their vulnerability. They are bamboo artisans, and the Chhatisgarh government has granted them some concessions in bamboo harvest unlike the Odisha government. However, the concerned governments have taken initiatives to add some of such groups in the ST list.

Forest Cover

As per Forest Survey of India (2009), the forest cover of the country was estimated to be 690,899 sq. km(including 4,639 km under mangroves), which is 21.72% of the total geographical area. Very dense forest, moderately dense forest and open forest constitute 2.54%, 9.71% and 8.77% of the geographic area respectively. Scrubby areas shared an additional 1.26%.

Table 2.2: Change in forest cover between 2005 and 2007 Assessment

Status of states	Very dense forests	Moderately dense forests
Gainer	Tamilnadu, Karnataka(max.)	Tamilnadu(max.), Kerala
Loser	Odisha, MP, Chhatisgarh, Maharastra(max.)	Rest of the 8 study states
No change	Andhra Pradesh, Kerala	-

(based on Forest Survey of India, 2009)

Natural Vegetation

The vegetation in the Eastern Ghats can be divided into Evergreen forests, Tropical semi-evergreen forests, Tropical Moist deciduous forests, Southern Tropical dry deciduous forests, Northern mixed Dry Deciduous Forests, Dry Savannah forests, Dry evergreen forest and Dry evergreen scrub. The broad forest types occurring in Maharashtra are Southern Tropical Semi-Evergreen Forests, Southern Tropical Moist Deciduous Forests, Southern Tropical Dry Deciduous Forests and Southern Tropical Thorn Forests. Chhattisgarh has two major forest types, i.e., Tropical Moist Deciduous forest and the Tropical Dry Deciduous forest. In Madhya Pradesh, the important forest types are: Tropical Dry- and Moist deciduous, Tropical Semi-evergreen, Sub-tropical moist evergreen, and Dry thorn. In Odisha, there are also four forest types namely Tropical Semi Evergreen-, Tropical Moist Deciduous-, Tropical Dry Deciduous-, and Littoral & Swamp Forests. In Andhra Pradesh are found Tropical Dry Deciduous-, Tropical Thorn-, Tropical Moist Deciduous-, Tropical Dry Evergreen- and Littoral & Swampy forests. In

Tamil Nadu, there are nine types of forest namely Tropical Wet Evergreen forest, Tropical Semi-evergreen forest, tropical moist deciduous forests, Littoral and swamp forest, Tropical Dry Deciduous Forests, Tropical Thorn forests, Tropical Dry Evergreen Forests, Subtropical Broad Leaved Hill Forests & Montane Wet Temperate Forests. Forests of Kerala are broadly classified as Tropical Wet Evergreen-, Tropical Moist Deciduous-, Tropical Dry Deciduous- and Mountain Sub Tropical forests. Karnataka also has moist- and dry types of deciduous forests as the dominating forest types though tropical thorn- and tropical wet- & semi-evergreen forests also have their significance(Forest Survey of India:2005,2009).

The Western Ghats represents one of the world's 18 hot spots of bio-diversity and is considered to be a repository of endemic, rare and endangered flora and fauna. 60% of the Western Ghats are located in Karnataka State. The forest is home of world-famous sandal- and rosewood trees and supports 25% of India's elephant population and 10 % of India's tiger population. Forest cover of Kerala also is largely spread over the Western Ghats.

At least 310 NTFP species are collected in Western Ghats, which is one of the hotspots of biodiversity in the world. The major commercial NTFPs of Western Ghats, viz., rampatre (*Myristica malabarica*), dhoop (*Vateria indica*) are decreasing in the wild. Uppage (*Garcinia gummi-gatta*), one of the recently commercialized NTFPs, is also facing a problem of over-exploitation. Uttara Kannada district is the most forested district in Western Ghats of South India and harbours rich flora & fauna. This district has most of the forest types found in the Western Ghats and occurs within a range of hundred kilometres. In addition, this district is one of the highest contributors to the state's revenue from NTFP extraction. 235 NTFPs are collected in Uttara Kannada district for different uses.

The Eastern Ghats are endowed with an extensively rich variety of biological species. More than 2600 plant species are reported to occur in the Eastern Ghats region which includes 454 endemic species belonging to 243 genera and 78 families.

Most of the NTFPs of commerce are collected from deciduous- and evergreen forests. Mangroves and other marshy & swampy forests also yield some NTFPs few of which have medicinal- or other known importance (like, the mangrove associate *Myriostachya wightiana* in Odisha which is locally known as nalia grass, and its reed is used to make durable baskets, etc.), but the diversity is greater in deciduous and evergreen forests partly because the latter ones are much more widespread. However, some items like honey are common to all these areas.

NTFP in the region

Non Timber Forest Produce is important in this region, more particularly for the tribal and other forest dwelling people who have close links to the forest for medicine, food, fibre, fuel, fodder, timber, implements, etc., besides a deep cultural connection; and often represented through sacred groves. The role of NTFPs in forest protection is seen with the involvement of the communities and the extraction of NTFPs like honey, resins, bamboo, leaf, fruits and seeds, which do not permanently damage the forest. It is seen as a sustainable option for livelihood support to forest communities.

In Central Indian part the states like Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Orissa and Andhra Pradesh have got nearly 60% of the forest fringe villages of the country with a population of about 70 million, and NTFPs are the prominent option for people for livelihood. Needless to mention that these forest dwelling populace, who are mostly tribals, are dependent on forest produces for livelihood. Ironically, a good majority of people in this area fall below poverty line as returns from agriculture and other livelihood options are limited. The area has great potentiality for ensuring livelihood security through interventions in natural resources management focusing on forest and NTFP, but due to lack of a comprehensive focus and uncoordinated efforts the forest has not been able to provide the desired livelihood support that it could.

While Chhattisgarh, Madhya Pradesh, Orissa, Maharashtra and Andhra Pradesh are under Scheduled V areas, Karnataka, Kerala and Tamil Nadu are having no Scheduled V area. In PESA areas more emphasis was given on role of Panchayat/ gram sabha in ownership, control and management of NTFP whereas in non-PESA area more emphasis was on institutional arrangement and trade of NTFP. Enactments effecting policies for the management of NTFPs are usually absent in states having no Scheduled V areas, though there are some administrative orders. In central Indian states, the concentrations of tribal people are high in comparison to southern states; and policies/enactments safeguarding NTFP-based livelihood mean a lot (even politically) in these states.

The nature and type of NTFP in central Indian states are quite different in southern states. The difference may either be in quality of the same/common species (like, *Dyospyros melanoxylon*), or in the taxa (like, *Garcinia indica* and *Persea macrantha* are almost absent in Odisha/Central Indian states whereas southern states, particularly Tamilnadu & Kerala are relatively scarce in bamboo).

In Kerala, NWFPs are of central importance to the forest economy through revenue generation and provision of employment to forest-dependent households, specifically tribal communities. Reeds and bamboo support a large work force of poor people. Other important items include spices, fibers, grass, incense, oil seeds, honey, beeswax, and herbs. In addition, raw materials for the state's booming Ayurveda industry are derived from NWFPs found in natural forests (Chandrasekharan, 2000).

There has been no official figure on the extent of dependency of the forest dwellers on NTFP. No organized initiatives have been taken by the states to calculate the figures. But there have been a few initiatives both at the government and non-government level to at least calculate an approximate monetary value of the products traded in open market.

Studies conducted in Bihar, MP, Orissa, and Andhra Pradesh show that contribution of NTFP to total household income range from 10 - 55%, and 80% of forest dwellers depend on forests for 25 to 50% of their food requirements. A study in Bastar indicates that an average household earns Rs. 1500 from sale of NTFP without any initial support or risk against an annual income of Rs. 1750. Another study stated that income from a tribal dominated block was Rs. 5370 per annum in 1993 (Prativa Bhatnagar, Ram Prasad, SFRI, 1991, CESD, 1996, COMFORPTS, 1994).

Collection of NTFP is a major activity for nearly 25% of the total population of undivided MP, primarily tribal and weaker sections of the society. Extending the logic, more than 30% population of Chhatisgarh must be dependent on forests for their livelihood. And assuming simple correlation with proportionate forest area and tribal community as per all India NTFP employment potential figures, it is estimated that in Chhatisgarh at least 100 million person days of employment are created by these activities. Revenue earned from NTFP annually has been estimated to be over Rs. 450 crores in 1996 in the formal and organised sector alone. In another estimate, NTFP collected by tribal women in MP alone was worth more than Rs. 210 crores per annum (Bhatnagar,1991).

Over 625 species have been reported to be available in forests of Chhatisgarh alone with a value of nearly Rs. 1000 crores (Ranu Bhogal, 2000). A study focused on valuation and pricing of NTFP carried out in Raipur, has shown that even if forests were managed for NTFP alone, investments in regeneration would be economically efficient, provided markets function smoothly. Besides their significance in household and local economies, many are channeled into international trade catering to pharmaceuticals, herbal, health, food,

cosmetics and fragrance industries earning valuable foreign exchange for the producing countries.

A study on 'NTFP and Rural Livelihoods' (Vasundhara, 1998) in Bolangir district of Orissa found a correlation between average income from NTFP and land holding status. In forest rich areas, landless and marginal farmers have higher incomes from NTFP than the next higher land holding class. Thus the equity enhancing capacity of NTFP is greater in areas with large public forests. According to a study carried out by RCDC in Baikumpa village of Phulbani district of Orissa in 1998, one household gets around Rs. 280/- per month (from July to October) from Siali plates. In a similar study in Talapalapat village of Koraput district, the income per household varies between Rs. 1100 - 1200 from unprocessed tamarind excluding domestic consumption during the February-April period. Fair pricing would undoubtedly double this income.

A study done by NCDS finds an inverse relationship between forest dependence and the economic status of the forest dependent communities. The poor or the lower income groups particularly the landless labourers and marginal farmers derive largest share of their total income from forest use. According to the study, which was done in 5 undivided districts of Orissa, the dependence on NTFP is distinct and visible varying from 27 per cent in undivided Koraput district to 52.2 per cent in undivided Kalahandi. The average income from all types of NTFP was Rs. 1941.81 for the study area (Mallik, 1996).

In fact, a rough assessment for Odisha suggested that about 15 million people living in approximately 29000 forest-fringe villages of the state are dependent on forest produce; and about 6 million of them are tribals.

While it has been quite easily concluded that the primary collectors of NTFP suffer because of the nexus & malpractices of the traders, particularly the middlemen (interestingly there is hardly any middlewoman); the field reality is rather complex. The local traders use to maintain a relationship with these primary collectors, that has some elements of comfort in it. For instance, they may lend money at hours of urgent need, and sometimes they pay a sum in advance to purchase the produce. Salt is an important product for those who reside in remote areas and do not get opportunity to purchase this item as & when required. Packaged salt is priced at a higher rate, whereas the traders provide crude salt (loose) to these people on barter basis. Hence, although the traders do take a lot of advantage of the innocence of these people they adopt some strategies that help them too. Government agencies attempt

to give 'right price' and with proper weighing, but they can't provide the other facilities like immediate arrangement of money(loan) without any paper work. For the poor & innocent primary collectors immediate benefits count more than long-term benefits, and hence it is not surprising that they can't ignore the local traders. However, with the coming of SHGs and self-help cooperatives, the dilemma seems to get a scope for solution as these groups are supposed to do justice to their members(and non-members too) who themselves are primary collectors, and at the same time they also provide easy & soft loans. Moreover, they can also arrange for value addition and storage.

Collection for Dignity

This concept was first introduced by Bikash Rath while coordinating a workshop on Right to Forest Produce under the National Convention of the Right to Food Campaign held at Rourkela(Odisha) from 6-8 August 2010. He urged the Government of India to make use of its huge R&D infrastructure to make the collection of some important NTFP that have a rather non-dignified commercial (he does not refer to occasional & customary sacred uses) end use (like, mahua to produce liquor and kendu leaf to produce bidi, a low-profile tobacco product) an occupation of self-esteem, through development of some alternate & commercially significant but socially honored end-use(like, anti-cancer drug, or toxic-metal remover, etc.). His concern is that whereas NTFPs having single end-market use are quite vulnerable as a source of livelihood owing to the risk of market fluctuations, inferior end-use makes the dignity of the primary collectors vulnerable. He suggests the government to launch a special R&D campaign to resolve this issue.



POLICIES GOVERNING NTFP MANAGEMENT AND TRADE

Overview of NTFP Policies

Non Timber Forest Products (NTFP) though an important resource that sustain millions of tribal, rural and forest dwelling communities livelihoods and along with these also facilitate to growth the rural economy in India, but till yet, not received the sustained and systematic support from policies in comparison to other sectors. Policies and operational management have squeezed such rights in many states. Though most of the policies of government highlight the restoration of forest-based livelihood of forest dwelling communities through proper management of NTFP, but still there is a dearth of guidelines and practices (with few exceptions). While policy-makers have tended to overestimate the employment benefits associated with timber harvests (Gillis, 1992), the significance of employment and income generation in the NTFP sector was underestimated and remains to a large extent obscure even today.

In spite of strong dependency of tribal and forest dwelling communities on NTFP, their access to these valuable resources has been unfortunately deteriorated due to several factors. Absence of proper regulatory framework, large forestland diversion to different developmental activities, nationalization of NTFP, exploitation by government owned agencies and contractors in marketing of NTFP are some of the major factors. Although there are some progressive central Acts like PESA and FRA, which clearly speak about the ownership of MFP to Gram Panchayats/ and Gram sabha, but some states still do not have any exclusive and

comprehensive policy for management of NTFP. States have been exercising monopoly rights for procurement and trade of remunerative items like Kendu/ tendu leaf, sal seed, bamboo, etc for several years.

In this context, analyzing the existing legal documents of NTFP of country and states are very crucial. So, here efforts have been made to analyze the existing legal documents for management of NTFP of country and states. The policies at Central level and state level are examined separately.

Central Policies

In India, since long time, forests have been traditionally utilized by tribals and other forest dwelling communities. They have used the forest produces for their food, medicine, livelihood, etc. In the meantime, British rule introduced scientific management and commercial extraction of forest produce. These development processes were augmented by several laws and policies. The most important of these was to declare forest as state property with complete and exclusive rights of ownership as understood in Anglo-Saxon jurisprudence. Clear felling of trees, restriction of forest communities to specified areas, closure of forests to grazing and collection of forest produce was overseen by the Forest Department, which was created in 1868.

The British forest regime empowered the state to declare all forests to be state property. Two mutually opposite trends were seen then. On one hand, more & more areas were brought under the control of the forest department, and the area of Reserve Forests increased gradually, restricting access to such areas for timber and NTFP collection (etc.); and on the other hand, some feudal rulers supported reclamation of forest lands for agriculture which was the mainstay of economy. By the time of World War-I, the economic importance of forests had already increased manifold, and the revenue-oriented conservation & management approach for forests dominated. Monopoly rights over NTFPs of commercial importance (like, kendu leaves) were exercised by many feudal rulers. The fast growing colonial forest industry had immense requirement for labour and there was also a need to propagate varieties of commercially profitable trees. Migrant laborers from other parts of the country were brought into forest areas and settled into what have come to be known as 'forest villages' as distinguished from revenue villages.

The Indian Forest Act 1927 did not define minor forest produce or non-timber forest produce. Instead, it defined 'forest produce' as under (vide Section 2 of the Act with amendments):

- (a) the following whether found in, or brought from, a forest or not, that is to say,- timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, [kuth], and myrabolans, and
- (b) the following when found in, or brought from a forest, that is to say,-
 - (i) trees and leaves, flowers and fruits, and all other parts or produce not herein before mentioned, of trees,
 - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
 - (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
 - (iv) peat, surface soil, rock and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries) xxxxxx

Section 2 further states the following:

- (6) "Timber" includes trees, when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and
- (7) "Tree" includes palms, bamboos, stumps, brush-wood and canes.

Evidently this provision put bamboo & cane at par with timber with adverse implications for the people. Though the ecological significance of these two species justifies to some extent the said provision as they can form good canopy cover, but scientifically neither bamboo (grass family) nor cane (palm family) can be called a tree.

Timber and few non-timber forest products of plant- and animal origin (like, ivory) were important those days. The British Forest Department was relatively liberal for other NTFPs, whereas feudal rulers were much more restrictive/oppressive in this matter as they believed all the produces belonged to them. People's movements of 1930s and 1940s were triggered partly by such restrictive policies. Soon after independence, the feudal rulers gradually lost their ownership to the government, and people enjoyed their liberty. However, some injustice was done when the Indian government declared that reserve forests of erstwhile princely

states would retain the same status under the Indian Forest Act, 1927 although many of these forests were not reserved through the proper process of vesting local rights. The Forest Rights Act, 2006 is seen as an initiative to undo many such errors.

Panchayats (Extension to Scheduled Areas) Act, 1996

Panchayats (Extension to Scheduled Areas) Act, 1996 commonly known, as PESA is a historic move by the Union Government, which clearly endows gram sabha or Panchayats at appropriate level to own, control and manage MFP in Scheduled V areas. An expert committee constituted by MoEF made the following observations/conclusions to confine the term 'minor forest produce' to the scope available under the Indian Forest Act, 1927 :

- Minor Forest Produce is the forest produce, other than timber, harvestable on a non-destructive basis. The term 'forest produce' and 'timber' will have the same meaning as in the Indian Forest Act, 1927.
- Although the 4th World Forest Congress held at Dehradun in 1954 recommended MFP should be called 'forest produce other than wood', and social scientists demand to recognize bamboo & khair wood as NTFP; Policy Analysis Paper IIFM 01/97 of IIFM, Bhopal says cellulose, which is a principal ingredient of woody biomass, is also found in bamboo. Further, khair wood is basically wood(timber).

Regarding 'ownership' the Committee felt that in accordance with the spirit of the Act(PESA), the Gram sabhas/Panchayat should be endowed with usufructory rights rather than ownership of MFPs available from all lands except wildlife sanctuaries and bio-sphere reserves, because ownership might create many complications(Gol: MoEF, 1998).

But states have their own interpretations and legislations. Andhra Pradesh gave ownership rights to the Van Suraksha Samitis (VSS, forest protection committees) with respect to all those non-wood forest products (NWFPs) for which Girijan Cooperative Corporation (GCC) did not hold the monopoly rights. The Orissa government entrusted the power to Gram Panchayats instead of giving it to Gram Sabha, but without clarifying how this ownership is different from the regulatory rights of Panchayats in non-PESA areas.

Although the Central Act leaves no room for doubt that reserve forests should be considered community resources under the purview of PESA, the official assumption is that reserve forests are out of the PESA domain. For instance, the NTFP Policy of 2000 in Orissa restricts the Panchayat's control over minor forest produce in reserve forests. It says that the Gram

Panchayats shall not have any control over minor forest produce collected from the reserve forests whereas the PESA, in its spirit, sought to extend ownership of minor forest produce to any forest located in the area of the village that the people had been traditionally accessing. The policy-makers knew very well that it would be foolish to create such a distinction because it was almost impossible to differentiate between produce collected from reserve forests and that from others. Nevertheless, they went ahead with putting in place the provision that reserve forests cannot come under the purview of PESA because the relevant laws laid down that no rights could exist in the reserve forest area.

Policy & practice: The welfare approach of Odisha Forest Department

The Secretary, Wildlife Society of Orissa had repeatedly approached the Government of Orissa to modify the NTFP policy so as to ensure ban on collection of important NTFPs that serve as food & fodder for wildlife (for instance, myrobalans for herbivores, bel fruit and siali leaf for elephants, mankadakendu for monkeys, and kamalagundi for elephant, sambar & deer). He suggested to carry out a resource survey before allowing exploitation, and to consider a system of free permits for all NTFPs in order to prevent overexploitation. He cited examples of plant species endangered by overexploitation, and referred to rising instances of human-elephant conflicts.

In response to this, the CCF (Forest Utilization), Orissa Forest Department remarked (on 18th February 2010) that whereas free permits would not be able to prevent overexploitation, 'a welfare state cannot consider 100% ban on collection of MFP in Reserve Forests as it is not practicable given the present socioeconomic scenario of the rural & tribal people'. He however accepted in principle the suggestion for a resource survey (NTFP inventory), and wrote to the Principal Secretary, Forest & Environment Department on 15th March 2010 that ban on MFP collection in Protected Areas was to be decided by the Chief Wildlife Warden (Source: File No. 1F(FU&FP)(FU)111/09).

Table 3.1: State provisions

State	State Provisions
Maharashtra	The ownership right has been vested with the Gram Panchayat as per The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997
Madhya Pradesh	Madhya Pradesh became the first state in the country to decide upon transfer of ownership of NWFP to the Gram Sabhas (Local level Panchayati Raj Institutions). It was decided by the state government to transfer all the net income from the trade of NWFP to the Primary Forest Produce Societies.
Chhattisgarh	Ownership has been given to Gram Sabha and Panchayats at appropriate level but not very clearly mentioned in the Act/Rules
Orissa	The Orissa Act 15 of 1997, the Orissa Gram Panchayats (Amendment) Act, 1997, section 44 and sub section 2b vested the power to Gram Panchayat
Andhra Pradesh	The ownership of MFP can be vested in either Gram Panchayat or Gram Sabha. It is the state government who will decide as to who will have the ownership rights over MFP. The state government will also prescribe the extent of powers and the functions to be performed by Gram Sabha or Gram Panchayat and the manner in which they are to be performed.

Karnataka, Kerala, and Tamil Nadu having no scheduled areas have no such enactments for management of MFP. However, there are certain administrative orders to this effect (vide annexure-10 as an example). For instance, in Tamil Nadu 23 items have been identified as NTFPs/MFPs, 45 in Karnataka and some 100 & odd in Kerala. The reason of the classification of these NTFP is still very unclear. In the absence of any policy document, rights over MFP are matter of concern at all time.

It is worth mentioning here that the Court of Law may not recognize administrative orders unless these comply with legal provisions. The Odisha High Court did not approve of granting monopoly rights to Utkal Forest Products through an administrative order.

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

As per the Act, right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside the village boundaries, vests with the communities after their tenurial rights are recognized under this Act. As per the Act, 'Minor Forest Produces' includes all non timber forest produces of plant origin including bamboo, bush wood, stumps, cane, tussar, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.

The implications of the Act are multiple. In the first place, it holds the potential to revolutionize the NTFP policy regime in the country, and bring uniformity & consistency in the same. Secondly, it creates scope for differential list of NTFPs over which ownership is allowed, in different areas because the right is limited only to NTFPs 'traditionally collected', implying to the fact that if some traditionally uncollected NTFP suddenly gains commercial importance, then the community ownership won't be applicable to that. Thirdly, the ownership right is supposed to counter the government/private monopoly over such traditionally collected NTFPs. Fourthly, the disposal of such MFPs has been clearly defined under the Forest Rights Rules, 2007 that doesn't support misuse of the provision for unsustainable trade practices.

State Policies

The degree of control varies from state to state, and so does the number of nationalised items. The policies of neighboring states vary from each other irrespective of same type of NTFP available in this region. For instance, sal seed is non-nationalised in Orissa, but nationalized item in MP and Chhattisgarh. The NTFP policies of the states are discussed below.

Maharashtra

NTFP in Maharashtra are basically governed by the following Acts and Rules:

- The Bombay Forest Rules, 1942
- The Maharashtra Minor Forest Produce (Regulation and Trade) Act, 1969
- The Maharashtra Forest Produce (Regulation of Trade of Tendu Leaves) Rules, 1969.

- The Maharashtra MFP (Regulation of Trade in Apta Leaves) Rules, 1971
- The Maharashtra Supply of Forest Produce By Government (Revision of Agreements) Rules, 1982
- The Maharashtra Forest Development (Tax on Sale of Forest produce by government or Forest Development Corporation) Act, 1983
- The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997

The Bombay Forest Rules, 1942

As per the Bombay Forest Rules, 1942, no forest produce shall be moved from, or within any district of the state 'except as hereinafter provided', without a pass from some officer or person duly authorized by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination specified in such pass. No pass shall be required for (except to a bounder, landing place or railway station).

- any forest produce which is being removed for private consumption by any person
- twigs, leaves, brushwood and grass intended solely for conversion of ash-manure
- such small branches as are given gratis from departmental cuttings for private consumption

The Maharashtra Minor Forest Produce (Regulation and Trade) Act, 1969

The Maharashtra Minor Forest Produce (Regulation and Trade) Act, 1969 has regulated in the public interest the trade of minor forest produce by creation of state monopoly. Maharashtra Act 45 of 1997, sec.11 with effect from 10.12.1997, deleted the word minor. The main features of the Act are:

- No person other than, a) the state government b) an officer of the state government authorized in writing in that behalf c) an agent in respect of the unit in which the forest produce has grown, shall purchase or transport forest produce to which this Act applies.
- The state government shall constitute an advisory committee for price fixation of forest produce in each year.

- The state government or its authorized officer or agent shall be bound to purchase at the price fixed by the above procedures.
- Any forest produce purchased by the state government or by its officer or agent, under this Act, shall be sold or otherwise disposed of in such manner as directed by the state government.

The Maharashtra Supply of Forest Produce By Government (Revision of Agreements) Rules, 1982

As per the Maharashtra Supply of Forest Produce by Government (Revision of Agreements) Rules, 1982, the state government will make an agreement in which the state agrees to sell or supply any forest produce to any person or to permit an forest produce to be collected and removed by any person for consideration, for a long term, on terms and conditions specified in such document.

The Maharashtra Forest Development (Tax on Sale of Forest produce by Government or Forest Development Corporation) Act, 1983

According to this Act the state government shall levy and collect tax from the purchaser on every sale of forest produce at the rate of 10 per cent.

The Maharashtra Forest Produce (Regulation of Trade of Tendu Leaves) Rules, 1969

The Government of Maharashtra has monopoly control over trade of Tendu leaves by virtue of the enactment of Maharashtra Forest Produce (Regulation of Trade) Act 1969. As per this Act, the Tendu leaves shall be collected and disposed in such manner as prescribed by the Government. Tendu leaves can only be purchased by the officer authorised by the Government or the agent appointed by the Government. The Tendu leaves in the private holdings have to be sold to the agents appointed by the Government only. State monopoly trade was introduced mainly to prevent exploitation of labourers by the contractors and to plug the pilferage of Tendu leaves from Government land by the contractors. At present the State has monopoly over Tendu leaf and Apta leaf(Bauhinia racemosa).

The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997

As per the Act

"The ownership of Minor Forest Produce found in the government lands in the Scheduled Areas, excluding the National Parks and Sanctuaries, shall vest in the Panchayats within whose jurisdiction such areas falls.

For removal of doubts it is declared that the ownership of minor forest produce shall not include the ownership of land or trees in that panchayat area and the same shall be governed by the provisions of the Indian Forests Act, 1927. If any dispute arises regarding the ownership of minor forest produce among the panchayats, the decision of the state government is final. "

But this endowment is laced with conditions. In the said Act, under Section 5 it is clearly mentioned that "Panchayats to adhere strictly to the Silvicultural prescriptions of Working Plan, Management Plan or working Scheme with regards to the harvest of minor forest produce". This section further states that "in the areas not covered under the Working Plan, Management Plan or Working Scheme, the Panchayats shall adhere to the rules made with regard to the harvesting of minor forest produce under this chapter by the Conservator of Forest of the concerned Circle."

The aforementioned section further clarifies under sub section (2) that "whoever contravenes or violates the prescriptions contained in the Working Plan or the Management Plan or the working Scheme or the rules made by the Conservator of the Forest of the concerned Circle shall on conviction be punished with fine which may extend to rupees five thousand or with imprisonment which may extend to one year or with both.

As per the Maharashtra endowing upon the Panchayats in Scheduled Areas the powers of Panchayats to function as self- government (amendment of certain state laws) Acts, 1997, the Bombay Village Panchayats Act, 1958 has been amended. The amendment endowed gram sabhas in scheduled areas to issues to the panchayats with regard to the exploitation and regulation of trading of minor forest produce, subject to the provisions of Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas Act, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997.

Other salient features of the Act are;

- Every Panchayats in the scheduled areas shall be competent to regulate exploitation, management and trade of minor forest produce vested in it under

the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas Act, and the Maharashtra minor forest produce (Regulation of Trade) (amendment) Act, 1997.

- The sale proceeds or royalty of the minor forest produce collected in the Scheduled Areas within the jurisdiction of a Panchayats is vested in that Panchayat.
- If any of the Panchayat area is falling partly in the Scheduled Areas and partly in the non scheduled area, the sale proceeds or royalty of the minor forest produce credited into the village fund shall be expended only for the development of the said area of the Panchayats falling in the said scheduled area.

The Maharashtra Tribal Economic (Condition) Improvement Act, 1976

According to this Act, the Maharashtra State Co-operative Tribal Development Corporation was entrusted with the work of purchase of Minor Forest Produce from the Tribal Sub Plan areas in the State. Where MSCTDC does not have the jurisdiction, the collection of NTFPs is contracted to Forest Labour Cooperative Societies or auctioned to contractors. The intention of involving MSCTDC was to eliminate the middlemen who were cornering the benefits of the NTFP trade but on the ground this intervention has neither helped the Adivasi communities nor the NTFP trade. The payments made to the NTFP harvester are deferred in spite of the fact that NTFP income is used for daily needs of the family. The price given by the institution is also low as compared to the market price and hence the NTFPs end up in the open market where the trader who is buying them gives a low price as he instills the fear amongst the harvester that they are doing something illegal by selling a monopoly item in the open market. Thus the intention of eliminating the middlemen stand defeated and spaces for exploitation expand.

There is a purchase rate fixation mechanism wherein the District Collector/Additional Collector is responsible to fix the purchase rate taking into consideration the rates prevailing locally.

MSCTDC

The Maharashtra State Co-operative Tribal Development Corporation (TDC) was set up in 1972 with the limited purpose of supplying essential consumer goods to the tribals and the Ashram Schools. Its role has since been expanded and some its major activities are mentioned as under:

Monopoly Procurement Scheme : In order to prohibit marketing of certain agricultural and minor forest produce in the TSP areas by any other agencies except those notified by State Government and to also prohibit the lending by private agencies, the State Government in the year 1976 got enacted the Maharashtra Tribals Economic Condition (Improvement) Act. As per the provisions of this Act, the Monopoly Procurement Scheme was started from the year 1977-78. This scheme is being implemented through TDC with the association of Adivasi Co-operative Societies. TDC works as the chief agent of the State Government and Adivasi Co-operative Societies work as the sub-agents of the Corporation for the implementation of the scheme. In 1977-78, the scheme was started in seven talukas of the state on pilot basis. The area of operation of the scheme was later extended to cover the whole of the TSP area. Under this scheme, notified agricultural and minor forest produces are procured by TDC.

Grass Procurement Scheme: It was implemented by the Government of Maharashtra in the TSP areas of Thane district from the year 1978, but after suffering heavy losses the scheme was stopped for some time till its revival in 1996-97 when traders were allowed to procure grass at rates fixed by TDC. However, it came to Government's notice that, traders were reluctant to purchase grass from the tribals in Jawhar, Mokhada and Shahapur talukas as the grass in that area is of a low quality. Government, therefore, decided to purchase from 1997-98 onwards grass in these talukas through the TDC.

The Corporation also provides loans, and has grain bank facility.

Madhya Pradesh

There are numerous laws and rules that govern NTFP in the state. The major Acts and Rules, which govern the management of NTFP in Madhya Pradesh, are discussed below.

- MP Fixation of Rates for Timber and other Minor Produces (Extension) Rules, 1974
- MP Disposal of Timber and Forest Produce Rules, 1974
- MP Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 & 1973
- MP Van Upaj (Vyapar Viniyaman) Mantrana Samiti Tatha Mulya Prakashan Niyam, 1969
- MP Transit (Forest Produce) Rules, 1961
- MP Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1964

- MP Tendu Patta Mantrana Samiti Prakashan Niyam, 1964
- MP Van Upaj Other than Timber (Vyapar Viniyaman) Niyam, 1969
- Madhya Pradesh Vanupaj (Vyapar Viniyaman) Sansodhan Adhiniyam, 1975
- State Forest Policy, 2005

In MP nistar rules guide supply of forest produces to people in a convenient manner at differential prices to various strata of users. The former kings of Central India and Berar recognised some of the traditional rights over forest resources, of the forest dwellers and those living close to the forests, in their record of rights called *Wazibul Urj*. At the time of independence, despite over-growing feeling of exploitation of forests, the concern with poverty being paramount, in settlements of rights under the forest Act, the state accepted and recognized the rights under *Wazibul Urj*. The rights given to each village include rights to timber poles, bamboo, fuel wood, and grasses, including grazing rights. This is known as Nistar rights.

Nationalisation of NTFP

The undivided state of Madhya Pradesh has first to come out with the policies related to forests and especially to NTFP. Madhya Pradesh was the first state to nationalise Tendu Leave (TL) in 1964 and then followed it up with nationalizing harra, sal seed, and gums. The state let most items go from the list of specified produces and permitted free trade in them way back in 1986, thereby foregoing all royalties from the same. It was one of the first states to come up with a reasonably clear definition of NTFP and/or MFP in 1998. It is probably the first state to have introduced a functioning three tier co-operative structure to procure and trade nationalised NTFP. The same co-operative structure has a clearly laid out policy for distributing incentive wages to primary collectors that has no parallel in the country. And when the state was divided, Chhattisgarh inherited this cooperative structure.

Convinced by the success of nationalisation of TL that was nationalised in 1964, harra, sal seed, and gums were added to the list later on. The years of nationalisation of above produces are as follows: 1969 - Harra and Gums, 1975 - Sal seed. Collection and trading of gums, a specified produce, was being carried out by the Forest Department itself or through its agents from 1970, but it was observed that the trees were being destroyed due to deep tapping. Therefore, the state government banned extraction of gums in 80's. This ban was lifted in 1995 and controlled extraction was permitted.

Mahua was nationalised in MP in 1969-70, but this decision was withdrawn in 3 years. Ostensibly this was done as more trees were found to be in private lands; the logistics was mind boggling as the tree was spread in most areas, and it was too important (edible, staple food for some during certain seasons) an item to be nationalised. But government was fixing support prices till very recently. The permission of FD was required for storage of Mahua till 1996, when the trade was delicensed and made free to allow collectors to freely market their surplus. Now one can hold Mahua without any restriction.

Similarly in 2001, chironji and amla were nationalised in MP, but were later withdrawn in the same year for the above reasons. What could also have influenced the decision is role of the traders' lobby that seems quite influential in the state.

Nationalisation in one sense has been about giving monopoly rights in trading - while local people can collect items under nationalised list, they can only sell it to government or forest department or any other agents so appointed by former. The produce in the nationalised list, even if grown in private land, has to be handed over to government agency, albeit at a higher rate. The private growers of nationalised items are required to register with government to get these higher collection rates.

Specified Forest Produce

Some produces were defined as specified forest produce as per MP Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969. The state government under this Act empowered to make rules as it deems fit for disposal of specified forest produces. Prominent among specified produces are - kullu gum, dhawra gum, khair gum, babool gum, sal- and salai resin, rosha grass, lac in all forms, mahua flowers and seed, chironji, guthli, sal seed, harra and kacharia, mahua leaves(Siali), phool bahari, and bamboo. Mahua flower and seed were removed from specified produce in 1972 whereas harra and forest gums except kullu gum were also removed from the list in 2003..

Free Produces

In 1986, the state government stopped system of royalty on all non-nationalised NTFP. Prior to 1986 it was mostly royalty system with minimum collection prices announced that was prevalent in the state for all such produces. In effect, all the produces apart from the nationalised ones were now open for free collection, storage and trade. However, once purchased by trader and when it is transported from a haat(traditional rural market) to any

other place, a transit pass is required from concerned forest authorities. Primary logic given for stipulation of transit pass is that it helps restricting unsustainable harvesting practices. Transit pass is the only medium through which FD can know the amount of forest produces harvested from a particular area.

State Forest Policy, 2005

The objectives of State forest policy are follows:

- Increase in production of NTFP in the state.
- Ensure the Sustainable harvesting of NTFP and control the destructive harvesting.
- Promote Cottage industries for processing & Value addition to provide rural livelihood.
- Inventory of resource, conservation & development both in-situ & ex-situ
- Training & Capacity building of local communities
- Marketing interventions to be taken
- Improvement of Quality of constitutes through modern and traditional techniques of biotech
- Laboratories for Quality test and Certification
- Recording of traditional knowledge

MPMFP Federation

The Madhya Pradesh MFP Federation is the apex body of district unions and primary cooperatives of the primary collectors of NTFPs. It used to enjoy monopoly rights over atleast 4 items, but now the number has reduced to 3. Further, with a view to save the villagers from the exploitation by the middlemen, the collection of those NTFPs that are free, was started through Primary Forest Produce Cooperative Societies from 1995-96. These Societies purchase these produce from the villagers and later on sell the collected produce in bigger markets. All the decisions regarding the quantity and rate of purchase and sale are taken by the elected officials of the Primary Cooperative Societies and District Unions. The forest officials give all necessary help and guidance to them. The Federation provides support with market information.

The federation has also taken up plantations of some important minor forest produce and plants of medicinal value.

As a consequence of 73rd Amendment to the Constitution, the state government decided to pass on all the net income from the trade of NTFP to the societies and the societies, in turn, distributed 50% of this net income to the Tendu leaf pluckers as incentive wages from 1998 season. From 2004 season the proportion of incentive wages has been enhanced to 60% of the net income.

Chhattisgarh

After separation from Madhya Pradesh, the state made an attempt to create a comprehensive policy, legal and institutional infrastructure for safeguarding the livelihood of the tribals and forest dwelling communities along with sustainability of resources. Such activities include, framing state forest policy, amending forest transit rules, constituting Chhattisgarh MFP Federation, etc.

The legislations and rules that are in vogue in the state are as follows:

- Indian Forest Act, 1927
- M.P. Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969
- M.P. Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1964
- M.P. Kastha Chiran (Viniyaman Adhiniyam), 1984
- Chhattisgarh Forest Policy, 2001
- Chhattisgarh Transit (Forest Produce) Rule, 2001

Chhattisgarh Forest Policy, 2001

Among the three new states that were created in 2000, Chhattisgarh was the only state to formulate its own forest policy in 2001. According to the forest policy of the state, Non Timber Forest Produce called the Minor Forest Produce or MFP like tendu leaves, sal seed, imli, chironjee etc., form an essential element of the means of livelihood of the tribals and the landless, marginal farmers and other rural poor communities of the state. It is often suggested that it is the MFP and not the so-called Major Forest Produce like timber that is the mainstay of the rural poor. MFP like the tendu leaves and Sal seed also add sizeable revenue to the state exchequer, which is now distributed among the gatherers (in case of tendu patta).

Regarding ownership, control and management of MFP the policy says;

"The state should take appropriate measures through the Chhattisgarh State MFP (Trade and Environment) Co-operative Federation Ltd. for sustainable utilisation and long term conservation of all MFP found within the forests of the state. The state should take necessary steps for endowing the ownership rights of MFP on local communities as per the provisions of the Panchayat Upbandh (Anusuchit Chhetron Ka Vistar) Adhiniyam 1996."

The state presently has harra, sal seed, tendu leaves, and gums(Gr. I & II) nationalized.

Chhattisgarh Transit Policy, 2001

There are certain quantitative restrictions on transport, production and processing of specified forest produces. The primary logic for restrictions given is that it will facilitate tribal community for bonafide use and restrict illegal trade in such products.

In exercise of the powers conferred by section 76 read with sections 41 and 42 of the Indian Forest Act, 1927(no XVI of 1927) the state government made the following rules for regulating transit of forest produces:

No forest produce shall be moved into or outside the state or within the state of Chhattisgarh except in the manner as herein after provided without a transit pass in form A, B or C. The transit pass will be issued by a forest officer or Gram Panchayat or a person duly authorised under these rules to issue such pass. The following officers and persons shall have power to issue passes:

- For forest produces belonging to the government, the Divisional Forest Officer, the Sub-divisional Forest Officer or any other officer authorised on his behalf in writing by the DFO.
- For forest produce owned by any person, the DFO or any officer or such other person authorised in writing by the DFO or Gram Panchayat in whose jurisdiction the forest produce is found or grown.

Gram Panchayat or the person authorised by it shall issue the transit pass for transporting the forest produce within the district. To transport the forest produce outside the district, transit pass shall be issued by the forest officer authorised by the DFO. On submission of application, for issue of transit pass, along with relevant document and information, the transit pass shall be issued within 45 days of receipt of the application.

It seems however from the forms that the Gram Panchayat is not authorised to issue transit passes for transportation of different MFP. Its powers, perhaps, are limited to issue transit pass for the timber grown on private land.

CGMFPFED

In order to extend the cooperative philosophy to minor forest produce, the state has created Chhatisgarh State Minor Forest Produce (Trading and Development) Cooperative Federation Limited in the year 2001. It is an apex organization, which acts as a nodal agency for all aspects relating to management, development and trade of minor forest produce/non-wood forest produce sector in the state. It has under it 32 District Unions and 913 Primary Forest Produce Co-operative Societies. At present there are about 10000 collection centres spread over the length and breadth of the state and approximately 9.78 lakhs forest produce gatherers.

From the year 2008, the profit earned from the trade of Tendu leaves is distributed by the Federation in the following manner:

1. 80 % of profit as incentive wages to the collector of Tendu leaves(earlier it was 70%).
2. 15 % of profit for collection, sale, storage and value addition of non-nationalised minor forest produce.
3. 5% of profit for the temporary reimbursement of losses of societies (earlier it was 15%).

There are issues relating to the Federation's policy and practices; but it has a strong presence in the region.

Odisha

In Odisha NTFP are managed by the following Acts, Rules and Policies:

- The Orissa Kendu Leaves (Control of Trade) Act, 1961
- The Orissa Kendu Leaves (Control of Trade) Rules, 1962
- The Orissa Forest Act, 1972
- The Schedule of Rate of Forest Produce in Orissa Rules, 1977
- The Orissa Timber and Other Forest Produce Transit Rules, 1980

- The Orissa Forest Produce (Control of Trade) Act, 1981
- The Orissa Forest Produce (Control of Trade) Rules, 1983
- NTFP Policy, December, 1990
- NTFP policy of 2000
- Orissa Gram Panchayats (Minor Forest Produce Administration) Rules, 2002

After independence, there was no emphasis on the control and management of MFP excepting bamboo, kendu leaf and sal seed. In 1940s and 50s bamboo was harvested by the private companies based on long-term leases. In 1960s the government started Orissa Forest Corporation to harvest and manage bamboo, which was being supplied to the paper mills at a subsidised rates. It continued till 1990 even after nationalisation of bamboo in 1988. The paper mills were virtually harvesting bamboo from the forest under the guidance of the Corporation. To safeguard their interest in a way suitable to the legal requirements, they were later termed as raw materials procurers(RMP) so as to imply that they have a right to enjoy special provisions under the industrial policy. By the end of 1990s paper mills had adopted a technology which reversed the previous bamboo-timber ratio used as raw materials, and required only about 20% bamboo instead of the previous 80%. This put them in an advantageous position to, in a way, blackmail the government that they would stop procuring bamboo if the price was not suitable. Stocks piled up at OFDC godowns, and finally the government has to yield to this compulsion. The system of RMPs continues till date.

Similarly, kendu leaves were brought under strict state control in 1973 and prior to that it was managed under monopoly leases to few traders. No RMP system was followed in case of kendu leaves, and the departmental control still prevails. The Forest Department has a kendu leaf wing which takes necessary steps for production & processing of kendu leaves, after which it hands over the produce to OFDC for marketing. The Kendu Leaf wing doesn't make any investment of its own as OFDC provides it the money required for kendu leaf operations. Since Odisha is the only state in India(and world) to produce processed kendu leaves, hence it almost always remains in advantageous position in the market unless there is a bumper crop in the neighbouring states which produce unprocessed(phal) leaves. Exporters use processed leaves.

Unlike MP & Chhatisgarh, Odisha shares the net profit of kendu leaf trade with PRIs in a particular ratio. This has a historical basis, but not acceptable by social activists who demand that the profit should rather go directly to the pluckers.

Sal seed, which was not given any importance by the government during 1950s and 1960s, was nationalised in 1983 after Mr.J.P.Lath turned it into a flourishing trade item. The RMP system was also followed in this case, but as sal seed business was almost solely dependent on export market and international market fluctuations in 1990s recorded a bad time for the sal seed oil business, most of the private mills in the state were closed down showing reason of that though it is also likely that the concerned mills(actually owned by the same person) took advantage of the situation to get financial excuses from the loan-providers. Later on OFDC, TDCC, and few other agencies were granted leases and used to sell their sal seed to procurers mostly from outside Odisha. However, sal seed was denationalized in 2006 and handed over to Panchayats.

It may be mentioned here that both sal seed and kendu leaf business had had significant political implications for the state. The nationalization move is partly seen as a step to check the influence of traders of these NTFPs.

Rest other MFP were not being managed properly till 1990. Based on the demand some of the produces were leased out to private parties for procurement and sale. It was not a free market scenario and not also well managed and government controlled affair.

With growing commercial importance of MFP, many states started nationalising major MFP presumably to protect tribal interest as against business ones. Simultaneously with the coming up of Orissa Forest Produce (Control of Trade) Act, 1981, state monopoly was created for control and regulation of trade in certain forest produces with the ostensible intention of protecting tribal interest and revenue generation. Besides, the state was also empowered to notify all other produces as Specified Forest Produce from time to time. These products even when found on private lands and on non-forest commons were treated as specified. This implied that the State not only enjoyed a virtual monopoly over Specified Forest Products and actual monopoly on some of them as Nationalised Products such as kendu leaves, sal seeds and bamboo but also over all such produces which were declared so in various points of time. The NTFPs declared 'specified' included mahua, tamarind, myrobalans, and few other MFPs with an implication that a person producing the same in private lands has to register himself/herself as a 'grower' so as to legally store and sell the produce. So far only private producers of kendu leaf are known to have complied more or less with this provision, and the state purchases their produce as 'grower's leaf', with an arrangement different than that for procurement of kendu leaves from government lands.

In 1990s, TDCC, Agency Marketing Cooperative Society, OFDC and Utkal Forest Product Limited (UFPL) were given the leases to collect forest produces in different divisions as below.

- TDCC was given the exclusive right to 4 MFP items, viz. tamarind, hill broom, honey, and mahua in all the 27 divisions of the state.
- UFPL, a joint sector company was given the exclusive right to collect 29 NTFP items in all the forest divisions of the state.
- AMCS was given lease to operate in 3 divisions for all produces except the ones given to TDCC and UFPL.
- TDCC was additionally given rights over all produces except those given to UFPL in 19 divisions.
- OFDC was given rights over all produces in 5 divisions (not allocated to AMCS and TDCC) except those given to TDCC and UFPL (Patnaik, 2005).

The policy ensured that there was only one buyer for a produce in a division but at the same time there was no onus on the agencies to buy the produce collected by the primary gatherers. Hence, the illegal trade flourished due to various reasons as discussed.

NTFP policy of 2000

For quite sometime NTFP trade was monopolised mostly by private business houses who were granted leases on a long term basis to procure specific forest produces from specific forest divisions. Such monopoly trade arrangements created problems of low payment to tribals, erratic and arbitrary procurement, and revenue loss to the state. Further, unsustainable extraction resulted in endangering many species thereby inviting a criticism against the Forest Department for its laxity. However, more important for the government was to implement the provisions of PESA. All these considerations led to the announcement of a formal NTFP policy on 31.03.2000.

The policy of March 2000 recognised the importance of MFP in forest dwellers' life. It also recognized the importance of sustainability of resources. As per the requirement of PESA, it gave ownership rights over 'MFP's to GPs in scheduled areas, and only regulatory rights to rest of the GPs. MFP was defined under this policy in vague way, creating a pseudo-category of 'minor forest produce' (term used in PESA) under NTFP, and initially 60 items were declared as MFPs (later the number rose to 69). Monopoly leases were no more allowed, and

commercial lease was to be allowed for items not under the MFP list only to a government agency only if sustainability could be ensured. The policy resolution aimed to bring more players(traders) in the market through the liberalized set up to benefit the primary collectors, and inherently decentralised and de-bureaucratized the NTFP regime, as far as possible, to encourage and motivate producers' co-operatives, primary collector groups like women's SHGs, and people's organisations to get into processing and trading at the local level.

On 26th May 2000, the Panchayati Raj Department, in exercise of power under section 152 of the OGP Act, issued an administrative order prescribing the manner in which the rights transferred to the GPs shall be dealt with. Since royalty was withdrawn, a token amount of Rs. 100/ was fixed as registration fee per each produce that is to be given to the GP in which the traders intend to procure. There is no restriction on the traders on number and volume of produces that they want to trade and transact provided they pay the registration fee. It specified the way the registration would be done, the maintenance of records of monthly transaction and most importantly the way the quasi-judicial power of reprimanding unscrupulous traders will be carried out.

Other salient features of the Policy are:

- Abolition of royalty system(for MFPs only)
- Abolition of transit permit system(for MFPs only)
- In matters of collection, primary gatherers will be subject to reasonable control by the Divisional Forest Officer through imposition of temporary ban if collection method is found to be harmful.
- The DFO reserves the right to set a minimum target for procurement for respective items for the dealer(s).
- VSS will continue to enjoy rights of ownership over MFP and NTFP in reserve forest areas.

Orissa Gram Panchayats (Minor Forest Produce Administration) Rules, 2002

The state government made these rules in November 2002, which has following salient features:

- The GP shall have the power to regulate procurement and trading of MFP, whether produced in government lands and forest areas within the limits of Grama(village) or collected from the Reserved Forests and brought into the Grama.
- Priority would be given to the VSS and its members for collection and trading of MFP.

- Price fixation would be done by the Panchayat Samiti (PS) in September³ and would be circulated to different offices of district administration and to all the GPs.
- The Gram Sabha would ratify prices fixed and necessary changes can be made based on the local needs.
- If Panchayat Samiti fails to fix the price then the District Collector would call a meeting of PS preferably in October to fix up the minimum procurement prices.
- The trader registered to procure MFP from the GP shall furnish monthly return and also annual return in a prescribed format.
- The GP shall furnish an annual return on the procurement and sale to the Forest Range Officer.
- In case of violation of payment of minimum procurement prices by the registered traders, the Sarapanch shall conduct an enquiry and then it shall be discussed in the GP meeting and then GP shall resolve to cancel the registration of the trader. If the trader after cancellation of the registration continues to procure MFP from the GP area then the Sarapanch or Secretary shall lodge complaint before the DFO. The MFP seized by the DFO from the trader shall be publicly auctioned and the sale proceeds thereof be deposited under the appropriate head of account under the Orissa Forest Act. If a trader is engaged in procurement of MFP without registering with the GP then the Sarapanch or Secretary shall lodge complaint before the DFO for taking appropriate action.

The sal leaf trade is in a semi-liberalized state as the government can't ignore its significant livelihood base, and at the same time has to ensure sustainability of the valuable sal forests. There has been demand to hand over sal leaf, kendu leaf, and bamboo to the GPs, but the Forest Department is not in favour of the same.

Despite some of its drawbacks, the NTFP Policy of Odisha remains a very distinguished and balanced policy between livelihood and conservation(vide annexure-11). Unlike the trends upto 1990s, the Forest Department has more or less strictly adhered to the conservation approach of this Policy as a result of which presently there is no lease granted even to any government agency for tree bark, gum, sal resin, and other vulnerable NTFPs.

³ An NTFP year starts from October and ends in September next year. The NTFP Policy of 2000 wanted fixation of minimum procurement price for different MFPs before a new NTFP year starts.

TDCC & OFDC

The Odisha situation is not free from contradictions and ironies. TDCC is a good example of that. TDCC is more or less similar to GCC in Andhra Pradesh and SC/ST Federation in Kerala. However, on one hand it is expected (by government) to operate like a profit-oriented corporate body, and on the other hand, it is also expected to operate like a welfare agency. To prioritize welfare, TDCC suffered huge financial losses but it was not compensated by the government. If TDCC prioritizes business over welfare, then it invites severe criticism. If internal issues like corruption, mismanagement, and poor marketing strategies are to be put aside, such contradictory stands have in fact led to underutilization of the potential of this government agency. After the NTFP policy of 2000, TDCC was granted lease of gum and few other items of importance, but the permission did not continue for long. Now it has to compete like any other market player, and its transactions in MFP have been much reduced. Orissa Forest Development Corporation markets only few NTFPs or product made therefrom, like arrowroot and honey. Lack of monopoly rights has been a major problem for these agencies (this of course leads to the valid question of the agency's achievements with previous monopoly rights), unlike GCC or CGMFPFED; however they need not pay registration fee for MFP procurement in GPs which is but a negligible concession.

OFDC manages somehow because it is the authorized agency for timber trading, bamboo trading and kendu leaf trading. For bamboo and kendu leaf OFDC gets its share as royalty/ commission. However, TDCC has no exclusive trading rights now. It used to have monopoly rights earlier, but even that could not be enjoyed properly because vested interest groups succeeded in making policy decisions that led TDCC to suffer (for example, the case of tamarind lease to M/S TKP Ltd.) in Rayagada district). The Corporation (TDCC) currently proposes to utilize its vast infrastructure and business experience in a modified way, if the government agrees, for the benefit of primary collectors.

It is note-worthy here that although LAMPS used to supply MFP to TDCC, these societies have long been defunct and almost non-existent now. TDCC has a number of branches in the state, and procures from traders and primary collectors (or their groups) directly. It had to diversify its business activity to petrol pumps and fertilizer trading, and some processing units have also been added to its infrastructure.

OFDC has a caning centre. The biodiesel unit established in its premises at Bhubaneswar could not be viable chiefly because of want of raw materials (OFDC used wild pongamia

seeds). However, the wild honey and arrowroot marketed by OFDC are very popular because of their quality.

Andhra Pradesh

By the time the state of AP was formed on 1st November 1956, the parts of the present State were under the domain of British and Nizams. Hence, the two different forest Acts were in practice in their respective regions. Madras Forest Act of 1882 governed the Coastal and Rayalaseema districts of Srikakulam, Vishakhapatnam, Kakinada, Eluru, Machilipatnam, Ongole, Godavar, Krishna, Anantapur, Kurnool, Cuddapah, Nellore, Chittoor and Guntur, while the Telangana districts of Adilabad, Karimnagar, Medak, Khammam, Nalagonda, Nizamabad, Mahbubnagar and Warangal were governed by Hyderabad Forest Act, 1915.

The unique feature of Telangana was that forest resources in the region till 19th century were not managed separately; instead it was under the control of the Revenue Department. Though in 1857 a separate department for forests was established it controlled only 13 species. From time to time the forest regime was modified, but only to consolidate on revenue aspect until the revision of 1915 Forest Act over the earlier one of 1900, which had, laid the foundation for the establishment of real forest administration. It was also repealed by Hyderabad Forest Act of 1945, which was modeled on the lines of Indian Forest Act (Gogia, 2002). On the tribal front, the Nizam's rule was unfortunate for them since they were always at the receiving end for the denial of their customary rights.

The post independence saw Law Commission being set up to integrate the two Forest Acts existing in the respective regions of Madras Province and Nizams. The result was the Andhra Pradesh Forest Act, 1967 that was drafted and passed by the legislature and it is in force from April 1967 (Gogia, 2002; Sunder et.al, 2001). It was followed by various legislations like Forest Offence Rules of 1969, Andhra Pradesh Forest Produce Transit Rules of 1970, Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act of 1971 and lately Andhra Pradesh Scheduled Areas Minor Forest Produce (MFP) (Regulation of Trade) Regulation of 1979 were legislated to combat the situations of forest offences, trade control over forest produce etc.

The major legal documents in Andhra Pradesh for management of NTFP are:

- The Andhra Pradesh Forest Act, 1967
- The Andhra Pradesh Minor Forest Produce (Regulation and Trade) Act, 1971
- The Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation and Trade) Act, 1979
- The Andhra Pradesh Forest Produce (Fixation of Selling Price) Act, 1989
- The Andhra Pradesh Forest Produce Transit Rules, 1970
- The Andhra Pradesh Minor Forest Produce (Regulation and Trade in Abnus leaf) Rules, 1971

The legislations AP (MFP Regulation of Trade) Act, 1971 and AP Scheduled Areas MFP (Regulation of Trade) Regulation, 1979 create state monopoly in the trade of MFP. Both the enactments provide for appointment of an agent for the purposes of purchase of and trade in any MFP on behalf of the government.

Before introduction of State Trading in Abnus leaves (*Diospyros melanoxylon*) in 1971, the right to collect abnus leaves was sold by public Auction on lumpsum contract. The private pattadars too, used to sell beedi leaf growth in their holdings to the private contractors usually on negotiated terms. When demand and commercial value of beedi leaf had increased private contractors with the help of influential pattadars and local villagers started pilfering and smuggling beedi leaf from the forests and government lands leading to considerable loss of revenue to the Government. To arrest this trend, the Central Board of Forestry discussed the matter in 1953, which recommended legislative measures to control, the trade of beedi leaf. Accordingly, the AP Minor Forest Produce (Regulation of Trade) ordinance was promulgated in 1970, which was subsequently replaced by Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act, 1971 (Act No. 4 of 1971), the provisions of which were brought into operation with effect from 9-11-1970 in the 10 districts of Telangana region of Andhra Pradesh, which are the main Abnus leaf growing areas of the state. Under the Act the possibility of growers smuggling the leaves from the government lands is eliminated and public trust is effectively secured. Besides payment of fair wages timely payment was also ensured to the laborers who are mostly from the weaker sections of the society and tribals.

GCC versus PESA

The AP Government appointed Girijan Cooperative Corporation Ltd., Visakhapatnam, under sec 3(1) of the AP Scheduled Areas MFP (Regulation of Trade) Regulation, 1979 as its agent.

The norms imply that no person other than the Corporation shall sell or purchase or cure or otherwise process or collect or store or transport any MFP unless otherwise specified. The Corporation shall set up such number of purchase centers as may be required. The Corporation shall be bound to purchase the MFP offered for sale at the purchase center, in the raw form from all the growers at the price fixed. This was to help NTFP collectors by eliminating the large profit margins of the middlemen and to pass on the benefits directly to the collectors in terms of money, rations, soft loans, and better living conditions.

Girijan' means hill-people. GCC membership is exclusively for the tribals. At present, 43 affiliated Girijan Primary Cooperative Marketing Societies (GPCMS) situated in sub-plan mandals of the state are functioning. GCC is the apex body of these GPCMSs, and is having a wide network of 839 Domestic Requirement Sales Depots (DR Depots) in the tribal habitats in order to cater to the needs of the tribal consumers by supplying them essential commodities and other daily requirements. GCC is also having 3 industrial units viz., (1) Honey Processing Unit at Rajahmundry, (2) Sheekakai & Soapnut Powder Making Unit, Rajahmundry and (3) Soap Making Unit at Vizianagaram.

The Rules framed under the Regulation provide that the Government or the Corporation may appoint a committee for deciding norms for fixing the purchase price of the MFPs. Based on the guidelines decided by the committee, the MD of the Corporation shall be authorized to fix the purchase price well in advance of the season for each commodity. Thus, the GCC has monopoly rights over procurement and marketing of NTFP. The Corporation has to pay royalty to Forest Department @ 20 per cent over and above the previous year rental without reference to rise in the normal market rates though a part of the royalty is reimbursed by the state government.

These provisions appear to be in conflict with the basic tenets of PESA. While the latter provide for the transfer of ownership rights of the MFPs to the village community, the former creates the monopoly in the state in the trade of the same. The complete transfer of ownership to Gram Sabha shall result in loss of revenue to the Forest Department. This is an obvious pointer as to why the government is reluctant to operationalise the constitutional mandate. In respect of MFP specifically, the Act envisages that "ownership" of MFPs, not just the burden of "control" and "management", be devolved to the village community. The state Act provides that "while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level

and the Gram Sabha are endowed specifically with the ownership of minor forest produce".

While the Central PESA Act requires that both Panchayat at appropriate level and the Gram Sabha have the right to ownership of MFP, in AP, PESA in contravention of the Central PESA provides that the ownership of MFP can be vested in either Gram Panchayat or Gram Sabha. It is the state government who will decide as to who will have the ownership rights over MFP. The state government will also prescribe the extent of powers and the functions to be performed by Gram Sabha or Gram Panchayat and the manner in which they are to be performed. Even if the state vests either of them with the ownership of MFP, they will have to exercise this right as per the dictates of the state. Further, in the absence of prescriptions, there is no devolution of ownership rights to the village community.

Tamil Nadu

In Tamil Nadu, as per the government order, the bonafide requirements of fodder, small timber and NTFP are collected by the tribals free of cost. The Forest Department had entrusted the collection and marketing of NTFP to Large Sized Adivasi Multipurpose Cooperative Society (LAMPS) in tribal areas and private contractors in non-tribal areas. The Tribal Cooperative Marketing Development Federation of India (TRIFED) is also playing an active role in the procurement and marketing of NTFPs and medicinal plants. Presently, the forest ranges/ areas are leased by the forest department to LAMPS and private contractors once in 3 years and 1 year respectively for the extraction of NTFP and medicinal plants. In order to bring all the tribal communities in Tamil Nadu state under an institutional arrangement and to provide them financial and other economic support, the LAMPS came into existence during 1976-77. The main objectives of LAMPS in Tamil Nadu include:

- Procurement and marketing of NTFPs and medicinal plants.
- Procurement and marketing of agricultural produces grown by the tribals.
- Distribution of essential items (rice, oil, sugar etc), agricultural inputs (seeds, fertilizers, etc) and loans in exchange to NTFPs collected by the tribals.

NTFP are collected from the reserve forests. As per the government order no. 286 dated 25-9-1998, the Forest Department leased out the forest areas to LAMPS for a period of 3 years for the extraction of NTFP and medicinal plants. The LAMPS had to pay lease forest rental which was fixed by the Department for procurement of NTFP. According to the Additional Registrar (LAMPS), Chennai, the lease amount varied between 2 lakhs to 2.5 lakhs per

LAMPS society for 3 years i.e. a total amount of Rs. 36 lakhs to Rs. 45 lakhs was paid as lease amount by 18 LAMP societies for 3 years to the government for the procurement of NTFP and medicinal plants. 10 per cent concession was given by the Department on forest rentals to the LAMPS for the procurement of NTFPs. Wherever LAMPS were not involved in the extraction of NTFPs, the Forest Department entrusted the collection and marketing of NTFP to the private traders/ contractors through open auction.

23 items of NTFP and medicinal plants were notified by the Forest Department for the procurement and marketing by LAMPS. The tribals collected the notified NTFPs and medicinal plants from the leased forest areas and supplied to the collection points of LAMP societies, which are normally situated 1-5 km from the tribal villages/hamlets. The NTFP procured by LAMPS from the tribals were directly sold to either TRIFED or to wholesalers through tender cum auction without grading or processing.

In 2003, the Environment and Forests Department of Tamil Nadu issued another government order named "Minor forest produce yield - Giving of right of collection to tribals at free of cost".

The state government felt that the yield of minor forest produce units in the forests belonged to tribals and the benefits were not received by the tribals through the practice of allotment of minor forest produce units to LAMP societies. Based on the aspects, the Principal Chief Conservator of Forests stated that the right of collection of yield of Minor Forest Produce might be given to tribals at free of cost by forming Village Forest Councils through which their income and life would be improved and to involve them in the protection and improvement of forests within the control of guidelines framed for Village Forest Councils (under JFM).

When the Collector of Coimbatore district requested the Forest Department to give the right of collection of minor forest produce of the Coimbatore district to the women self help groups without conducting public auction, the Principal Chief Conservators of Forests recommended that the right of collection of minor forest produce might be given to the above Self Help Groups if they agreed to pay (to primary collectors) the fair price fixed by the Department.

During the presentation of budget for the Environment and Forest Department in the Assembly on 29.4.2002 while announcing the plan schemes for the year 2002-03, the Hon'ble Minister for Forests announced, among other things, that as implemented in the Tamil Nadu

Afforestation Programme(TAP) scheme, the right of collection of yield of minor forest produce unit would be given to tribals free of cost by forming Village Forest Councils.

The Government after careful consideration of the proposals of the PCCF and the Collector of Coimbatore district, issued the following orders:

- As announced in the Assembly by the Hon'ble Minister, to give the right of collection of the yield of minor forest produce units at free of cost to tribals, village Forest Councils will be formed by making necessary changes in the guidelines formulated for the Tamil Nadu Afforestation Programme scheme and it will function as per the guidelines annexed.
- In the village where the village women's council, women self help group under Women's Development Scheme or women's council under Swarna Jayanthi Grama Swarozgar Yojana (SJGSY) is functioning, the yield of minor forest produce units must be allotted to the Councils as per the guidelines.
- The allotment of minor forest produce given to LAMP societies at 10% concessional rate, as ordered in G.O.(Rt) No.286,E &F dept.25.9.98 is hereby cancelled.

TAP is a JBIC-sponsored JFM-based project with an objective to bring about balanced eco-upgradation, and to meet local people's requirement with respect to timber & NTFP. Under this project, NTFP species like amla, soapnut, neem, and pongamia, etc. have been planted. The local communities are supposed to protect & maintain these plantations, and in return enjoy special rights. MFP units correspond to dominant availability of a particular NTFP species in the reserve forest area, and hence there are units of tamarind, soapnut, wall nut, pongamia, etc.. Village Forest Councils(VFC) in tribal areas enjoy special rights unlike those in non-tribal areas. These tribal VFCs can collect the MFP and sell it out directly, or can lease out the unit. The sale proceeds goes to the village fund. The DFO plays a decisive role in the fixation of fair price of the Units/MFP though approval of the CF is needed. 29 items are free to tribals, and 16 are sold through open auction by the Department. Bamboo is however not free though concession is enjoyed for bonafide use. Cane is hardly found, and there is no restriction on it(Source: DFO, Vellore; ACF(Trg.), PCCF's Office, Chennai).

While the Forest Department maintains a system to monitor the transit of MFP, there is a view that the tribals have not been able to take proper advantage of the MFP units allotted to them partly because they find more interest in non-forest wage-earning activities.

Karnataka

There is neither any policy on NTFP in the state or any laws that have direct consequences on NTFP- its collection, processing and marketing. Several legal documents have some rules regarding the extraction of certain NTFP such as the Karnataka Forest Manual; the Karnataka Forest Privilege Rules, 1959; the Karnataka Forest Act, 1963; and the Karnataka Forest Rules, 1969.

The Administration Report of Mysore Forest Department for 1955-56 reveals that except for lac propagated departmentally, no MFP was collected departmentally at that time. The private lessees used to buy 'bobs' from the Department for exploitation of forest produce. Tangadi (*Cassia auriculata*) and other MFP were sold in public auction and exploited by private agency.

Administration Report of 1970-71 says that except bamboo, there was no departmental collection of MFP. Gradually the Department started giving importance to MFPs. Bidi (beedi) leaves, tamarind, and shikakai, etc. are some of the major MFPs of the state, and the Karnataka State Forest Development Corporation supplies bamboo to the industries. The Annual Report of 1980-81 mentions that cane is not so abundant, and the Department started supply of cane to industries since 1975-76. The departmental supply was to ensure sustainability of the produce. Export of cane was banned except for supply of small quantity to Sports Goods Export Promotion Council. Industries were allotted forest areas for collection of Bade grass, Rosa grass, and Elephant grass on lease basis. However, bamboo artisans like medars used to enjoy certain concessions on the price of bamboo.

The said Report of 1980-81 further mentions that a tribal sub-plan was being implemented in certain districts of Mysore, Shimoga, and Madikari Circles for the welfare of tribals; and under this programme, the following activities were proposed:

- raising MFP plantation (nursery)
- maintenance of fruit orchards
- plantation for tassar silk cultivation (nursery)
- raising of fruit yielding species (etc.).

The Annual Report of 1992-93 said, NTFP (MFP) have become a major source of revenue. Raising of trees yielding NTFP and plant products of medicinal value improving the forest productivity on a sustained basis was being carried out under the centrally sponsored scheme of raising plantations of MFP & medicinal plants.

Presently, there are LAMPSs in heavy forest areas who pay a nominal fee to the government and enjoy the right of collection of MFP from the area under their jurisdiction. There are few restricted species like *Persea macrantha*(endangered), and few species(like, dhup or *Ailanthus mallabaricum*) still under the control of the Forest Department because of their commercial importance; but the LAMPS want rights over dhup species also(Source: PCCF's office, Bangaluru).

Karvi (*Strobilanthus callosus*) is allowed to be extracted by the inhabitants of forest villages for agriculture purposes from open forests, and that extracted for non-agricultural purposes invite a nominal fee. Barren sago and other palms commonly used for watercourses and other agricultural purposes, and creepers also used for agricultural purposes (within the period of 1st November to 31st May) are allowed to be extracted from reserve forests with the prior permission of the Round (Section) Officer. Canes and all kinds of grass used for making baskets, chatais, brooms etc., are allowed to be extracted free of cost for bona fide domestic use but not for sale or barter.

The Karnataka Forest Manual, which lays down the rules for the Karnataka Forest Department officials to follow, also states the privileges given to 'betta' landowners. Betta lands are forest lands(Protected Forests) that have been given by the British administration to the villagers for the purposes of betel nut and spice cultivation. Removal of any kind of forest produce except certain species without causing irreparable damage to the plants was one of the privileges included among them. The Revised Working Plan of Sandal Bearing Areas of Sirgi-Siddapur Block(1970) says that bettas were allotted for supply of green manure(soppu) for areca cultivation, but the impact was destructive.

In the Karnataka Forest Rules, 1969, cutting and removal of tender ichalu leaves (leaves of *Phoenix sylvestris*) are prohibited as well as from trees marked for the purpose of toddy revenue. Certain forest produce such as hunse, hippe, seege, cocunut, mavu, nerale, halasu, jail, byala, honge leaves and seeds are excluded from sale except in areas where sales are conducted by the Forest Department.

To conserve the biodiversity in the Western Ghats with the participation of the local communities Joint Forest Planning and Management project was initiated during 1991-92 in Karnataka state. Joint Planning is a consultative process by which Karnataka Forest Department (KFD), people and other forest users jointly discuss the ecological condition of a specific area of the forest in the village and the scope for it to meet one or more of their

specific needs. Auctioning of NWFPs is excluded from the VFC area to enable them to handle the harvest and sale of these products. As per the government order # FEE 50 FAP 2000 Bangalore dated 19.06.2002, profit sharing among VFCs and Forest Department with respect to sale of Non Wood Forest Products will be 90 % and 10 % respectively. In the VFC sharing, 50 % of amount should go to village development fund and remaining amount should go to members of Village Forest Committee or to Village Development fund as decided by the committee.

The Department has given permission to extract 45 items of NTFP by the tribals from the forests to supply them to the LAMPS. In non-tribal areas, it gives contract for extracting NTFPs and medicinal plants to private contractors. The major function of LAMPS are: a) procurement and marketing of NTFPs and medicinal plants collected by tribals, b) supply of essential items (rice, sugar, cooking oil, etc.) of consumption to tribals. Apart from these two basic functions, the LAMPS is also supposed to provide loans to the tribals for productive purposes (purchase of agriculture inputs, cattle etc).

Before April 2001, the LAMPS was paying a royalty/ lease amount once in 2 years for the collection and marketing of NTFPs to the government. During 1997-99 and 1999-2001 LAMPS had paid a lease amount of Rs 24.25 lakhs and Rs 29.50 lakhs respectively to the government as royalty for procurement and marketing of NTFP. On 4th April 2001, the honorable CM of Karnataka conducted meeting with the Minister of Social Welfare to discuss some difficulties of LAMP societies and tribals of the state. In obedience of the instructions of the meeting the following orders were issued:

- The lease amount from 1st June 2001 onwards shall be a nominal sum of Rs. 100 per year per LAMP society for all the NTFP items involved in the lease.
- Wherever the area leased to LAMPS is not bordering any national parks/ sanctuaries, in such areas the concerned LAMP society shall be given authorization to issue way permit. This will help the concerned LAMP society to avoid unnecessary delays causing deterioration of the materials.
- All NTFPs, which are suitable for collection, including those not leased previously to LAMPS, shall be given only to LAMPS and no one else in so far as the LAMPS areas concerned. In other words there shall not be any agency other than the LAMPS for NTFP collection and removal.

The jurisdictions of these LAMP societies are restricted to the existing 21 taluakas of state and this order does not apply to other taluakas.

In other talukas the policy of extraction of NTFP is based on the tender cum auction system. For each forest Range the NTFPs are auctioned every two years. The process of tender cum auction is publicised in local newspapers by the Deputy Conservator of Forests. The contractor can bid for one or different NTFPs in the same Range. There is an average 'upset' price based on the revenue of three successive bids. The contractor has to bid above this 'upset' price. Once the contractor wins the bid, he gets legal right to collect as well as to transport the produce from that particular range. In order to get the transit permit contractor declares the quantity of NTFP collected. Invariably the declared quantity is less than the actual quantity collected.

The contractor appoints his agents and subagents, who purchase the produce from the primary collector. There is no regulation on the quantity to be collected by a contractor. For example in case of uppage (*Garcinia cambogia*) the tender signed by the contractor puts a condition that only ripe fruits of uppage be harvested. However, in practice this is rarely followed. In practice the tender gives legal sanctity to the contractor to purchase a product. He does not collect the material. He only buys it from collectors through his agents. Thus, the contractor does not have any contact or control over primary collectors. Under these circumstances the conditions imposed in agreements do not make any difference to the collector or on harvesting methods.

Kerala

The state has witnessed significant changes in management of NTFP, especially in collection and marketing over the last four decades. The tribal communities in the state have been engaged in collection of NTFP since time immemorial. The dawn of colonial rule brought about significant changes in the collection scenario. The Britishers allowed different private contractors to collect NTFP on an annual lease basis, besides the tribal people. Since 1915, the local people were issued free passes to collect thatching materials by the state. Under 'seigniorage permits' they were allowed to collect produces like bamboos, reeds, rattans, manure leaves etc. In the 1940s, the extraction of honey, wax, skins, ivory etc was done by the Forest Department for a stipulated period and other items were leased out to the private contractors. The process continued till 1977-78, Forest Department used to allot the forest ranges, and the private traders/ contractors used to employ the tribals to their own advantage

to collect NTFPs. Since 1978, the Government of Kerala, with the objective of improving the socio economic conditions of tribals, entrusted the right of collection of NTFPs from reserve forests to SC/ST cooperative societies, similar to LAMPS. These cooperative societies also distribute essential commodities (grain, sugar, oil etc) to the tribals during lean periods.

SC/ST Federation

The Federation of SC/ST Societies or Kerala State SC/ST Development Cooperative Federation was established during the year 1981 by the Government of Kerala in order to coordinate the marketing of minor forest products collected by the SC/ST societies from the forests of Kerala. It is thus the apex body of these societies. The activities of the Federation include implementation of welfare activities for the SC/ST communities like enhancement of employment, marketing of the products collected from the SC/ST societies, etc, The Company has profitable assets like petrol pumps, honey processing units, and an Ayurvedic medicine manufacturing unit under the brand name of "Ayurdhara". The annual turn over of the company is Rs. 10 crores..

The working capital of SC/ST Federation is Rs. 500 lakhs. The federation is totally exempted from paying royalty/ forest rentals to the government for procuring NTFPs as per the government order 35/93 dated 4-5-1993. The Forest Department leases out the forest ranges to the SC/ST Federation for the extraction of NTFP and medicinal plants. NTFP collection by the Federation begins after the agreement of allotment of forest ranges/ areas is signed in the presence of the concerned DFO before 31st July every year. Collection permits are then issued to the tribal members of the Federation. Collection agents are appointed for the collection periods and funds are advanced for making necessary infrastructure facilities. Once the collection depots exhaust their storage capacity, the goods are transported to Federation and then to the Federation's godown for marketing. The Pharmaceutical Corporation Limited (Government of Kerala undertaking) is expected to purchase their requirements of NTFPs from SC/ST Federation and the rest of the produce is sold in the open market on tender cum auction basis.

The Government of Kerala has set up a high level committee called Minor Forest Products Committee or MFP Committee to take decisions on various aspects in relation to collection of NTFP in the state. The Committee consists of the CCF (Development) as chairman, Registrar of Cooperative societies, the Director of Tribal Welfare, the Managing Director of Kerala Pharmaceutical Corporation, the Health Secretary, and the Managing Director of

Kerala State Scheduled Caste and Scheduled Tribe Development Cooperative Federation Ltd as members. The Committee annually reviews and refixes minimum rates for purchase and sale of NTFPs by the federation.

Role of Forest Department

The Kerala Forest Department has entrusted monopoly procurement of 100 NTFPs to SC/ST Federation. It provides transit passes to the SC/ST Cooperative Societies for transporting NTFPs from collection areas to godowns. Legal actions are taken by the Department against the middlemen/private traders and non-tribals who are involved in the unauthorized collection of NTFPs in Kerala.

The Department has laid down following restrictions for extraction of NTFPs by the SC/ST Cooperative Societies:

- The members should not enter the leased forest area and initiate extraction of NTFPs without obtaining the license from DFO.
- They should prevent illegal collection of NTFPs from vested groups. The Forest Department shall issue transit passes to transport NTFPs from 6 am to 6 pm from collection point to the godowns.
- The quantity of NTFP collected and exhibited in the Society monthly accounts should tally with the total quantity covered by the transit permits issued by the Department for the corresponding period.
- During the collection of NTFP produce no damage shall be done to the trees by looping or breaking the branches. No immature produce shall be procured by the Society members.
- If any fire occurs in the leased forest area the Society people should provide every assistance to extinguish the fire and they should immediately inform the nearest forest, police or revenue officer.
- The DFO has the right to impose fine for any illegal extraction of NTFPs. For any such illegal action, the Society shall be liable to pay all the damages.
- In the event of any breach by the Society or its agents the DFO has the authority to cancel the contract/ agreement by written notice.

For NTFP management another government order, G.O (Rt) No. 40/2001/ F & WLD (G) Department dated 2.2.2001(vide annexure-10), has been issued by the state and tribal

Vana Samrakshyana Samiti (forest protection committee or VSS under the JFM programme) has been formed with the objective :

- To enlist the participation of tribal communities living in the forest area for sustainable management of NTFP and protection of forests
- To utilize the indigenous knowledge of the tribal communities as far possible for the above purpose
- To empower the tribal communities so that they confidently take part in the programme
- To nurture the community collectiveness of the tribal people in order to help them to solve their basic livelihood problems
- To organize forest protection committee based on the traditional tribal hamlets

These tribal forest protection committees have been introduced as the new institutions for management of NTFP in Kerala. This management is to be based on microplan with inventorization, and the Committee is to certify that the NTFP collection is as per the microplan.

Following activities are to be undertaken as per the NTFP management system:

- special care programme for rare & endangered species
- management of gene pool conservation zones
- special enrichment programme for regeneration of degraded forests.

As regards the utilization of profit from the sale of NTFPs, 50% is to go to VSS members through the SHGs, 25% for management & protection, and 25% to go to the Credit Fund.

Processing unit at each hamlet and store at Range level is also to be provided.



THE IMPACT OF FOREST RIGHTS ACT, 2006 ON NTFP REGIME

As said earlier, it is the Forest Rights Act, 2006 which defined for the first time the term 'minor forest produce' so elaborately, and that too in conformity with scientific conclusions. The disadvantage of the previous practice of putting bamboo at par with timber resulted in financial loss to the local communities. For instance, in Odisha, the JFM resolution (1993) said that VSS would have 50% share in the final harvest of timber, and since bamboo (lacking mention vis-a-vis the benefit sharing thereby leading to a confusion) was considered at par with timber, hence the share of VSS in this case was also limited to 50% which proved unprofitable in a number of cases (Rath, 2006). The problem continued till May 2006 when the government (GoO) decided to give full share to the VSS.

The Forest Rights Act Rules were published in 2008. These Rules contain details of the processes to be followed for implementation of the said Act. Note-worthy among these details is the fixation of the limits of disposal of MFP allowed to the forest right holders, as under:

"disposal of minor forest produce" under clause (c) of the sub-section (1) of section 3 of the Act shall include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood" (Section 2-d).

However, since last two years of the publication of these Rules it has been commonly observed that the government(s) at various levels has (have) focused on the claim settlement for rights over the forest

land. Even the beneficiaries have done the same thing, and facilitating agencies like some NGOs have also ignored the MFP issue in this context. Of course, land is quite important; but it is usually claimed for non-forest purpose; and except for hunter-gatherers other communities usually tend to give forest a second priority over land.

The Forest Rights Act, 2006 was usually perceived by various government agencies (as well as some non-government agencies) as an assurance for rights over forest land to deserving people. On 29th November 2008, Mr.S.P.Mishra, then Joint Secretary to the Government in Forest & Environment Department of Odisha intimated the PCCF, Odisha that resolutions had been passed by some GPs/Palli sabhas in the state to claim their right to collect & dispose bamboo and kendu leaf as per the provisions of FRA. He was most probably referring to the resolutions adopted under RCDC's facilitation(see inbox).

A Special Drive by RCDC

RCDC wanted the Gram sabhas exercise their rights over MFPs as provided in FRA, and hence encouraged them to take up the issue with the government. Accordingly, on 2nd October 2008 a number of GPs in some districts of the state adopted resolutions and submitted to the Hon'ble Governor of Odisha. The submission said that whereas FRA recognizes ownership rights of people over MFPs, and whereas the government has not take any initiative to comply with this provision despite memorandums already submitted, now therefore this Gram sabha adopts a resolution to the following effect:

1. We shall exercise the rights of selling/purchasing bamboo and kendu leaf, etc. from 2009, and any interference on the part of government shall be opposed.
2. The government should help in marketing & finance.
3. Necessary initiatives will be taken to sensitize people that kendu leaf and bamboo are also MFPs.

A copy of this submission was sent to the Chief Minister, Chief Secretary, Forest Secretary, Tribal Welfare Secretary, Panchayati Raj Secretary, members of State Monitoring Committee, and also to the Secretary, Ministry of Tribal Affairs, Government of India. However, no further follow up was made partly because the initiative was focused on sensitizing the people of their rights under FRA. On the other hand, another phase of intervention was made in October 2010 when 4 GPs in RCDC's operational areas adopted resolutions inviting the Forest Department to render necessary assistance as per clause 7 in the letter dtd.21st May'10 of the Secretary, MoPR(vide annexure-3).

Whereas no significant follow up in the light of the afore-mentioned intimation is known, the letter of Mr. A.N.P.Sinha, then Secretary, Ministry of Panchayati Raj, Gol written on 21st May 2010 to the Chief Secretary of PESA states seems to have some impact as Mr.Sinha urged for urgent focus on the proper implementations of the provisions of PESA in order to contain extremism(maoist/naxalite movements). Among other things, he suggested the following:

"Incorporate definition of MFP, as provided in the Forest Rights Act, 2005, in all laws and rules. Undertake management of MFP with the consent of the Gram Sabha and in case MFP is collected by a para-statal organization, the net income should go to the people."

Whereas in the meantime MoPR has constituted a committee to look into the mater of MFP, and consultants have been engaged by the Ministry to study the status of PESA and MFP regime, etc., and it was further known through some private communications that no PESA state was known to have conformed to the above suggestions of Mr. Sinha atleast by end of September 2010; RCDC interacted with the state officials in the study states during the period May to July 2010 to get updated about the status of implementation of the Forest Rights Act, 2006 particularly in respect of the provisions on minor forest produce. The most common finding of this interaction was that in all these states the authorities interacted with appeared to be almost ignoring or ignorant of the said provision. Forest Rights Act, 2006 was seen by them as a provision related to forest land, and the issue of MFP was not a matter of focus.

In non-PESA states like Tamilnadu, Kerala, and Karnataka, the above-referred letter of the Secretary, Ministry of Panchayati Raj was not to have any impact for obvious reasons; but that can never mean that the focus of this letter in context of MFP, FRA, and extremism have no relevant for these states. The Forest Rights Act, 2006 makes no discrimination between PESA- and non-PESA states regarding the implementation of its provisions. Further, MFP still retains its importance in the livelihood of forest dwellers in these non-PESA states, and the government should take all measures so that this extremism doesn't spread to presently unaffected (by it) areas taking the plea of any injustice or inadequate provision.

The RCDC team further found that the state authorities⁴, particularly those in Forest Department, when made conscious of the implications of FRA in context of MFP, did not see the need of any special initiative in the light of the definition of MFP provided in FRA simply

⁴here and hereinafter meaning only to those interacted with.

because they feel that their government(s) has(have) already done a lot for the tribals(like, giving rights over MFP units in Tamilnadu, or sharing of profit from nationalized trading with the primary collectors in Chhatisgarh/MP). They find their confidence in the fact that in almost all these study states, the governments have adopted a pro-people approach since last many years in context of MFP, and have given this high priority over the revenue. However, despite such pro-people initiatives there are differences at policy- as well as implementation level that do not conform to the mandate of FRA.

Another interesting finding was that some of the Forest Department authorities believe that the definition of MFP in FRA has its implications confined only to areas/people entitled for NTFP rights under the FRA, and not to other people/areas(i.e., outside CFR areas).

A factor that should not be ignored while analyzing this situation is that the Forest Department has been the prime agency in formulating rules & regulations for NTFPs/MFPs whereas the instruction to bring the MFP policy in conformity with FRA has come from the Ministry of Panchayati Raj, and not from the Ministry of Environment of Forest. Inter-departmental differences do matter in complicating the processes of policy changes and their implementation.

Status in non-PESA states

Tamilnadu:

It is interesting to find that in its policy note for 2010-11, the Tamilnadu Forest Department doesn't even mention to MFP, as reproduced here:

"The Act was enacted to recognize and vest forest rights in forest land to 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 and to provide a frame work for recording the Forest right so vested and the nature of evidence required for such recognition and vesting in respect of Forest land. The Forest Department is facilitating the implementation of the Act. Once the tribal people are vested with the rights under this Act, land development and infrastructure development is planned under the proposed Tamilnadu Sustainable Natural Resources Management Project." (GoTN 2010₁)

The Department elsewhere states that since the tribals live in and around forests, hence the Forest Department can better take care of their welfare as the nodal agency. This envisages

creation of a 'Tribal Cell' in the Departmental headquarters, recruitment of specialized Tribal Development Rangers, ACF categories in tribal-rich forest divisions, induction of tribal youth into the Department's system through systematic recruitment & training to harness their abilities for forest management, and engagement of tribals in a meaningful partnership for holistic management of natural resources while ensuring their livelihood security & all round prosperity (GoTN, 2010₂).

The approach of the TN Forest Department can be obviously questionable (in context of FRA), but there are some realities which also matter. For instance, the Forest Department finds that local people do not show desired activism in following the processes required under the FRA, as informed to us in Vellore. There have been several kinds of welfare programmes for the tribals (like, running schools), and it is not surprising to find the new generation forest-dwellers less interested in conventional livelihoods and more interested in better scopes.

Karnataka

In Karnataka, the Forest Department has supported the efforts of a local NGO ATREE to secure the MFP-based livelihood of Soliga tribals in the Biligiriranga (BRT) sanctuary, but the recognition of Soligas' rights over NTFPs under FRA suffered a set back when the DFO refused to give his approval for the same despite willingness of the district administration. Further, the issue of miserability & vulnerability of tribals living inside the Rajiv Gandhi National Park even led to the demand to put the area under Schedule V (PESA) of the Constitution, and to allow them collect MFP, a right withdrawn obviously because the Wildlife Protection Act followed by a ruling of the Supreme Court (Sayeed V.A., 2010). Whereas the Department has already demonstrated that its focus is not on revenue generation but on conservation and sustainable livelihood, it is rather surprising that it is yet to integrate the provisions of FRA in this approach despite having potential as well as scope for that.

Kerala

Whereas the Kerala government has been criticized for excessive bureaucratization of the processes related to FRA, its Forest Policy of 2009 could not be analysed at our end being in Malayalam. However, the draft State Forest Policy 2007 that is available in English had the following statements as essential elements of forest management:

- Forest Department will closely associate with other departments both at state and district level in developing welfare programmes for tribals and other forest dwelling communities and outreach functions.
- Rights of tribal will be protected. (vide sub-sections VI-11, and VI-24)

In the meantime, it has been reported that demands "have now been coming up from a number of areas/organisations that declaration of Adivasi majority areas as V Schedule Areas is essential to truly benefit from the fruits of Forest Rights Act, since powers under the Panchayats (Extension to Scheduled Areas) Act are fundamental and complementary to FRA. This is particularly so for prevention of alienation of land as well as other rights." This simply suggests that the pro-people measures of the Forest Department have not been able to meet the mandate of the Forest Rights Act, 2006.

Status in PESA states

Andhra Pradesh

Andhra Pradesh is a southern state, and also a PESA state. The Ministry of Panchayati Raj's assessment of May 2010 did not find AP complying with the PESA's provisions on MFP. And reports also say that the AP government (Forest department in particular) has not been much favourable in settling community rights.

Maharashtra

Like AP, Maharashtra also was found not complying with the provisions of PESA on MFP in the already mentioned assessment of the Ministry of Panchayati Raj. Interestingly, Maharashtra became the first state in the country to have granted a community forest right, but local sources revealed this happened not exactly because of a favourable government policy but because of a rare coincidence of struggling community, strongly advocating NGO(s), and a favourable District Collector. And what is further interesting is that the community that received this right has alleged the Forest Department for creating problems in the transit of MFP from this CFR area.

Madhya Pradesh

The Ministry of Panchayati Raj also found Madhya Pradesh not complying with PESA's provisions on MFP. And, people have reportedly tried to stop sale of bamboo by the Forest

Department from its deports to assert their rights over bamboo as an MFP.

Recently, the Forest Minister of the state said that poverty of tribal communities would be wiped out through the forests and the schemes run by the Forest Department. He said that the tribal communities have the right to lead a life with respect and participate in the development of the country, and that the tribals would be paid Rs.2500 per month for maintaining of bamboo saplings and when the bamboo grow up percentage of profit from bamboo selling would be given to them. He further said that the tribals would be encouraged to produce tassar in potential areas(Central Cronicle 2010).

Chhatisgarh

It is true that Chhatisgarh has been known for some progressive steps on the front of MFP management, and has deregulated almost all MFPs except the few nationalized ones, but that doesn't mean that the regulatory power/ownership was formally transferred to the Gram sabha/Panchayat.

Odisha

Odisha has been quite progressive on the front of FRA thanks to the constant efforts of some NGOs and few government officers. However, community forest rights have not received due importance.

Sources in the Forest Department unofficially revealed that they had conveyed to the government that they were not in favour of transferring ownership rights over bamboo and kendu leaf because these require some specialized management procedures(like, bush cutting operations and processing for kendu leaves, and differential working procedures for *Dendrocalamus strictus* and *Bambusa bambos*), and since the Panchayats have not been successful to manage the MFP resources transferred to them since 2000, the Forest Department would not like to place more vulnerable items under their control.

Such an explanation has some justifications, and in fact reveals the lack of inter-departmental coordination.

We shall now go for categorical analysis of the status in the study states, as under:

Definition of NTFP/ MFP

While the distinction between the terms 'produce' and 'product' may be debated, 'non-timber forest products' are more used to mean what 'non-timber forest produce' should have meant, and same for MFP. Definition of Minor Forest Produce (MFP) is the most vital issue in the whole process of Non Timber Forest Produce (NTFP) management and trade. It all depends on how the government defines MFP. Quite often it is the Forest Department (FD), which is the ultimate authority in this regard. Neither the Indian Forest Act, 1927 nor any of the previous forest legislations have clearly defined MFP. The 'Committee for Recommendations on Ownership Rights over Minor Forest Produce on Gram Sabha,' taking a fillip from MP government, defined NTFP as 'the forest produce other than timber, harvestable on a non-destructive basis.' Though this definition is an accepted one, yet has its own limitation. It does not specifically say as to what is a non-destructive harvesting method and in the subtlest way relates it to the question of ownership.

According to (FAO, 1999) "Non-wood forest products consist of goods of biological origin other than wood, derived from forests, other wooded land and trees outside forests".

According to (WONG, 2000) "All products derived from biological resources found on forest land but not including timber, fuel wood, lac or medicinal plants harvested as whole plants".

The PCCF, Orissa in his letter dtd. 9th April 2003 to the Principal Secretary, Forest & Environment Department, Orissa suggested for substitution of the clause(h) of Rule 2 of the Orissa Timber & Other Forest Produce Transit Rules, 1980 as follows:

(h)(i) " Non-timber Forest Produce means Forest Produce other than Timber, Firewood, Charcoal, Bamboo, and Minor Forest Produce."

Provided that the Government may by order, modify the list of Non-Timber Forest Produce from time to time.

(h)(ii) "Minor Forest Produce means forest produce other than the forest produce mentioned in Rule 2-(h)(i) and listed in schedule-IV"(Source: File 1F(Corp)13/2000).

Whereas it is understood that a responsible official would tend to legally safeguard the interest of the government, ignoring scientific factors is certainly not expected.

States have defined MFP in following ways:

Table 4.1: Definition of MFP

Maharashtra	No proper definition
Chhattisgarh	Chhattisgarh is the only state to have come up with a reasonably clear definition of NTFP (or NTFP) in 1998 as "non-timber forest produce that can be harvested on a non-destructive basis and will not include minerals and wild animals or their derivatives".
Madhya Pradesh	MFP as defined by MP Forest Department: "NTFP that can be harvested on a non-destructive basis and will not include minerals and wild animals or their derivatives."
Orissa	In Orissa, atleast 76 items have been identified as NTFP; out of which initially 60(later 69) items have been termed as MFP. Ownership over these 69 items (MFP) has been transferred to the Panchayats. The rest have been divided into nationalized items and lease barred items. The lease barred items are mostly gums, barks, and resins, etc. that are banned for commercial extraction except to a government agency provided sustainability is ensured. There is however no clarity on the category of certain NTFPs like lac.
Andhra Pradesh	The AP MFP(Regulation of Trade) Act of 1971 defined minor forest produce as any forest produce other than timber, trees (excluding bamboos) and charcoal, specified in the schedule.
Tamil Nadu	No proper definition
Karnataka	MFP has been defined in the Karnataka Forest Rules, 1969 as "forest produce other than timber, sandalwood, firewood, charcoal, bamboos and minerals, and includes forest produce such as myrobalans, barks, fibres, flosses, gums, resin, dyes, grass, leaves, roots, fruits, seeds, creepers, reeds, moss, lichens, wood-oil, honey, wax, lac, wild animals, wild birds, Government trophies horns, hides, bones, tusks, etc. (Section 2-6)". It seems

	that this definition has been drafted erroneously since instead of including wild animals and wild birds it should have rather mentioned parts of wild animals/birds(like, feathers, horns, etc.) as it used to be during the pre-independence period when in many princely states of Odisha MFP also included wild animal/ bird products. Of course, the presently accepted definition of MFP normally excludes such parts with few exceptions like lac and tassar, etc..
Kerala	No proper definition

Classification and categorization of NTFP

The regulatory framework, which governs their purchase and trade, divides NTFP into two groups: nationalized and non-nationalized. Nationalization effectively means that state government monopolizes the purchase and sale of the specified NTFPs. Several justifications for nationalization are given, including: better returns to the primary collector, sustainable extraction and revenue to the state. In most cases, the state-owned institutions such as state forest development corporations, federations, and cooperatives control trading.

The following table can give a picture of the classification of NTFP in different states:

Table 4.2: NTFP- Classification

Maharastra	There are two nationalized items - Tendu leaves and Apta. 33 items have been defined as NTFP and handed over to the Gram Panchayat but TDC has the purchase rights.
Madhya Pradesh	Tendu leaf, Kullu Gum and Sal Seed are nationalized in the state and the rest are free.
Chhattisgarh	Bamboo, Tendu leaf, Harra, Gums(Gr.I & II) and Sal Seed are nationalized in the state and rest are free.
Orissa	In Orissa, 69 items have so far been termed as MFP. Ownership over these 69 items (MFP) has been transferred to the Panchayats. The rest have been divided into nationalized items and lease barred items. Bamboo and Kendu leaf are nationalized items.

Andhra Pradesh	In AP, Tendu patta and bamboo are nationalized. All other produces of commercial importance have been put under a specified list to be sold to a monopoly buyer. 27 produces including Gums, Tamarind, Mahul leaves(Siali) etc. are procured and marketed by GCC.
Tamil Nadu	Forest Department has entrusted collection and marketing of 23 NTFP to VFC.
Karnataka	Forest Department has entrusted collection and marketing of 45 NTFP to LAMPS.
Kerala	Forest Department permitted 100 items to SC/ST Cooperative Federation for extraction from the leased out forest areas.

Price fixation

Price fixation of non-nationalized or free NTFP is another major issue. Apart from nationalized items, the price of which is fixed by the government, no suitable mechanism is operational for others. For example, in Orissa the Panchayat Samiti is supposed to fix the prices of 69 MFP; in Tamil Nadu and Kerala it is the government, which fix the prices for the classified items. But the irony here is that the private traders exercise a major control over the prices of free produces. The basis on which the prices are fixed are often vague, many times it is not suitable for the private traders, and the people are compelled to sell the produces at whatever prices the traders want. It is alleged that even in Maharashtra though the notified items are supposed to be procured by the MTDC from the collectors, due to the biased price fixation mechanism, private traders are in the business.

Table 4.3: State-wise status of price fixation mechanism

State	Price fixation mechanism
Maharashtra	Nationalised produces- Govt, Notified items- MTDC
Madhya Pradesh	Nationalised produces- Govt, No mechanism for free items
Chhatisgarh	Nationalised produces- Govt, No mechanism for free items

Orissa	Nationalised produces- Govt, Non-nationalised (69 items) - PS. District Collector can fix the price of items not nationalized or not in the MFP list, but it has been found that due to ignorance some PSs also decide the minimum procurement price for these items too.
AP	Nationalised produces- Govt, 27 items - GCC
Tamil Nadu	Forest Department
Karnataka	LAMPS
Kerala	MFP Committee

The non-uniformity of price fixation of a particular item, especially the nationalized item, becomes the reason for heavy loss of the forest revenue. For example, in Chhattisgarh the price of sal seed was hiked from Rs 3 per kg to Rs 5 per kg during 2004-05 and at the same time the price fixed for sal seed in Orissa and neighbouring states was comparatively very low. As a result the traders tried to procure the sal seed from neighbouring states and the Chhattisgarh government suffered crores of loss during that season.

On the other hand, the minimum procurement price (MPP) hardly has any relationship with the prevailing market prices based on demand and supply of NTFP. The efficacy of such price fixation in protecting the interest of tribal from cheating by traders and enhancing the market prices by regulatory price fixing is quite questionable. There are no evidences available that can suggest that fixing MPP higher than the prevailing market prices has benefited the primary collectors. While all kinds of traders are ideally required to procure at a price not lower than MPP, only government agencies and SHGs/SHCs usually adhere to this norm and have to suffer sometimes because MPP doesn't necessarily mean a market-friendly price. In Odisha, the Panchayat Samitis are required to fix the MPP of MFP in September whereas at that time there is no knowledge if the mahua or sal seed crop would be bumper or failure in the coming season. Hence, the MPP fixed might be much lower than that desired in case of a crop failure, or not viable in case of a bumper crop. Although the GPs have the power to revise the MPP fixed by the PS, they are not found in exercising this power, because of either ignorance or negligence.

Taxation system

Table 4.4.1: NTFP Taxation system of Maharashtra

Sales Tax	13% on Royalty
Surcharge on Sales Tax	10% on sales tax
Turn over Tax	1% on Royalty
Income Tax	5% on Royalty
Surcharge on Income Tax	15% of Tax
Forest Development Tax (FDT)	12% on Royalty
Octroi (may vary with area)	4% on Royalty

In Madhya Pradesh, 25.3% commercial tax on Tendu leaf, 4% mandi tax and 4% commercial tax on Bamboo is charged. For the non-nationalized NTFP the traders give 2% mandi tax and 4% commercial tax if trading is within the state. For trading outside the state the purchaser has to obtain a C-FORM from the sales tax office and give it to the seller. For the free produce a Transit Permit is issued by the concerned forest officials when it is transported from one place to other. But once a produce is processed, there is no need of a transit pass.

Table 4.4.2: Taxation structure for nationalized NTFP in Chhatisgarh

Type and rate of tax & cess	Tendu leaves	Sal seed	Other nationalised n.w.f.p.
Forest Development Cess (FDC)	3 %	3 %	3 %
V.A.T. on sale value and FDC	25 %	4 %	4 %
Income-Tax	5 %	2.5 %	2.5 %
Surcharge on Income Tax	10 %/2.5%*	10 %/2.5 %	10 %/2.5 %
Educational cess	2%	3%	2%
Entry tax to be paid on location	1%	1%	-

*10% for individual purchaser and 2.5% from institutional purchaser such as firms or partnerships.

In Orissa previously sales tax was levied at the rate of 4% on the sale price of bamboo. After imposition of Value Added Tax (VAT) in the state the rate of tax is fixed at 4%. Apart from VAT, 1% Forest Development Tax also imposed on the produce. Besides, rate of VAT imposed on finished products is 12.5%. For Kendu leaf the initial tax structure for its sale was 16% Orissa Sales Tax, 4% Central Sales Tax and 2% surcharge. This invited legal action on the part

of traders against imposition of Orissa sales tax and Central sales tax simultaneously, following which the Orissa sales tax was replaced by Forest Development Tax(16%). FDT from KL sale was Rs.12.91 crores in 2003-04, Rs.18.61 crores in 2004-05 and Rs.21.45 crores in 2005-06. However, in 2006, FDT has been obliterated by an executive order passed by the OFDC. Moreover, VAT on Kendu Leaves is 4%.

The Orissa government charges a royalty of Rs.60/quintal on sal leaves and products thereof on transportation outside the district. Siali fibre is allowed for collection only by the kendu leaf wing of the Forest Department, for use in making bundles; and the rate of royalty charged is Rs.540/quintal.

In Kerala when the private traders sell raw materials to the pharmaceutical industries, they can fill up Form-18 and claim a rebate of 5 % on sales tax. Thus, they have to pay only 3 % sales tax. To sell the NTFPs anywhere else within Kerala, they have to pay a sales tax of 8%. If the products are being transported outside the state an additional tax of 4% is charged. The other charges involved in trade of NTFPs at the wholesaler level (who in some cases also double up as retailers) are labor charges per sack and transport charges. The labor charge per sack is Rs. 6 if being transported locally and Rs. 12 if transported outside. One sack itself costs Rs. 15, and is of 50 kg capacity.

Table 4.5 : Transit system

Maharashtra	The forest laws of the state regulate the transit of forest produce into or from or within any area in the state of Maharashtra. Forest produce includes timber, charcoal, resin, lac, mahua flower and mahua seed whether found in or brought from a forest or not. In the State, no forest produce can be moved into or from or within any area in the State without a pass issued by a Forest Officer or person duly authorised by the State Government.
Madhya Pradesh	No transit permit required for transport of non-nationalized NTFPs.
Chhatisgarh	As per Chhattisgarh Transit Policy,2001, there are certain quantitative restrictions on transport, production and processing of specified forest produces. The primary logic for restrictions given is that it will facilitate tribal community for bonafide use and restrict illegal trade in such products.

Orissa	As per Orissa Timber and other Forest Produces Transit Rules with its amendment 2002 no transit permit is required for 'Minor Forest Produce'(transferred to GP) and for bamboo species that are not found in wild/forest. Free transit of MFP has helped a lot to SHGs/SHCs to run their NTFP business.
Andhra Pradesh	The Andhra Pradesh Forest Act, 1967 and the Andhra Pradesh Forest Product Transit Rules, 1970 regulate the transit of forest produce such as timber, charcoal, cacutchour, catechu, wood-oil, natural varnish bark, lootikai, wood oil, sandalwood oil, resin, bamboo, lac resin, tumki leaves, rousa, raulfa serpentina, adda leaves and Mahua flower and seed. into or from or within any area in the State of Andhra Pradesh
Tamil Nadu	Transit pass is only applicable for timber
Karnataka	Transit requires for (a) the following whether found in or brought from a forest or not. Timber, charcoal, caoutchouc(natural rubber), catechu, sandalwood, lootikai, wood oil, sandalwood oil, resin, natural varnish, bark, lac, resin, seed of Prospis juliflora, juth, temburni leaves(Diospyros melanoxylon), resha (Cymbopogon mortini), grass and oil, myrobalans and mahua flower and seed.
Kerala	Transit requires for fuel wood, charcoal, bamboos, reeds, incha(Acacia intsia) and other forest produce, purchased from reserved forests or unreserved government lands.

The differential taxation and royalty system of different states many times put the traders in a lot of trouble. If a trader collects sal seed from Odisha, then entering the Chhattisgarh boarder would mean imposition of entry tax on it. Similarly, in Andhra Pradesh, the transit permit is not required for bamboo, but when it enters into Odisha the regime changes. There are instances in which traders, who procured sal seed from Odisha without a transit permit, were detained in Andhra Pradesh thereafter requesting the Odisha Forest Department to issue some sort of transit permit which was denied with a simple logic that there is no such provision in the state.

Provisions for non-forest dwellers

The normal practice has been to give either relaxation in the norms, or additional rights/powers regarding collection of NTFP, for tribal areas. That way the non-tribal areas seem to be in a little disadvantageous position. However, some of the rules are uniform throughout the region, irrespective of the nature of population(tribal/non-tribal).

Provisions & field activities for sustainability of NTFP resources

Whereas there have been a number of schemes sponsored by Central government and State governments for plantation/afforestation involving huge investments, the results have not been very encouraging partly because while regeneration should have been the priority in all feasible areas, natural forest growth have been allegedly cleared in some areas for plantation activities in order to utilize the funds; and partly because there has been hardly any effective monitoring and post-plantation caring system. Originally the emphasis was more on timber species (and bamboo), but with growing stress on livelihood NTFP-species are also being given importance.

Central government schemes under National Horticulture Mission, National Bamboo Mission, CAMPA, National Medicinal Plants Board, etc. have been the major source of plantation programmes. Besides, there have been some good amount of international funding available that has initiated programmes like Social Forestry. Some of these funding have been quite controversial also as it happened in case of that from the Japanese Bank of International Cooperation which was opposed in Odisha by community forestry institutions on the ground that instead of burrowing money and increasing the burden of debt for forestry the government should rather take policy level measures to encourage community institutions involved in successful regeneration of forests.

In general, plantation programmes have been seen by social activists as good systems for corruption since it is easy to show on record that so much saplings have been planted, but could not survive. There have been provisions to decide the species on the basis of participatory micro planning, but not in all cases and also not so effectively followed.

Odisha

There have been region-specific as well as common programmes of plantation in the state. Region-specific programme is carried out in the KBK districts under RLTA and National

Afforestation Program through Forest Development Agencies. Recently with the Japanese Bank of International Cooperation (JBIC) the Orissa Forestry Sector Development Project (OFSDP) is being implemented in the state which aims at restoration of degraded forests and improving the income level of villagers living in the forest fringe areas by promoting sustainable forest management, JFM and community /tribal development with improvement of the environment and poverty alleviation as the overall goal. The seven-year project (2006-07 to 2012-13) is being implemented at a total cost of Rs. 6598 million in 14 forest/wild life divisions in 10 administrative districts of Orissa.

NABARD has sponsored an Integrated Neem Development Project in the Balangir district under which 50000 neem saplings are to be planted, and women SHG members are to be benefited in the project. Already the collection of neem seed has been started by the women in 6 GPs of Muribahal Block, from the existing mature plants. This is said to be the first of its kind in the country.

The State Medicinal Plant Board has been promoting medicinal plant cultivation, whereas some other programmes are promoting bamboo. The Forest Department claims(July 2010) that bamboo cultivation has been taken up in 2716 hectares of forest- and non-forest land, and that it will be extended to additional 1071 hectares of forest land and 509 hectares non-forest land. Highly controversial attempts for promoting biofuel crops like jatropha have however suffered retardation following severe criticism.

The state has been wonderfully conservative to ensure the sustainability of NTFP resources. A detail note on the same is available as a supplement at the end of this book.

Chhattisgarh

Considering the importance of NWFP in the state economy, the State Government has declared the state as "Herbal State" to focus on the activities of conservation, sustainable utilization, processing and marketing of NWFP. Accordingly, CGMFP Federation is taking the needed steps. Conservation of ecosystems rich in NWFP through PPAs is one such initiative.

People's Protected Areas(PPA) are forest areas rich in NWFP conserved and managed with the concept of ecosystem management aiming at increase in total biodiversity and biomass. Forest area rich in NWFP is identified in each forest division for conservation and intensive management with active involvement of local communities. The minimum area under each PPA is not less than 5000-hectare area. Every year 1000 hectare area of forestland is

brought under in situ conservation with effectively protecting the remaining area against fire and grazing etc. Total area identified and brought under PPA's is more than 2 lakh hectare area with more than 1 lakh hectare area under intensive management. Every year about 35000-hectare area of additional forestland is brought under intensive management. The various components under this program include in-situ-conservation & ex-situ cultivation, non-destructive harvesting practices, value addition, and capacity building, etc..

Besides this, a Sustainable Forest Management (SFM) Cell has been created in the state under the chairmanship of Principal Chief Conservator of Forests.

Madhya Pradesh

In order to increase productivity of natural forests and facilitate afforestation on private and community lands to bridge the demand supply gap of produces, the Forest Department has established Forestry Research and Extension Circles (R&E Circles) in eleven agro-climatic zones of the state. These circles provide a focus on extension programmes, production and supply of superior quality seedlings, seed improvement programmes, demonstration nurseries, demonstrations of new technologies, training of farmers, and applied research.

Andhra Pradesh

The Forest Department has laid down certain restrictions for the GCC and private contractors in the agreement while leasing out the forest area for collection and marketing of NTFPs and medicinal plants. These include:

- The GCC and the private contractors should supervise the process of collection of NTFPs by the tribals. They should not damage or break the tree branches or harvest the immature produces. In the collection of barks or fibers the shrubs should be felled flush with the ground.
- If any fire occurs in the reserved forests including the leased area, the GCC and the private contractors, their authorized agents and all the persons authorized by them to collect, store or remove the NTFPs shall render every assistance and use their best endeavors to extinguish such fire and intimate the occurrence of such fire to the nearest forest officer, police officer or revenue officer.
- If the authorized agents of GCC or the private contractors are found guilty in kindling the fire in the reserve forests or protected forests included in the leased area. The

divisional forest officer shall assess the damage caused to the forests due to such fires and the GCC or the private contractors are liable to pay the damage.

In the event of breach of any of the above conditions either by GCC or private contractors, the PCCF has the right to cancel the lease agreement by written notice and in such an event all the stocks remaining in the leased area on the date of cancellation shall become the property of the government.

Hundred percent centrally sponsored schemes for raising NTFPs including medicinal plants are implemented in Andhra Pradesh since 1989-90. With the initiation of JFM programme in Andhra Pradesh during 1993-94 the tribals who were engaged in the extraction of NTFPs were also made the members of Vana Samrkhshana Samithis. The Forest Department has associated the VSS (tribal) members in raising NTFP plantations in degraded and afforested lands. Conservation and regeneration of NTFP species were also the top priority in the micro plans of VSS. On account of protection and conservation of VSS areas, certain NTFP species are repapering in the forest area.

As reported in the working plan of Visakhapatnam Forest Circle (1996-97 to 2005-06), the participation of tribals/ local people in the JFM programme in Visakhapatnam Circle has resulted in the increase of production of certain NTFPs. This is only due to more protection of forest areas by the VSS members from cattle grazing and biotic interference. The production of Terminalia chebula and Bauhinia vahlii has gone to 400 percent and 600 percent respectively. The production of tamarind is also increased by more than 200 percent.

In the recent times there has been increased awareness about the use of medicinal plants. The growing awareness among people has led to the cultivation of medicinal plants through VSS. During 1998-99 most of the VSSs in AP have raised medicinal plants supplied by the Forest Department. The Department has established demonstration plots at Range level to provide planting materials and their seed to the VSS members for raising medicinal plants.

The Forest Department and GCC together are conducting regular awareness programme highlighting on the sustainable extraction of NTFPs which includes season-wise collection of NTFPs, encouraging natural regeneration and planting of NTFP species, discouraging the harvesting of roots and unripe fruits and medicinal plants, etc.

The GCC is also imparting training to the tribals on scientific tapping of gum and its quality control. The Kovel foundation, Visakhapatnam and GCC are collaboratively supplying tamarind

grafts and seeds of *Sterculia urens* and *Pongamia pinnata* for propagation in the forests.

Kerala

The micro plans of VSS emphasize on which NTFPs to be extracted by its members and accordingly such NTFPs are extracted and supplied by the tribals to the SC/ST Federation. In the Participatory Forest Management, emphasize is given to regeneration of natural forests through protection rather than afforestation as it is monetarily beneficial and more effective.

The participatory forest management action plan focuses on sustainable management of NTFPs, consisting of sustainable harvesting and regeneration along with bio-diversity conservation, with the active participation of tribals.

The Forest Department allots specific forest ranges/ areas every year for extraction of NTFPs by the tribals to prevent over exploitation of NTFPs in a particular area.

Training is provided to the tribals by the Forest Department on:

- Identification of NTFPs
- Scientific and sustainable extraction of NTFPs
- Propagation and planting of NTFPs
- Pre-processing and semi-processing activities

The VSS tribal members are assisting the Kerala Forest Department in protecting the forest from all sources of illicit and illegal activities.

FRLHT has helped establish in the state medicinal plant conservation areas. Recently, the state has proposed to establish medicinal plant demonstration gardens in each district, home herbal gardens, and school herbal gardens.

Tamil Nadu

The Tamil Nadu Forest Department has laid down several restrictions for the lessee for the extraction of notified NTFPs including medicinal plants from the leased out forest areas. These include:

- During the collection of NTFPs and medicinal plants no damage should be done to the trees by lopping or breaking the branches. No immature produce should be collected from the forests.
- The lessee is prohibited to transport the NTFPs either in lorry or by any other conveyance or by manual labour between 7 p.m. to 7 a.m. from the forests.

- If the lessee is habitually found to be illicitly felling the trees the lessee's contract will be cancelled.
- The government reserves the rights to "advance burning" to prevent the occurrence of forest fires in the leased forest areas. The lessee cannot claim any compensation for any loss sustained by the lessee through such advance burning.
- The lessee and his authorized agents shall not light fire in the forest for cooking or for any purpose. To prevent grazing the lessee should not allow carts to remain in the forests during nights.
- If any fires occur in the leased forest area, the lessee or his authorized agents should try to extinguish the fire and should immediately inform the nearest forest, police or revenue officer.

If the above instructions are violated by the lessee (LAMPS and private contractor) the District Forest Officer has the right to cancel the agreement by written notice.

With the help of FRLHT, 11 MPCAs (no harvest sites) and 8 MPDA sites have been developed in the state. Six of the MPDAs are in TAP areas.

Medicinal plant nurseries are established in almost all the forest divisions in Tamil Nadu. The Forest Department in association with LAMPS and TRIFED is conducting awareness programmes on scientific extraction of NTFPs and medicinal plants (rotational harvesting of NTFPs, discouraging lopping or breaking branches of NTFP tree species and harvesting of immature produce) and raising NTFP plantations and medicinal plants.

Karnataka

The restrictions laid down by the Forest Department to the LAMPS and the private contractors for the extraction of NTFPs and medicinal plants in the leased forest area include:

- The LAMPS and the private contractors should supervise that no damage should be done to the trees by lopping or breaking the branches by the tribals or the agents of the private contractors during the extraction of the NTFPs. No immature produce should be collected.
- Neither the private contractor nor his employees shall enter the reserve forest either before sunrise or after sunset for extracting the leased NTFPs.
- If any fire occurs in the contract area, the lessee or his agents shall render every assistance and use their best endeavors to extinguish the fire. In all such cases, the lessee or his agents' should immediately inform the occurrence of fire to the nearest forest, police or revenue officer.

- The lessee shall be responsible for all the damages that may be caused to any forest products belonging to government, within the contract area by fire, illicit felling or any other cause traceable to any act or omission on the part of these lessee, such sum at such rates as may be assessed and fixed by the Deputy Conservator of Forests, the lessees shall pay the entire amount of the damages.

NTFP collection is often suspended by the Forest Department between 15th to 30th April every year to minimize the incidence of fires in the forests. For the breach of any of the above conditions by LAMPS or by the private contractors the Deputy Conservator of Forests has the right to cancel the leased agreement and the entire cost of the damage should be borne by the lessee.

The JFM in Karnataka was initiated during 1993-94. Village forest committees are formed in both tribal and non-tribal areas for implementing JFM programme. The Forest Department and the VFC tribal members have planted NTFP species in the forest areas, which include tamarind, and amla, etc. in both tribal and non-tribal areas, under the centrally sponsored scheme. The VFC members and Forest Department also reportedly undertake enrichment planting to improve the native stocks of NTFP species under JFM programme.

Nurseries have been established in almost all the Ranges, where NTFP extraction process is undertaken. Different NTFP species (*Sapindus trifoliatus*, *Acacia concinna*, etc) are grown in these nurseries for distributing to the local/ tribal people for growing in the forests.

The Forest Department is conducting awareness programme in the tribal villages highlighting on how to extract a particular NTFP, discouraging not to lop and break the branches of the NTFP species while extracting its products and also discouraging the tribals not to harvest the immature produce.

FRLHT has its headquarters at Bangalore, and with its help 10 MPCAs have been established in the state.

Contradictory provisions

Sal seed policy

The economic importance of Sal seed is based on its tremendous and uncharted export potentiality. In the mid-sixties, Orissa pioneered scientific research on Sal seed and its use as raw material for oil and cattle feed. Sal fat, which contains about 69 per cent symmetrical

triglycerides, makes it particularly useful in the food sector. It forms the primary ingredient for products such as oil, soap, cocoa-butter equivalent (CBE) that forms a very efficient substitute for manufacturing chocolate, and tanning materials. Potential availability of sal seed in India has been estimated to be of the tune of 1.5 million tonnes (Trifed). The potential of Sal fat availability is around 0.18 million tonnes. However, TRIFED estimated that only 6,000 to 9000 tons of Sal fat is being produced annually in India. Till recently, the bulk of the best quality sal oil used to be exported to developed countries like Canada, France, Italy, Japan, Malaysia, UK, etc, where it is used as a substitute for cocoa butter. If the quality is maintained, free fatty acid (FFA) is below 5%, and hydroxyglycerides content is less, Sal oil has a tremendous export market. Sal fat is competitive in the export market due to its low price. Again, it is invariably organic, free from pollutants and fertilizers.

The fluctuations in the Sal oil exports have been attributed to the following reasons:

1. Sal oil is mostly imported by countries for use as a substitute for cocoa butter, known as cocoa butter equivalent (CBE). The rise and fall in prices, besides the quality and quantity of Sal oil, is linked to the production and use of cocoa butter (CB) itself in chocolate and confectionery industries.
2. International trade and development indicators suggest that the fluctuations in Sal oil export are also due to availability of cheaper substitutes like shea and illipe. No wonder CBE suffers in the event of low international cocoa butter price and availability of substitutes like milk fat replacers (MFR).
3. The consistently low price of cocoa beans in international markets has led to greater quantity of cocoa being used in chocolate making, increasing the demand further.
4. The exporters of Sal oil in India failed to maintain the strict quality specifications of chocolate insisted on by countries like UK. The reason for not meeting the specified free fatty acids and hydroglycerides in control was the gap between collection of seed and the crushing of kernel to oil in the factory.
5. Govt of India does not have a quality monitoring system as regards sal fat to meet pesticide norms implemented by European and Japanese Governments.

It is also pertinent to note that Government of India is hardly concerned as regards the quality specifications set by the international buyers. The new pesticide norms implemented by European and Japanese Government have forced the major buyers to shift to other

alternate markets as Indian specialty fat is unable to meet such high quality specifications⁵. In 1973, there were two major issues in chocolate production: milk chocolates with high milk content, and use of non-cocoa vegetable fats. The 1973 Chocolate Directive⁶ specifically stated that it did not affect Member State legislation, which authorized or prohibited the addition of vegetable fat, other than cocoa butter, to chocolate products. The European Commission had also expressed the view that chocolate products containing non-cocoa vegetable fats, which are lawfully manufactured and marketed in one Member State, must be allowed to be marketed in all Member States. In the 1996 Directive of the Commission, provision was made to allow the use of non-cocoa vegetable fats in chocolates made throughout the European Union. The Commission agreed on a Common Position on a new Chocolate Directive that allowed 5% replacement of cocoa butter by vegetable fat(CBE) in chocolates. The directive was finally adopted in 2000.⁷

The European Parliament had a number of concerns about permitting the use of non-cocoa vegetable fat, most of them related to consumer interests within the EU and with cocoa producer interests outside it. It viewed that the extension of the use of non-cocoa vegetable fats to the whole of the EU could result in a significant reduction in the foreign exchange earnings of cocoa producing countries. At the same time, it was recognized that this would be offset through increasing the market for those tropical nut oils, which are essential in the making of chocolate speciality fats. Therefore, the EP voted to restrict the sources for non-cocoa vegetable fats in chocolates to those that originate in tropical countries.

A choice of sal fat over cocoa would mean loss of foreign exchange for the West African countries meaning that health and school fees become higher. Estimates of the loss in

⁵ International buyers complain that sal fat procured from India is getting contaminated by pesticides due to improper methods followed during harvesting, packing, value addition, and storage etc. Banned pesticides like Aluminium sulphide and DDT have been allegedly used during storage. In some cases, lack of awareness about effective quality control is obviously the chief reason accountable for this.

⁶ The Chocolate Directive is that set of rules, which operates within the European Union (EU) to define the key elements of products which are sold using the description “chocolate”. These rules lay down criteria for the use of terms such as ‘chocolate’, ‘milk chocolate’, and ‘cocoa powder’. The criteria define compositional requirements such as the minimum quantity of additives like lecithin. There are, in addition, specifications for labeling of chocolates and chocolate products. It sought the Member States to permit the use of up to 5% non-cocoa vegetable fats in chocolate throughout the European Union, subject to certain constraints. It also rules that labeling is discriminatory against foreign imports.

⁷ A few other countries such as Malaysia, Indonesia, Taiwan and Russia allow more. It is understood that the Indian Government is considering a level slightly above 5%.

markets vary from a low 88450 tons to a high 2, 00, 000 tons. Western consumer collective was concerned over replacing a saturated fat like cocoa butter with more harmful hardened hydrogenated fats. However, the opposition does not seek to prevent the manufacturers of vegetable-oil candies, but simply to have them called something else and not chocolate. The greatest threat, therefore, to sal oil is not a market share but whether their produce can actually be termed as 'chocolate'. The Fair Trade positions itself with the rights of the southern cocoa producers and the European consumers and advocates for denomination of chocolate to be reserved for cocoa based products not containing vegetable oil - vegetable candies may be called "vegetates".⁸

In India, though Sal seed finds uses in food processing industries like chocolates, ice creams, Vanaspati, etc, domestic food laws remain a bottleneck in further diversification of the uses of Sal seed. Domestic legislations like the Prevention of Food Adulteration (PFA) Rules, 1954 prohibit use of Sal fat in a number of prospective industries like chocolates, ice creams, etc. It says that "Chocolate means a homogeneous product obtained by an adequate process of manufacture from a mixture of one or more of the ingredients, namely, cocoa (cocoa) beans, cocoa (cocoa) nib, cocoa (cocoa) mass, cocoa press cake and cocoa dust (cocoa fines/powder), including fat reduced cocoa powder with or without addition of sugars, cocoa butter, milk solids including milk fat and non-prohibited flavouring agents. The chocolates shall not contain any vegetable fat other than cocoa butter."

Sal fat in Vanaspati ghee (upto 20%) is preferred as there is no fear of this fat settling as cholesterol in blood vessels to cause blockage in the heart. India is importing Vanaspati for domestic consumption. In Budget 2006-07 for vegetable oil sector, the Indian government has raised the custom duty on Vanaspati from 30 to 80 %, which would check the import from Malaysia and Indonesia. However, import of Vanaspati from Sri Lanka would continue at zero percent duty. Under the FTA signed with Sri Lanka, India imports around 2.5 lakh tonnes of Vanaspati at zero percent import duty while the Indian product is charged a whopping 81.65% duty. This would seriously affect the working of the domestic Vanaspati industry and sal oil industries.

Mahua flower in Odisha: free without freedom

Mahua has always been controlled by the state excise laws in Odisha except for a brief period when it was nationalised. The Excise Department issues permits for collection and storage by charging a nominal license fees.

⁸ Swift, Richard, 'Cocoa Farmer in Cadbury's Court'.

Mahua was nationalised in April 1991 to find outlets for its utilization as distilled liquor was banned in Orissa in 1990. TDC and OFDC were entrusted to trade mahua from April 1991. The Corporations without undertaking detailed study on viability of the trade and also without exploring market linkages, entered into the trade, obviously because of the decision of the government. The government fixed the purchase price at Rs. 3 per Kg in the first year. However, the prices ruled at Re. 1 in the neighbouring state what is now known as Jharkhand(a part of undivided Bihar). The government agencies were saddled with mahua from the neighbouring state in addition to the production inside the state. But then ultimately it had to be sold in the Ranchi market. The agencies had to resort to distress sale at Re. 0.5 to 1 a Kg, while the total cost came to Rs. 5 including overheads. A substantial amount ended up as mere waste to save the government agencies' storage cost. TDC and OFDC sustained losses of Rs. 9 crores and Rs. 20 crores respectively. The only gainers were the agents who bought mahua from Bihar and sold off in Orissa due to the price difference.

The situation forced the government to get back to where it was earlier. Mahua procurement and trading again came under existing excise law from March 1992. Licenses were to be issued accordingly by the Excise Department for collection as well as trading as was being done previously. It is the private entrepreneurs who have been controlling the trade since years. Most mahua flowers are exported to Jharkhand and Chhatisgarh illegally. The illegal nature of the trade is to evade various rules and financial charges.

Post-March 2000 the major significant change that has been observed in the ground realities with regard to mahua is the collectivization of the trade that also helps the primary collectors to properly store the produce so as to sell at a higher price during the lean season. SHGs/SHCs have been able to some extent to make better deal for their mahua. However, although the MFP policy has made mahua a deregulated item requiring no transit permit, the Excise Policy has not changed much to bring itself in conformity with this provision. Whereas the restrictions on the part of Excise Department have some justifications, there are many others things(like, exemption of certain charges, and permission for storage beyond the limit of 5 Kg) which the government can do so as to the ease the impact of the same on the SHGs/SHCs. Though the ownership rights was transferred to the Panchayat, the Excise Department still continues to hold control over the licensing, and hence it is only a very few powerful private players with big financial muscle who control the trade.



ISSUES IN NTFP MANAGEMENT AND TRADE

The issues in NTFP management and trade are many. There are some general issues, which are common for all the states, and at the same time there are some specific issues and institutional issues which are applicable for the states.

Legal issues

The issue of ownership over MFP still lies unresolved. While the conclusions of the Expert Committee constituted by MoPR regarding the definition of ownership seem to be handicapped, the concern behind limiting the scope of 'ownership' cannot be totally ignored. However, the FRA makes it clear that the ownership shall be enjoyed by the community and the decision of recognizing this right of the community is to be taken by the Gram sabha. Whereas Gram sabhas have not been found to be much active on their own, competency of the GP in terms of technical management of different MFP resources and capacity of the GP in terms of financial-, human resource and infrastructure to handle this matter is yet to be developed.

After the enactment of PESA the Orissa government has handed over ownership rights of 69 MFP to Gram Panchayats. Out of them, only a few are procured commercially as neither the primary collectors nor the traders have thorough knowledge on domestic and commercial use of many items. Further, there is hardly any attempt to develop the marketability of currently obscure items. The resolution of March 2000

clearly said that GPs would decide the registration fee for MFPs, but it is actually decided by the government. It has been observed that in some parts of the state few GP authorities have, out of ignorance, adopted principles that are actually expected under true ownership; like, differential registration fee for different items, and also for different traders of the same item depending on whether the trader belongs to the concerned GP or is from other areas, and a mandatory caution money for the trader, etc. (Rath 2008). The GPs do not have control over high value MFP like KL.

Further, in Odisha and some other states which have endowed ownership rights to GPs/ Gram sabhas under PESA on MFP, there is no clarity on what kind of ownership has been given. In MP and Chhatisgarh, the Forest Department shares the profit only from kendu leaf, but not from other monopoly items like harra or gum.

One of the most ridiculous things that has been found in almost all the states is that the GPs are yet to receive proper orders/circulars and other relevant documents as well as orientation on handling the MFPs properly. As it happened in Odisha, the NTFP policy was in English and RCDC took the initiative to translate the relevant documents into the local language and then sent it to various GPs. It was found that many GPs carried out their responsibility in MFP business simply on the basis of what RCDC had supplied, and had RCDC not taken such an initiative, it would have become virtually impossible for the GPs to follow the norms.

State specific issues

In the following we shall discuss some state-specific issues that actually have relevance for other areas or the country as a whole, either directly or indirectly, fully or partially. For instance, lack of proper inventorization of NTFP resources has been discussed under Maharashtra state, but it is a common issue for other states also.

Maharashtra

The actual sustainable productive capacity of various NWFP is not very clear. The quantity consumed by the local people for their genuine domestic use and also the magnitude of removal is not properly assessed. The production of NWFP from uncultivated and cultivated private land is also not known. However, it is generally reported that most of the NWFP requirement of industries is met from forest area overtly and covertly. The rough estimates are available regarding the items sold by Forest Department by public auction and also the

items procured by MSCTDC. The local people are very casual in collecting and have not much concern for sustainable harvesting. FD will have to educate, convince and involve them in systematic and scientific collection, storage, value addition and marketing etc. Linkages have to be developed to sell the produce directly to the industries.

Chhattisgarh

Policies in Chhattisgarh seem to be very progressive. The state has NTFP in sharper focus in its agenda, e.g. Chhattisgarh has been declared as herbal state. The state seems to have moved a step ahead, establishing number of cold storages near to mandis (market yards). Raipur is one of the largest mandis for NTFP in the country. Although the state wanted to eliminate the role of middlemen, it created another middleman in the form of MFP Federation. The PCS members have benefited but do not really participate in the management and actual operations except for working as collectors. Even under present system, members/collectors are mere wage earners. The Samiti members are not much aware of rights and responsibilities of being a member.

In Chhattisgarh Forest Policy 2001, it is clearly mentioned that the state should take appropriate measures to hand over the ownership rights to gram sabha; however an enactment to this effect is pending. The co-operatives are functioning merely on paper with control actually with the Forest Department or top authorities of the MFP Federation. The major burden of work is borne by FD while revenue of the Federation increases. The executives from Forest Department are appointed in all the important positions and take all decisions. There is resentment amongst forest officers who are not part of the Federation. The members do not have any system of control over them.

TL being one of the most important NTFP of the state with political implications, entire Forest Department gets involved in the business for three months at cost of normal working that severely affects forest protection and development. These costs do not figure in calculation of net revenue. A genuine co-operative structure will not only increase involvement of people, but also reduce burden on state FD. The efficacy of 3-tier co-operative system in dealing with NTFP other than tendu leaf can be guessed from the fact that societies at village level are known as Tendu Patta Samitis. Even among nationalised produces, Tendu patta being the major revenue earner, gets all the attention with other three produces sidelined. The Forest Department people also admit (though unofficially) that not much effort is put into procuring sal seed, harra and gums.

With regard to non-nationalised produces, though some primary co-operative societies and district unions have made a beginning, paucity of funds and administrative bottlenecks prevent it from becoming effective. The Federation has been unable to sell some produces in last few years. It also faces difficulty in disposal of gums and that's why it goes slow in procuring these produces. There are areas where it has been found that the Federation does not have procuring centres for purchase of produces. But as produces are nationalised and government or its agents are the monopoly procurer, collectors face difficulty in selling them. Price announced by the Federation is sometimes even lower than market rates in case of certain produces, which encourages pilferage. Rate of TL and harra were higher in neighbouring states of AP and Maharastra. As per guesstimates, 1.5 - 2 million tons of tendu leaf gets supplied unauthorisedly to bidi manufacturing areas inside and outside the state.

Several parallel bodies have similar roles and responsibilities in the present context after enactment of PESA and its state counterpart. As such, there was confusion between roles of MFP PCS and committees formed under JFM regarding rights over NTFP. Now there are Panchayat bodies. In case all these bodies acting at village level are not same, a conflict is bound to take place. The three can hardly ever be the same. Chances of JFM committee and PCS being same are remote, as the latter usually constitutes number of villages. Membership of JFM committees and PCS are not same. While membership to JFM committee is open, PCS are made up of TL collectors only. JFM committees are recognised by FD, but PCS are recognised by Registrar of Co-operatives. While FPC/ VFC are entrusted with conservation and development of forest and NTFP, no such requirements are applicable to NTFP collector(PCS member). While the latter gets bonus and other monetary benefits, the former is deprived of his/her efforts of conservation. How could the two be integrated? This could happen either by inclusion of members of VFC/FPC into the PCS or by sharing part of the profit of the NTFP trade to the JFM committees. NTFP collection could be decentralised, in the JFM area to begin with: and with marketing support, members can get quicker and better benefits. This also should strengthen the JFM network. As of now, it depends on the DFO to create harmonious relationship between PCS and JFM committees. This problem has a far reaching consequence in the long run since after PESA, Gram Sabha has ownership rights where as JFM committees have usufruct rights. In this conflict between ownership and usufruct rights, Gram Sabha will always have an upper hand. Moreover, in the context of FRA new mechanisms may be required as it has the scope for simultaneous rights of ownership and conservation/management, thereby surpassing the both the JFM and PCS mode of operations. In fact, FRA seems to provide a better solution to the issue though the state regime is yet to be revised and updated accordingly.

Odisha

Although the state spends a lot on the forestry development, tribal development, poverty alleviation schemes and programs, it is yet to practically emphasize on NTFP development though there have been isolated efforts under specific programmes corresponding to this (for instance, the Forest Secretary has recently announced that production & export of medicinal plants would be given priority, and that VSS members would help in promoting the export as well as preventing the distress sale of these plants). A civil society initiative submitted therefore a memorandum with specific recommendations, to the 3rd State Finance Commission of Odisha in 2009 so as to effectively mainstream NTFP development for a secure livelihood; but whereas the Commission has already submitted their Report it is yet to be made public and hence their recommendations on NTFP development is not known.

The NTFP policy of 2000 clearly mentions that the GP has ownership right over MFP. The issue of ownership over NTFP still lies undefined and remains dependent on how the Government defines NTFP and it is the FD (and not GPs), which is the ultimate authority in this regard. In other words, GPs can only exercise control over those produces that the FD decides as MFP. The policy further prescribes that all operations with regard to the trade and transaction of NTFP will be subject to the 'existing laws in force', i.e., subject to the Forest Act, Rules, and Orders, etc.. It is pertinent to note here, as envisaged in the new policy, preservation of forests is still the responsibility of FD. Therefore, in keeping with this, exploitation of NTFP by Panchayat bodies will be subject to restrictions laid down in Indian Forest Act, 1927 and working plans, working schemes or regulations prescribed (from time to time) by the FD, thereby further squeezing the scope of activity of the GPs.

The MFP list usually mentions only major vernacular names, and not the scientific name which is why it has been difficult sometimes to identify the exact species. It has also been seen that advantage of this lacuna has been taken by trader since the produce he wants to collect might not find a mention in the list in its locally known name, which is why the GP may not claim its control over the same (Rath 2010).

If one analyses the statistics of the Forest Department, the contribution of minor forest produce to the state revenue was not really less than the major produce even in 1955-56. While the govt. earned the revenue of Rs. 73 lakh from timber and firewood the revenue from KL, other MFP and bamboo was Rs. 74 lakh. In 1975-76 the revenue from timber and firewood was Rs. 5.4 crores as against that from minor forest produce including bamboo

and KL amounting to Rs. 5.5 crores. In 1994-95 the estimated revenue from timber and firewood was Rs.19.66 crores and the income from KL, bamboo and other MFP was about Rs.100 crores. Similarly in 2000-01 the revenue from timber and firewood was 17 per cent of the total revenue whereas the revenue from bamboo and KL was 71 per cent of the total forest revenue. If forest produces because of their contribution to the revenue are no more 'minor', shouldn't the same logic be applied to changing of terminology of major forest produce?

Timber versus NTFP: the revenue prospect					
As the following table suggests, the present trend in many states like Odisha has the revenue from NTFPs much higher than that from timber & firewood. For states that do not have huge resources of bamboo and kendu leaf or monopoly over them, this may not be the case however.					
Produce	Year-wise revenue in thousand rupees (Odisha Forest Department)				
	2001-02	2002-03	2003-04	2004-05	2005-06
Bamboo	20007	699	14515	15841	42116
Kendu leaf	690000	750000	310000	242500	421466
MFP'	13437	6108	12123	6056	18834
Total from NTFP	723444	756807	336638	264397	482416
Timber & firewood	99243	97408	36952	89415	50126
This instance in fact needs some clarification to a possible question whether revenue from MFP can be normally at par with that from timber. The first thing is that whereas the values of both timber and NTFP vary according to the species, NTFP doesn't normally have a consistency in the growth rate of market demand and value which timber normally has (but the rate of regeneration is much higher for NTFPs than timber which is why timber may fail to compete with NTFP despite consistent market demand). Further, the pre-1990 situation was much favourable for bamboo as the paper mills had by then not adopted the new technology of reversing the bamboo-wood ratio of raw material consumption. The production, demand, and quality of kendu leaf was also much better during those days. However, if the actual potential of NTFPs is properly utilized then NTFP-rich states do have a scope for realizing NTFP-revenue superseding that from timber.					

In 2006, the state has denationalized sal seed and it now comes under the purview of GP. The reason for denationalization is understood. It might be due to the declining demand of sal seed in the international market. The institutions who were involved in collection of sal seed suffered losses. There are reports during June 2010 which clearly suggest that the denationalization could not actually ensure a consistency in the benefit to the primary collectors. Media reports said that whereas in parts of Dhenkanal district people have not been able to dispose of their collection due to want of traders, in the Kankadahada Block the traders paid as low as Rs.2/kg against the previous year's price of Rs.15. Similar reports have been received from other districts like Mayurbhanj. Whereas it is also a fact that even during the period of nationalization the authorized agents sometimes neglected in the procurement, and the primary collectors suffered in various ways; and that market fluctuations are often a major cause of that, but if the government claims a credit that it denationalized a produce honoring the requirement of PESA and livelihood of the people, then such a claim would be but superficial. Some organizations like RCDC have taken initiatives to link up traders to the primary collectors so that the situation can improve, but there is a need for a state-level mechanism uniformly applicable to all areas.

Even in case of kendu leaves permanent procurement & processing centres in some areas were closed down either because of the Supreme Court ruling of 2000 or poor production (qualitative/quantitative), and since private traders are not authorized to procure from such areas hence the pluckers had to suffer unless there is an illegal trade. On one hand the state exercises monopoly rights, and on the other hand has no concern for the primary collector in case it doesn't decide to exercise this right and the produce is left unprocured.

50% of the net profit earned from kendu leaf trade by the state is shared with the PRIs, but pluckers demand that this should instead be shared with them since the way the GPs have been spending this grant money hardly benefits those people whose hard work makes the trade possible.

The institutions like TDCC and ORMAS could revive their strategy and help the GPs in providing market support. These institutions are meant for marketing of the produces and they need to build the capacity of GP and other institutions for sustainable management of NTFP. In fact, the Odisha Forest Worker's Union has recently demanded that government agencies like OFDC and TDCC should be reconstituted in a way for effective procurement and marketing of MFP.

Like other states, here also most of the programmes are supply-driven, and demand is rather used more to mobilize funds than to actually take care of. There are other

complications like inadequate implementation procedure, etc. which cause significant practical deviations(negative) from the projected outcomes.

The state government has taken some initiatives to promote or sustain specific MFP trades in the interest of the primary collectors. For instance, there have been some concessions for tassar cultivation, and SERIFED has been enjoying exemption on royalty since many years. However, there is no uniform policy to help sustain agencies in the public sector that have potential to support NTFP-based livelihood. TDCC has been asked to operate on two mutually contradictory modes: welfare and business, which is why it has suffered a lot. In fact, a political will power for holistic development of NTFP has been found lacking in the state.

Andhra Pradesh

After the enactment of PESA while the competence of Gram Sabha is recognized by the AP PESA it has been subject to the clause "without detriment to any other law in force". Therefore, in case there is any dispute on the question of MFP the law on forests would take precedence rather than the customary methods of resolving disputes. This clause can create suspicion that the FD wants to retain the ownership rights with itself.

Under JFM programme VSS were strengthened and incentives were provided over usufruct. Furthering the agenda of JFM, the state has taken lead to promote CFM. Under JFM executive order collection rights were provided. Under the new CFM program, the FD provides VSS exclusive rights over NTFP in the area under protection. In order to enhance NTFP income the Department envisages the following under the APCFMP through VSS:

- Marketing and processing of NTFP
- Improve value and provide better income to the VSS members
- Adopting better harvesting methods of NTFP
- Involvement of NGOs in marketing and processing of NTFP.

Marketing of the surplus NTFP is proposed to be made through existing outlets of the APFD by DFOs on behalf of the VSS with due authority. The existing forest laws provide for regulation of forest produce in transit and also for decentralization of such regulatory mechanism as an administrative measure. This facility will help in empowering the VSS in regulating the transit of forest produce marketed by them. Whenever essential DFOs will authorize the chairpersons of the VSS to issue transmit permits for transportation of forest products of the VSS.

This can be challenged on legal grounds, as it is GCC which holds monopoly rights over most commercially important forest produces. GCC procures NTFP at predetermined prices that are fixed and revised annually basing on the market trend.

There is one more actor who claims ownership over the forest and its resources - the Panchayats. This comes in conflict with JFM guidelines. As such AP is one of the few states where JFM guidelines do not perceive any significant role for Panchayats. This has given birth to a legal contradiction and the courts ordinarily would rule in favour of constitutional body such as Panchayat rather than a bureaucratic set up such as VSS.

Another issue that complicates matter further is that GCC, which comes under TWD, exploits produces generating from forest that FD protects. The feeling within the FD is that though GCC harvests the produces, neither does it take care of the forest nor does it share the benefits in adequate quantity. The primary concern essentially boils down to who owns the forest and then who should exploit it - commercially or otherwise, specifically in the scheduled areas? Arguments to support the case of TWD are given around the fact that ownership rights of land cannot be transferred in the tribal areas. So how can forest in the scheduled areas be transferred to VSS, where non-tribals could be members? But then forest produce being movable asset (land is a non movable asset) can be anybody's property and it is precisely this which the VSS would have rights over.

Technically speaking monopoly rights of GCC should only extend to scheduled areas as per the 1979 Act, but the yearly leasing agreements which gives GCC the right to procure and trade in the specified items does not limit its role to scheduled areas. The fact remains that most of the produces come from scheduled areas that have the densest forest and it would be unviable for another agency to deal with produces from areas outside. It is a tricky situation for the FD, as produces from non-scheduled areas would be insufficient in quantity for a viable scale of operation. So while issues relating to value addition to NTFP and ensuring free market are being addressed separately, GCC will continue to act as the market outlet for marketing NTFP - in tribal areas and/or collected by the VSS.

Another difficulty with GCC is that it is unable to reach out to all the areas leaving the collectors open to fleecing by the middlemen and traders. In some areas where GCC has its collection depots, or DR depots they are not open on all the market days because of lack of human resource, thus forcing collectors to sell their produce at some other place.

Though there is a difference of opinion between all the actors regarding ownership patterns of forests and forest produces, there is one thing that all seem to share, being part of a bureaucracy. Panchayat/ Gram Sabha is considered non-functional and political; so there is a lack of will in the bureaucratic circles (many NGOs also believe the same) to hand over power to the same.

Tamil Nadu, Karnataka and Kerala

In all these states the Forest Department has specified certain items of NTFP that are allowed for collection by the cooperatives in the tribal area and also by the village level forest protection committees. In the non-tribal areas the traders are involved in collection of those items either through auction or otherwise. This however doesn't mean actual control of VFC or other such bodies in the tribal areas on the NTFP trade dynamics since in both tribal and no-tribal areas it is the traders who play the key role ultimately.

Informal monopoly exists almost at every level of NTFP trade, which seems unorganized but in fact well established and traditional. NTFP contract is a closed business, for most contractors; and is automatically granted. Competition is sidelined by cartel formation, and withholding information / the lack of transparency enables the NTFP contractors to monopolize the lease every year. The wholesalers monopolize the trade by their sheer presence in the market place, range of goods and reputation by tradition. The retailers are also traditional traders to a large extent and enjoy a regular clientele loyal to them. The barriers that encounter a new entrant is basically the knowledge about the produces, their usage, crop areas, patterns and price variations as these are closely guarded secrets. Entry into NTFP contract is fraught with disasters for a new entrant since apart from financial clout, a reliable team of gatherers, overseers are a must, which may not be available to an outsider who is at loggerheads with the area's heavy weight NTFP contractor. With no support price and guarantee of returns, for the entrant with unprofessionalism a lack of transparency will prove to be the greatest barrier. This is probably why new entrants are few in number.

The common practice among the regular NTFP contractors who are familiar to the gatherer and the crop areas is to provide an advance against supplies and credit during emergencies. It may be noted here that though the new rule confers the NTFP collection rights on VFCs, the earlier system of handing out contracts still persists in the major parts of the state. Lack of funds, transport and storage problems are frequently sighted as the reasons by the officials for continuing with the contractor system to date.

The big NTFP contractors with the capacity to acquire large ranges on lease employ atleast 50-100 gatherers under regular employment. It is tough for the small NTFP contractor who mostly manages to take up a small range and is constantly short of labour resulting in inadequate collection of NTFPs.

The NTFP contractors maintain good relationship with the forest officials who help them with goods movement and issue of collection passes. The lack of tab on the quantity collected materializes into profits for the contractors who maintain that they do face losses resulting from delays in transport of the collected material and labour problems.

The major problem faced by the cooperatives in these states is paucity of funds, untimely issue of TP by the FD to transport NTFP, and interface of private contractors. Low yield of NTFP, non-availability of skilled labourers and high wage rate are the major difficulties faced by the private contractors.

Large scale unsustainable extraction has endangered species like *Decalepis hamiltonii*, *Persea macrantha*, and *Garcinia gummi-gutta* which had led the Forest Department to take measures for their protection, though of late. To maximize the income the NTFP contractors in Karnataka have been found to be engaged in maximum extraction of dalchini bark causing great harm to the species. Some of these species like dhoop are also difficult to regenerate. *Persea macrantha*, which used to supply jigat, a key raw material(binding agent) in agarbatti making, has been reduced to such a state in Karnataka that even plantations of the same would not be able to meet the present demand(since it will take a long time) which is why a concern was expressed at national level on behalf of the agarbatti manufacturers(mostly concentrated in Bangalore) followed by development of a substitute of the same(Rath,2004).

It is said that in Karnataka, sometimes the VFC leader does not have money for the NTFP trade. Further, irregularity in payment to the primary collectors by the VFC has also been reported.

Institutional issues

- In Maharashtra the tribals prefer to sell their produces to private traders as they purchase NTFP at a high price than notified purchased rates by the tribal society. The purchase centres are far away from the villages and it might be one reason why the primary collectors prefer to sell their produces to the traders. The payments

made to the primary collectors are delayed many times as the officials follow government procedures. The delay in payment is also due to the inefficiency of the marketing inspectors. Due to non-availability of ready cash, the society can not pay immediate cash to the customers in case of purchasing high amount of NTFP. The price fixation mechanism of the notified NTFP draws very less attention and there is no revision of the prices fixed by the authority as per the demand in the market. As a result the tribal people sell their produces to traders at high price. Tribal societies purchase qualitative items only, but traders purchase both high- and low quality items with different prices.

- In Chhattisgarh, the payments to tendu patta pluckers are supposed to be made weekly, but even in the best case it takes around 2 weeks to receive the payment for TL deposited. Even the Forest Department admits this and attributes it to internal systemic problems.
- In Andhra Pradesh most of the field offices of GCC are located in the scheduled areas and wild life sanctuaries though the GCC is responsible for collection of NTFP items in the entire state. The non-scheduled areas have not been paid much attention, which has led to the entry of private traders into NTFP trade despite the monopoly rights given to GCC. High price is only offered for products with high quality and for less quantity. GCCs network is spread all over the state but it is understaffed at the ground level, which hinders its operation and in turn affects the collectors who come to sell their produce only once a week. The collectors are neutral about procurement price offered by GCC, because the traders and GCC offer more or less the same price.
- In Orissa at present, apart from OFDC, which is dealing with kendu leaf and bamboo, other institutions have very limited role in NTFP procurement and trade. There are about 1 million pluckers(officially much less) dominated by women and adolescent girls, whereas the plucker cards are sometimes issued in the name of male head of the family, thereby depriving the female members of the family of the benefits of social security measures since only a cardholder is eligible to get this. There are different opinions for the calculation of net profits from KL trade. Apart from the cost of production, expenses for external and internal review, interest on the advances provided by the govt., insurance protected money, and proportional amount spent for the management and protection of forest are taken into account. But, the government does not have any specific circular to this effect. Further, KL grant is often released on adhoc basis as timely audit to finalize the net profit

hardly takes place. However, in Odisha, Chhatisgarh, and MP the KL pluckers enjoy certain additional benefits like life insurance cover or financial assistance in case of accidental death.

- In Karnataka the important problems faced by the LAMPS in the marketing of NTFPs is untimely issue of way permits by the Forest Department for transporting NTFPs from the collection points to the godowns.
- Besides, in all these states the Forest Department adheres to the Supreme Court order of no commercial collection of NTFP inside Protected Areas, but it has not been possible to totally stop illicit trading partly because the primary collectors of these areas have not been provided with satisfactory alternatives.

Common trade constraints

- A single species put into a different category and is controlled in different ways, in different states of India. Lac is an agriculture produce in Jharkhand whereas it is normally recognized as a forest produce in many states.
- A small quantity of forest produce, once officially removed from a forest area through a valid transit permit again mandatorily requires multiple transit permit for each and every part-removal.
- Exercising varied rules and regulations for same species in different states of one country cause extreme delay at interstate barriers for want of foreign pass exchange.
- Adjoining states having nationalised, freed, banned, or controlled certain forest species, indirectly boost smuggling activities.
- Restriction on free movement of imported forest produces.
- Highly imposed mandi fees, octroi / entry tax, commercial taxes, forest development charges, etc. ultimately reduce price being fetched by the actual primary collectors, to its minimum.
- Forest produces, that through human efforts or machine, turn into industrial / 'manufactured product', are sometimes not free from transit permit requirement for their further removal.
- Forest produce, used as a raw material, is taxed. An intermediate by-product obtained is also taxed, and final product is also taxed.
- Cultivated forest produces are put to transit permit requirement.

- Research institutes, research and development centres, export promotion councils, and other facilitation centres hardly have any interaction / dialogue with primary collectors, traders, & exporters.
- Technology transfer mechanism is often costlier, and not entrepreneur-friendly.
- Dissemination of information on production/collection, trade and export data not upto the mark ends with 'no buyer for producer' and 'no produce for supplier'.
- Sustainable, scientific, non-destructive methods of collection of forest produces not reaching to the grass root level primary collectors.

The other issues in NTFP management and trade in the southern states are:

- Lack of funds in the VFC is stated as the reason by the forest official to continue with the contractor system.
- Even where open auction system exists, it's only the big players who participate.
- The quantities collected are never reported actually, suppressed usually to put a cap on the tender amount.
- Other NTFPs, which are not listed under the contract, are also collected.
- No bill transactions are common: reducing the quantities to half and doubling the price to balance the transaction is possible.
- None of the NTFPs are held as stock, for trade by NTFP contractors.
- Almost all the NTFPs are marketed without any value addition. This in turn leads to low returns to the actual collectors.

Post-FRA issues

The so-called post-FRA issues refer to problems encountered, chiefly by the forest right holders but sometimes by the other stakeholders too, after the Title is granted and the conferred right is attempted to be exercised. For instance, in some cases the forest right holder community has alleged to face restrictions of Forest Department in transit of MFP harvested from its (community) area. On the other hand, the Forest Department may also have concerns regarding exclusion of sporadic patches under forest-right holder communities from the purview of the overall working plan or management plan of the area (reserve forest or protected area).



RECOMMENDATIONS AND SUGGESTIONS

Recommendations

In the whole gamut of management of NTFP, the major problem lies with the policies and practices of the government. It is not as if everything the government does is intentionally anti-people, but it is invariably seen that the larger tribal and forest dwelling community is not benefited by the act of the government. In the context of management of NTFP, the government has usually been bothered about the revenue earning items such as tendu leaf, sal seed, and bamboo, etc. For rest of the MFP, which are not very remunerative from the point of view of royalty or revenue, the government hardly wanted to do any thing concrete for the better collection, value addition and marketing. The decentralised governance in the Fifth Schedule Areas following the prescriptions of PESA has not really been grounded, especially in the case of ownership, control and management of MFP. In southern states, though states have taken some initiatives in collection and marketing of NTFP through the tribal cooperatives and the village level MFP units, these have not been much satisfactory or effective for the target people resulting in the demand of bringing their areas under PESA.

Such contradictions happen, despite some goodwill of the authorities, because of the limitations of the vision reflected in the limitations of the policy, erroneous implementation procedure, want of proper inter-departmental coordination, want of due consideration of the complexities of the trade dynamics, and disinterest/ignorance at the end of the target

communities. Even social activists heavily suffer from many such limitations when they demand for a significant hike in the procurement price without considering its implication on the sustainability of the trade itself, and other such benefits and policy changes. The SHGs/SHCs and other such organizations working for collective trading hardly have the flexibility and capacity to adjust according to the high dynamics of trade, and hence they find themselves less successful than the private trader unless having some monopoly item.

The recommendations articulated here are derived from the findings of the field study and also from the discussions with different stakeholders including Forest Department, PRIs, NGOs, academic institutions, and researchers, etc.. These are basically broad guidelines for framing policies and practices.

Specific changes needed in the policies and legal framework

Preamble to a revised forest policy

Forest is an important habitat for human beings, wildlife and other biological resources; and it maintains the ecological balance and health of the environment. Millions of human being - especially the tribal communities and forest dwellers - depend on forest for their livelihood, culture, and entertainment, etc.. Forests must be protected, regenerated, conserved and managed by the 'local communities' in a democratic, participatory and decentralized manner to meet the basic livelihood needs and cash income of the local communities, emphasizing sustainable use and equitable sharing of responsibilities and benefits. The role of the state represented by the Forest Department, Tribal Welfare Department, Panchayati Raj Department, etc. should be to help local communities to manage forest and forest produces in a sustainable manner. Local communities and their Gram Sabhas/Gram Panchayats should become central to control and manage different natural resources and livelihood resources including forest.

Ownership

Ownership can be defined as the right to protect, manage, develop, and dispose of the resource in a sustainable, socially justified, and lawful manner. In case of MFP also such a definition can be applied, and the Forest Department can be made responsible to prepare a kind of working scheme for the MFP of the area in consultation and with the approval of the Gram sabha/Palli sabha/entitled community(under FRA), as the case may deserve. This

is not very difficult since microplans are supposed to be prepared in consultation with the local community, and hence working scheme can also be prepared in a more or less similar manner. This can also take care of specific MFPs like bamboo and kendu leaf, and even the Forest Department may be paid a reasonable fee for carrying out technical activities on behalf of the 'owner' in deserving/potential cases. In fact, a paid service of the Forest Department would make them take interest in the work.

The use of Forest Conservation Act and Wild Life (WL) Protection Act to divert the forest area for non-forest use or to exclude it from the jurisdiction of the Gram sabha is a threat to this ownership, and the government should take a policy decision to not use these provisions for areas thus 'owned' unless the Gram sabha or other entitled owner approves of the same for projects that would be directly and primarily beneficial of the local people in the long run without any 'significant' damage to the environment and the local socio-economic as well as socio-cultural bases of sustenance (of life & livelihood). The term 'significant' can be defined on a differential scale for different elements that are vulnerable to the impact. For instance, for an area to be deforested, it can be more than 25% or so (of the area). Similarly, for trees it can be more than 25% or so of the mature and semi-mature trees existing in the area. There should be a wider debate and expert consultation to determine these scales.

Before going for huge investment in the name of climate change impact mitigation (as proposed under Green India Mission) the government should essentially guarantee that forests that are to be developed with this investment would not be diverted for non-forest use.

The Central Government should have its own system to monitor & review the real status of MFP ownership, control, management and trade in each state in the Scheduled Areas, and come out with clear cut policies and guidelines for conservation, promotion of MFP species, sustainable harvest, procurement, processing and marketing of MFP, both nationalised and non-nationalised. Whereas the basic principles should be uniform throughout the country, all the PESA states may develop their own legal framework and perspective for dealing with MFP based on the guidelines of the Central Government for variable parts (like, form to be used, period of approval, etc., if any).

Forest/NTFP policy (central and state-level), transit rules, other such legal provisions should accordingly be revised. For instance, Orissa Gram Panchayat (MFP Administration) Rules-2002 need to be amended in order to give due space in ownership right to Panchayat and

not Gram Panchayat because in Odisha decision-making starts from the level of a revenue village represented through the Palli sabha whereas Gram sabha represents all the revenue villages of the GP. The Gram Panchayat may be given power for management and trade of MFP in consultation with and on behalf of the Palli Sabha. Accordingly Orissa Forest Act-1972 needs to be amended. Orissa Excise Act needs to be amended to give Palli sabha/GP and/or appropriate 'owner' like a forest-right holder the powers of storage and trade in mahua flower within the GP area. It may be mentioned here that the 'Gram sabha' defined in PESA and FRA correspond to the Palli sabha in Odisha.

Transit permit

Transit permit is used as a tool to keep control at the hands of the Forest Department primarily on grounds of sustainable harvesting and thereby conserve forests. While no one questions the intention of the transit permits, it has been often used as a tool to harass primary collectors and traders. As per the traders in Chhatisgarh, where a TP is required every transport of any NTFP even within the state, the permit has become a powerful tool to discourage small traders. Most of the NTFP being perishable, slight delay in giving TPs results in big losses. This encourages the traders to indulge in corrupt practices.

Abolishing TP is not the exact solution always. There can be a list of specific produces (endangered) that might need TPs. In cases of some produces, there can be geographical demarcations of requirement of TPs e.g. no requirement inside the state. If the transactions in 69 MFPs in Odisha could not be monitored after March 2000, then abolition of transit permit is a major factor responsible for that. Some MFPs may deserve total abolition, and some merely simplification of the system. This has to be determined on the basis of local situations. Transit rules need to be amended to give the power to the GP for issuing transit permit for the MFP on behalf of the Gram sabha/Palli sabha, and to the committee which a community enjoying ownership over the MFP constitutes for the conservation and management of the MFP. With this permit the MFP can be transported any where in the state. But above all, what needs to be changed is the attitude of lower level forest officials towards bureaucratic hassles through proper orientation and capacity building.

Role of different stakeholders

Forest Department

The Forest Department should take up the following actions immediately:

- Get prepared for and also recommend to the government for bringing the MFP regime in conformity with the provisions of FRA and PESA.
- FRA doesn't confine ownership and management of MFP or forest resources to the JFM framework, so there should not be any attempt for imposing the JFM framework in such cases.
- Develop silvicultural methods for different MFP species.
- Develop sustainable harvesting of MFP, different steps involved in processing/ value addition, etc.
- Provide technical support including training on sustainable harvesting to the GS, GP, VSS, etc. as and when asked for.
- Provide technical support to GP/GS/VSS for management and regeneration of MFP. Similar role should be played by MFP federation, TDCC, TRIFED, LAMPS, etc.
- Facilitate market research and market promotion for MFP and necessary help to GS/GP/VSS for value addition and marketing of MFP, monitoring of sustainable harvesting of MFP by the GS or primary collectors.
- Ensure that no MFP genetic materials are exported without due patenting by the state or federation of indigenous communities. Similarly the indigenous gene pool is to be protected.
- Carry out scientific inventorization of NTFP/MFP for all forest areas on priority basis.
- Take up pilot projects for preparation of MFP working schemes for and in consultation with Gram sabha/Palli sabha/owner community.
- Consider the minimum fee structure chargeable on the Gram sabha/Palli sabha/owner community against specific technical services.
- There should be a petition filed before the Hon'ble Supreme Court to review their ruling of 2000 regarding collection of minor forest produce, in view of the Forest

Right Act, 2006 so that granting forest rights to the eligible communities would be easier in Protected Areas.

Marketing Institutions

- Ensure a less bureaucratic procedure, emphasize on adequate infrastructure and market intelligence, and reduce the staff strength to the minimum viable number so that the cost of operation does not get market-friendly because of internal burdens.
- Maintain transparency
- Maintain consistency in market services
- Make necessary suggestions to the government regarding the possible measures (like, exemption in royalty) that can help carry out successful business while doing welfare of the primary collectors.
- Keep track of latest value addition techniques and try to introduce the same in feasible cases.
- Venture for R&D activities for deserving MFPs to obtain patent rights of commercial importance.
- Provide special support for SHGs/SHCs and other such groups or vulnerable individuals (like, physically challenged primary collector).
- Open procurement centres, permanent or temporary or mobile as the case may deserve, for all potential areas.
- Certification adds to the scope of marketability, particularly for export purpose. Although NTFPs are normally organic in nature, but certification may be needed/useful for cultivated produces like lac. Further, certification may guarantee sustainability and authorised collection. Since commercial certifiers often charge a good sum not normally affordable to local communities, they suggest to solve the issue by certifying for a group of farmers/collectors instead of an individual farmer/collector; but Participatory Guarantee System (PGS) is a better solution. Further, the government needs to promote forest protecting communities/Gram sabha/Forest Right Holders as certifiers of sustainable extraction. This will help promote area-specific or community-specific produces or products (like the arrowroot prepared by the Hill Khadias of Shimilipal in Odisha).

SC/ST Welfare Department & Women Welfare Department

- Work with other departments such as Forest, Panchayati Raj, etc. to develop comprehensive policy for MFP management and trade in Scheduled Areas.
- Develop programmes for MFP-based enterprise development and fund Gram Sabhas, SHGs, etc. to implement these programmes.
- Facilitate training and capacity building of primary collectors and beneficiaries' organisations on management and trading of MFP.
- Support Gram Sabhas and other such deserving institutions for creation of infrastructure for storage and processing of MFP.
- Make lobby and policy advocacy in favour of SHGs/SHCs and other such deserving organizations for favourable policy decisions(like, exemption in tax).

Panchayati Raj Department

- Frame policies, rules, programmes for the Gram Sabha to own, control and manage MFP; and work with other departments for approval of these rules and necessary changes in other laws and rules in order to empower GP/GS.
- Circulate the rules and other relevant information to the Gram Sabhas in simple local dialect.
- Develop and implement programs for capacity building of PRIs and Gram Sabhas for control and management of MFP.
- Liaise with other departments such as Forest, and Tribal Welfare, etc. to develop common action programme for helping Gram Sabhas and other deserving institutions in the management of MFP.

Research Institutions

- Research institutes, export promotion councils, and other facilitation centres should have interaction / dialogue with primary collectors, traders, and exporters so as to develop strategy for the development & promotion of NTFP trade.
- They should primarily focus on developing alternate, dignified, and commercially promising utilities of MFPs that have only one end use in the market. The priority should be MFPs like mahua and kendu leaf which are critical to the livelihood of the people.

NGOS

The NGOs and other civil society organisations should take up a proactive role to facilitate Gram Sabha, Gram Panchayat, Tribal cooperatives, VSS to internalise their rights and responsibilities, and exercise their rights for sustainable management of MFP. They need to play both facilitative and supportive role in this regard. The NGOs can take up multifaceted activities for helping those institutions for management and trade of MFP. The primary among them at the state level is to collectively work with PRIs to influence the state to amend the policies, laws and rules to endow ownership rights over MFP to Gram Sabhas.

The MSP Debate and MoPR's solution

Whereas the government has a MSP policy for agricultural produce, it has been generally reluctant to have the same policy for minor forest produce. Instead, there is the concept of MPP (minimum procurement price) wherein the government has almost no liability. Civil society organizations and social activists have not been happy with such a stand of the government. Now, the Ministry of Panchayati Raj, GoI has constituted a committee 'to look into the aspects of Minimum Support Price (MSP), value addition and marketing of Minor Forest Produce (MFP)' in the Schedule V areas. The first meeting of this Committee was held on 25th August 2010 where the representative of the MoEF stated that while ownership of MFP by Gram Sabha was not contested, it must be exercised in a sustainable manner. He further advocated for uniform rates in all states. The representative from MoRD opposed parallel bodies operating along with Gram Sabha. It is understood that the MoPR has virtually become ready to provide MSP for at least 10 MFPs, and TRIFED has been decided to be the nodal agency for this purpose. The MFPs suggested for this purpose in the first meeting include sal seed, sal leaves, kendu leaves, siali leaves, mahua, mahua seed, harra, bahra, amla, and lac.

On the other hand, MoEF has issued an advisory to 'some' states to create enabling mechanisms like MSP for promotion of NTFP-based livelihood. The Minister for Environment & Forest, GoI has said that NTFP is a state subject, and based upon the nature of NTFPs and the other local factors prevalent in that state, different states need to formulate their integrated plans for promotion of NTFP based livelihood.

While the final outcome of these initiatives is yet to come, we can only hope that the Committee constituted by MoPR makes appropriate recommendations so as to overcome the adverse impact of interfering in the 'wild' market dynamics of NTFPs, in an effective way, and in order to ensure sustainable benefit to the target group.

In the meantime, the Vishakhapatnam-based NGO Kovel Foundation has come out with a good suggestion that MSP should be provided for all monopoly items under government agencies with a condition that the primary collectors can sell their produce to other buyers in case the latter offer a better price than the MSP (other parameters being the same).

Then they should lobby with the government to create a facilitating environment for the GS/GP to own, control and manage MFP.

NGOs and social activists normally go for pro-people advocacy without properly understanding the realities of the trade dynamics. This makes their advocacy sometimes quite unacceptable for the sustenance of the trade, the key factor in sustaining the livelihood. They should therefore develop proper scientific and commercial understanding of the whole issue before going for a viable advocacy. For instance, a minimum support price system may not be viable for the concerned government agency unless all the related policies & mechanisms are integrated in a way to compensate the loss accrued thereunder(if any). However, they are right when they say, why can't a government afford such safeguarding mechanisms in the interest of the poor & disadvantaged people when it gives so much concession to the corporate sector and is ready to bear financial loss(not to speak of other kinds of losses including environmental degradation) in interest of MNCs?

The NGOs, along with other stakeholders, may work with the government to reform the existing marketing organisations like Forest Development Corporations, MFP Corporations, Tribal Development Cooperative Corporations, LAMPS etc. to enable them for taking market research and promotion. The NGOs collectively may help these agencies to function efficiently and effectively.

They should also do advocacy for necessary provisions and concessions for SHGs/SHCs who are vulnerable to losses as they are not supposed to make unlawful adjustments to compensate losses or maximize the profit.

It is often observed that after they withdraw their support, the value addition centres and other such processes introduced by them in their operation areas normally tend to discontinue. They should therefore plan for successful phase-out mechanism or exit strategy that will help ensure sustenance of these efforts.

Traders

They should maintain their dignity by abiding with the laws, and also by sharing their practical knowledge with the concerned stakeholders (marketing institutions, research institutions, Gram sabhas, etc.) for sustainable NTFP development.

SHGs/SHCs

They should confer certificates or other such honors every year to those traders who have actually helped them in successful trading. This will encourage the traders for dignified activities and relationship. They should also try to understand the relevant laws and statutory provisions related to their trade.

They should share their issues with civil society organizations, other competent agencies, and also the media so that necessary policy advocacy can be done for them.

Gram Panchayats and other PRIs

The role of Gram Panchayats as envisaged under the NTFP resolution of Orissa was primarily to act as a watch dog in the interest of the poor primary collectors. On one hand it may sound wishful thinking given the practical realities of village governance, while on the other no serious and meaningful engagement in the form of awareness creation and capacity building was ever tried to achieve this objective. A review of their intended role, whether to act as regulatory body or to act as market facilitating/ creating body and whether they have political and institutional willingness to play this role effectively would be necessary.

Gram Panchayats carry out decisions of the Gram sabha. They should keep proper records, display the MPP, name of the licensee with the produce licensed for, etc. on the notice board in vernacular language.

PRIs should ensure that MPP is fixed at the right time. The GP should modify the MPP thus fixed according to the situation of bumper crop or crop failure, etc..

PRI Standing Committees that are concerned with forests should monitor & review the implementation of the provisions in respect of MFP.

Women

- Women need to actively participate in GS/GP/VFC and other such institutional processes for taking decisions with regard to MFP.
- They should form groups such as SHGs or cooperatives for collection, processing and marketing of MFP. They should get involved in the higher level of enterprise development based on MFP. They should play an active role in PCS (in case of Chhatisgarh) and influence PCS to get involved in processing and marketing of other MFP.

- They should play an active role in management and control of forest as well as forest produces.

Suggestions

- Initiate framing up a new forest Act with Rules, uniformly applicable to all the states of India.
- Transit pass should be limited to once, initial removal of any forest produce, right from the forest area only.
- Multiple transit permit requirement from one urban place to another, on each and every small part- consignment of NTFP being removed, be stopped.
- Collection of mandi-fees, be abolished, and limited to agricultural produces only.
- National integrity be strengthened by smoother movement of interstate trade and commerce of forest produces, honouring foreign pass issued by other states.
- A healthy trade competition fetches better price to the primary-collector. Creating state monopoly, through nationalisation of forest produces, be stopped except for those MFPs that require centralized management & commercial control, that too on the condition that the state trading would be on behalf of the owner communities and hence all the net profit would be proportionately shared with the concerned owners. The state may charge a service fee or commission to carry out the trade.
- Imported forest produces be freed from the purview of NTFP controls and allowed free movement.
- Start collection of restricted/ banned forest produces applying scientific, modern, non-destructive methodology.
- Though used as synonyms, " Produce" is different from a "product". Processed & manufactured forest products need to be treated differently than the original raw material(produce) itself though there may be few justified exceptions.
- Taxations should be uniform and least possible, to fetch better price of the produce to the primary collector.
- Research institutes, research and development centres and export promotion councils shall be more responsive.

- New technologies, to find marker or principal active compounds from terrestrial plant parts are encouraged to not to uproot whole plant.
- Value addition of NTFP is to be highly promoted to stop wastage, improve quality, efficacy and shelf life.
- Cultivation and fresh plantations of earlier naturally, domesticated NTFP species, as per different climatic conditions be promoted in different states of India.

Specific suggestions for southern states

- The weak VFC groups can approach the strong VFC groups to build up the capacities for functioning properly.
- The Forest Department should not plant the Acacia species in natural forest and grasslands because Acacia plant affects the NTFP species as a result in some cases the production of the NTFP has been declined and in some cases the species also died.
- The Department should provide name and address of the contractor to the VFCs and SHGs before collection of NTFP in their area.
- It should provide training to primary collectors and contractor on sustainable harvesting of NTFP of different species.
- Forest Department should develop an effective penalty mechanism for destructive harvesting by the contractor.
- 10% of tender money for NTFP contract should be spent for nursery development and training programmes for primary collectors in respective areas.
- There should be effective mechanism to discontinue the role of middleman between the primary collectors and contractors.
- Training programmes are required on value addition of NTFP. For the marketing of these products the Forest Department and NGOs should help the community.



CONCLUSION

An analysis of the current NTFP regimes in the study states gives us the impression that whereas the governments in respective states have adopted their own methods of tribal welfare with differential approach on conferring ownership rights over MFP, the deregulation of MFP trade seems to coincide more or less with the loss of market security of the MFP, i.e. usually NTFPs which no more appear to have a secured market and significant revenue prospect have been deregulated. Yes, there are exceptions to this (like, forest honey) which have been deregulated despite having good market, and in few cases even local exceptions have been observed (like, sal seed has more secured market in Chhatisgarh than in Odisha because of having a number of active processing units, and hence Chhatisgarh still retains monopoly on it); but political and statutory compulsions have played quite a significant role in making the NTFP regimes more pro-people.

For instance, on 9th February 2005 Mr.J.V.Sharma, Dy. Inspector General of Forests(FP) wrote to all Principal Secretaries/PCCFs of various states/UTs that the National Common Minimum Programme(CMP) of the Union Government and the President's address to Parliament on 7th June 2004 mentioned that "State Governments will be urged to bring about a legislation conferring ownership rights in respect of minor forest produce on people from weaker sections working in forests." A Press Release on the part of Press Information Bureau of GoI on 10th May 2005 said the following:

"The State Governments have been asked to confer ownership rights in respect of Minor Forest Produce (MFP), including tendu patta, on the Scheduled Tribes after providing definition of MFP, which should be all the traditional produce being produced by all the tribals, by amending the concerned State Legislations, as provided in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. The Ministry has taken up this matter with the Ministry of Environment & Forests, who have drafted a Model State Minor Forest Produce (Ownership of Forest Dependent Community) Bill, 2004 for conferring ownership right of MFP on local communities."(Gol-PIB 2005)

This Bill had the following provisions:

1. Forest Dependent Community means a group of individuals constituted into a JFM committee and/or any other group of individuals dependent on forests notified by the state/UT.
2. 'Minor Forest Produce' means all non-timber forest produce of plant origin as notified by the state/UT, and will include honey, lac, wax, and tussar.
3. 'Ownership' means right to collect, process, consumption or sale.
4. Sharing of the net income from the trade of MFP is to be deposited in the account of the forest-dependent community and is to be utilized as per an action plan by the Community(not less than 25% on regeneration & development of the forest area assigned, and not more than 75% for distribution among the members of the Community).
5. The Community has to protect & conserve/develop the forest area.

The PCCF, Odisha commented on this draft Bill as under:

- The Preamble is to be elaborated in order to justify ownership in favour of the Forest Dependent Community, and not GPs.
- Since villages enjoy traditional rights for MFP collection, and the system of nistar cess is in operation in most parts of the state, endowing ownership rights in delineated & specific areas in favour of distinct communities doesn't appear feasible(vide his letter dtd. 4-5-2005, to the Principal Secretary, Forest & Environment Department, GoO).

It has not been possible to access the comments of other PCCFs/states, but we can definitely observe that what ultimately came to the people as the ST & Other Forest Dwellers (Forest Rights) Act, 2006 is much more progressive and liberal than the said Bill. However, the above instances (comments of Odisha PCCF) do reflect the reservations on the part of the Forest Department that can't always be described as 'baseless' because being liberal may be a political requirement, but being conservative may be a technical requirement. The FRA recognises the power of the Grama sabha to take decisions regarding forest rights, but in many areas, and particularly in PESA areas, these Grama sabhas have hardly been active on their own to take required decisions. However, this and other such limitations can't be a plea to go back to the conservative regime of the past; rather there need to be mechanisms so that the liberal regimes can be truly effective fulfilling their objectives.

The MFP-based livelihood is largely dependent on trade, and the trade dynamics is itself very unpredictable which is why it has been obviously difficult for various government mechanisms to secure this livelihood base. While the social activists as well as the primary collectors need to realize this, the only option that seems to be available to us is to make various augmentary mechanisms in order to reduce the trade vulnerability, and at the same time provide alternative livelihood options that can help sustain in case this MFP base fails sometimes. The Government of India has already taken initiatives in this direction and schemes like MGNREGS are helping people, but there is a need for an integrated & focused approach so as to bring uniformity in the initiatives all across the country. Forest being a concurrent subject for the states and the Centre, this uniformity has not been possible; but it is high time that a political dialogue resolves this issue in the greater interest of the country, its people, and its forests.



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Annexure-1

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

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:

An Act to recognize 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 recognized 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 recognized 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 forests 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

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.
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 bonfide 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, undermarked forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;
- e) "forests 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 Governments;
- 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 (1) of article 244 of the Constitution;
- 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-
- 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 villagers, 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;
- 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 of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-
- 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 regirners;
 - 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 (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;
 - f) rights which are recognized 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:

- 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 structure;
- i) minor irrigation canals;
- j) non-conventional source of energy;
- k) skill up gradation 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 subsection 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 in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes 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 recognized 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 alternative 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 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.
 - 6) Where the forest rights recognized 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 as 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.
 - 8) The forest rights recognized 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.
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 adjoin 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 in preserved from any from 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

6. 1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual 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 member 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 there under 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:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or hear 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.

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.
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.
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.
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.

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.
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 the 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 the following 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-2

PROVISIONS OF THE PANCHAYATS (EXTENSION TO SCHEDULED AREAS) ACT(PESA)

(24th December, 1996)

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

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

Short title

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

Definition

2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of part IX of The Constitution

3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and modifications to part IX of The Constitution

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:
 - (a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

- (b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;
- (c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;
- (d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;
- (e) every Gram Sabha shall-
 - i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;
 - ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;
- (f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);
- (g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;
- (h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

- (i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;
- (j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
- (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;
- (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;
- (m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with
 - (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
 - (ii) the ownership of minor forest produce;
 - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
 - (iv) the power to manage village markets by whatever name called;
 - (v) the power to exercise control over money lending to the Scheduled Tribes;
 - (vi) the power to exercise control over institutions and functionaries in all social sectors;
 - (vii) the power to control over local plans and resources for such plans including tribal sub-plans;

- (n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;
- (o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance of existing laws on panchayats:

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K. L. MOHANPURIA
Secy. to the Govt. of India

Annexure-3

LETTER* OF THE SECRETARY, MoPR ON MODEL PESA RULES

No. N-11012/1/2007-PESA (Pt)

Government of India
Ministry of Panchayati Raj
Krishi Bhavan, New Delhi-110001.
Dated: 21st May, 2010

From : A.N.P. Sinha, Secretary.

To : Chief Secretary, PESA States.

Subject : Effective implementation of PESA particularly in the context of prevailing Extremism.

Sir,

Kindly refer to our earlier letters on the subject. In view of the prevailing Extremism in the PESA Areas & vicinity, following consolidated guidelines are suggested for effective implementation of PESA.

Schedule V of the Constitution

2. As you are aware, the Schedule V Areas of 9 States are characterized by poverty, illiteracy, weak infrastructure and deprivations in general. Given the vulnerability of the people, Schedule V of the Constitution makes special provisions such as:
(a) Report by Governor to the President regarding the administration of these Areas, (b) Tribes Advisory Council to advise Governor on matters pertaining to the welfare and advancement of the STs, (c) Direction by Governor through public

*Some of the annexures attached to this letter have not be reproduced here to avoid repetition.

notification that any particular Act of parliament or of the State Legislature shall or shall not apply to a Scheduled Area or any part thereof, (d) Governor to make regulations for the peace and good government, (e) Union Government to give direction to the State as to the administration of these Areas.

Need for PESA

3. Nevertheless, pressure on natural resources in these Areas continued due to the large projects being set up therein and unscrupulous elements indulging in illegal mining & forest felling. Land alienation and exploitation also continued. This led to dislocation of the communities and loss of major sources of livelihood. It was, therefore, critical that customs, rights and livelihoods of these people are protected through their empowerment. Accordingly, PESA (Annex I) was enacted in 1996 which extended Part IX of the Constitution to the Schedule V Areas and provided for people-centric governance and people's control over community resources and their life, with central role to the Gram Sabhas.

Powers of the Gram Sabha under PESA

4. The Gram Sabhas under PESA are deemed to be 'competent' to safeguard and preserve the traditions of their people, community resources and customary mode of dispute resolution. The Gram Sabhas further have:
 - (a) mandatory executive functions to approve plans of the Village Panchayats, identify beneficiaries for schemes, issue certificates of utilization of funds,
 - (b) right to mandatory consultation in matters of land acquisition, resettlement and rehabilitation, and prospecting licenses/mining leases for minor minerals,
 - (c) power to prevent alienation of land and restore alienated land;
 - (d) power to regulate and restrict sale/consumption of liquor;
 - (e) power to manage village markets, control money lending to STs;
 - (f) ownership of minor forest produce;
 - (g) power to control institutions and functionaries in all social sectors;
 - (h) power to control local plans and resources for such plans including TSP, etc.

Role of PESA in containing Extremism

5. It was expected that PESA would lead to self-governance and empowerment of the people. However, implementation of the Act has not been satisfactory. The rights, livelihood and habitat of the people in these Areas, therefore, continue to be under stress, leading to disaffection with the system. Of 94 PESA districts, 32 have been identified as Extremist Affected Districts (EADs). Of 76 EADs, 32 are PESA districts. Of 34 Most Extremist Affected Districts, 19 are PESA districts. Not surprisingly, various Expert Committees (Annex-II) have recommended implementation of PESA in letter & spirit. There is evidently, an urgency in the implementation of PESA.

Steps to be taken for implementation of PESA

6. The State wise status of PESA compliance of various State laws is given at Annex III.

Further, a note based on the PESA Act and Model PESA Rules on "Compliance with key provisions of PESA" is given at Annex- IV. This note details essential features of PESA that need to be complied with in relevant statutes/rules/guidelines and covers (a) Delimitation of Villages and Gram Sabhas, (b) Procedure to be followed for consultation with Gram Sabha for land acquisition and defining minor minerals and securing recommendation of Gram Sabha [Section 4 (k) and (l)], and (c) Endowing Gram Sabhas with powers and authority under Section 4m (i) to 4m (v) relating to Excise, MFP, Land alienation, Village markets and Money lending.

7. In the aforesaid background, the States may take the following steps to operationalise PESA. MoPR is separately examining the Central laws and policies related to Forest, Mining, R&R etc. for PESA compliance.

Acts & Rules

- (i) Adopt Model PESA Rules (available at panchayat.gov.in) circulated by MoPR with suitable modifications so that the field functionaries have a clear framework for implementing PESA. In the meantime, use the note at Annex-IV for issuing executive instructions in regard to the key issues.
- (ii) Amend State Panchayati Raj Acts for consonance with PESA. Particularly important here is the definition of 'village' and powers of the Gram Sabha.

State Election Commission (SEC) could be given the responsibility of delimitation of 'Villages' as suggested in Annex IV.

- (iii) Amend laws, rules and executive instructions on Mines & Minerals, Minor Forest Produce, Excise, Money Lending etc. on the lines of Annex IV.
- (iv) Expedite comments on the amendments to PESA proposed by MoPR for removing certain infirmities (Annex V).

Effective Functioning of the Gram Sabha

- (v) Empower the Gram Sabha as above and ensure its effective functioning. Follow the guidelines issued by MoPR on 2nd Oct., 09 in this regard. Undertake special programmes to acquaint the Gram Sabhas of their rights and duties. Develop appropriate training and informative material in the regional language. Identify, train and deploy a social mobilizer in each Gram Sabha for activating the Gram Sabha.
- (vi) Conduct regular training programmes on PESA for State and Panchayat functionaries (both elected and officials) to sensitize and educate them on PESA with focus on the role and conduct of the Gram Sabha.

Administrative Measures

- (vii) Since implementation of PESA involves several departments, constitute a Committee headed by the Chief Secretary with membership of the relevant departments to review it every three months. Involve reputed Experts for getting another perspective. Form similar committees in the districts.
- (viii) Activate Tribes Advisory Councils & Tribal Research Institutes.
- (ix) Include a prominent section on the implementation of PESA in the Annual Governor's Report, as mandated in Schedule V.
- (x) Strengthen Administrative machinery in the PESA Areas through filling up all vacancies, creation of separate cadres, hardship allowance, preference in education, accommodation etc.
- (xi) Create Information-cum-grievance redressal mechanisms at various levels where persons dissatisfied with the implementation of PESA may register their grievances and obtain advice/justice.

Issues requiring urgent action

8. I would urge you to urgently review the position particularly on the following issues in the light of note at Annex-IV for ensuring that the most important needs and concerns of the people are addressed:
- (a) Mandate SEC to delimit 'villages'.
 - (b) Activate Gram Sabhas in a Mission Mode and enable it to exercise its powers & functions including in relation to planning & implementation of Central/ State schemes, grant of UCs and dispute resolution.
 - (c) Ensure that complete information about the land to be acquired and impact of the proposed project, is placed before the Gram Sabha and its recommendations are generally followed.
 - (d) Incorporate definition of MFP, as provided in the Forest Rights Act, 2005, in all laws and rules. Undertake management of MFP with the consent of the Gram Sabha and in case MFP is collected by a para-statal organization, the net income should go to the people.
 - (e) Enable the Gram Sabha, particularly women, to take decisions regarding the opening and continuance of liquor shops, sale of intoxicants, etc.
 - (f) Furnish information as per the questionnaire (Annex-VI) for ascertaining the current status of implementation of PESA and taking follow up action.
9. You would appreciate that the deepening and widening of Extremism in PESA Areas and vicinity, requires urgent action as proposed above. We had earlier requested for dates for holding State workshops on implementation of PESA for State Officers, experts etc. to take the matter forward. Please advise your officer concerned to fix such a date in consultation with our Joint Secretary, Mrs. Rashmi S. Sharma (Tel. 011-23747913).

Yours faithfully,

(A.N.P. Sinha)

- Copy to:**
- 1. *Principal Secretary to the Governor.*
 - 2. *Principal Secretary, Deptt. of Panchayati Raj /Tribal Affairs/ Forest/ Mines/ Excise/ Planning/Revenue, 9 PESA States.*

Compliance with key provisions of PESA

I. Delimitation of Villages and Gram Sabhas as per PESA

- 1 As per Section 4(b) of PESA Act, a village shall consist of a habitation or a group of habitations, or a hamlet or a group of hamlets, comprising a community and managing its affairs in accordance with its traditions and customs. As per Section 4(c), every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayats at the village level. However, this connotation of the Gram Sabha, which is specific to PESA has not been implemented in several States, and the existing definition of the revenue village is being used to convene Gram Sabhas.
- 2 It is suggested that State Election Commissions (SECs) be entrusted with examination and identification of villages as per PESA in Scheduled Areas, based on community demand. A time period may be designated for members of a Gram Sabha of any habitation/hamlet to apply to constitute a separate village, after passing a resolution to that effect either by consensus or three fourth majority. This exercise should be preceded by provision of information of the process and discussion regarding the same in the Gram Sabhas. State Election Commissioners may enquire into these applications examining records, public hearing etc. and in case of a favorable outcome of the inquiry, the habitation may be notified as a village.

II. Consultation with Gram Sabha for Land-Acquisition and Recommendations regarding Minor Minerals.

1. Land Acquisition

The following procedure should be followed for consultation with Gram Sabha before acquisition of land in Scheduled Areas and for relief and rehabilitation (R & R) and sustainable livelihood plan of persons affected as a result of such acquisition:

- All Gram Sabhas that have persons affected by a proposed project should be consulted before acquisition proceedings are initiated. Persons affected would include all persons whose livelihoods and / or habitats are affected by the project.

- Where persons affected by the proposed project belong to more than one Gram Sabha, the appropriate level of Panchayat should also be consulted in addition to the Gram Sabhas.
- The following information shall be furnished by the acquisition authority to the Gram Sabhas and the Panchayats at the appropriate level:
 - i) Full details of project for which land is proposed to be acquired;
 - ii) Full particulars of the land proposed to be acquired;
 - iii) Justification as regards the area of land required;
 - iv) Full details of the possible impact of project including land likely to be affected, social and environmental impact, new people likely to settle in village;
 - v) Proposed compensation, job opportunities likely to be created for people in the village
 - vi) R & R and sustainable livelihood plan.
- After getting complete information, the Gram Sabhas concerned will be competent to ask for information from or to summon the representatives of the authorities concerned to examine them either individually or collectively. It will be mandatory for all such persons to furnish clear and correct information.
- The Gram Sabha after considering all the facts, shall make recommendations regarding the proposed land acquisition, R&R and sustainable livelihood plan of persons displaced.
- The recommendations of the Gram Sabha shall be considered by the the authorities concerned with land acquisition, R & R and sustainable livelihoods.
- In case the authority concerned is not in agreement with the recommendations of the Gram Sabha, he will send the case again to the Gram Sabha for reconsideration.
- If after a second consultation, the authority concerned passes an order against the recommendations of the Gram Sabha, he shall record the reasons for doing so in writing.
- The progress of rehabilitation and sustainable livelihood plan shall be placed before the Gram Sabha after every 3 months from the date of notification for land acquisition.

- If in the opinion of the Gram Sabha, suggested measures regarding rehabilitation and sustainable livelihood are not followed, the Gram Sabha may inform the State Government in writing regarding the same, and it will be mandatory for the State Government to take appropriate action.

2. Minor Minerals

- For purpose of PESA, the term "minor minerals" shall mean building stones, gravel, ordinary clay, ordinary sand and any other minerals which the Central Government has declared as minor minerals through notifications.
- The Gram Sabha and, if necessary, Panchayats at appropriate level shall be consulted while planning for the excavation and use of all the minor minerals including soil, stones, sands, etc to be found in its area. The plan for exploitation of minor minerals may include excavation area, the type of area, and management of ill effects of identification of excavation such as existence of pits, water shortage, reduction in vegetation, effect of ash or smoke on fields, etc;
- The villagers may use minor minerals for their individual needs as per the traditional practice with the permission of Gram Sabha. The Gram Sabha may make regulations in this regard.
- The Gram Sabha may fix the responsibilities such as filling up pits, planting trees, constructing ponds etc. by persons undertaking excavation to compensate for the ill effects of excavation.
- The following procedure shall be followed for securing recommendations of Gram Sabha for grant of prospecting license or mining lease for minor minerals and grant of concession for the exploitation of the minor minerals by auction:-
 - ✓ Any authority may award prospecting license, mining lease for or concession for exploitation of minor minerals by auction only in consultation with Gram Sabha.
 - ✓ The authority concerned that proposes to sanction a prospecting license or mining lease or grant of concession for minor minerals by auction should compulsorily make available to the Gram Sabhas within whose jurisdiction the proposed mining area falls, all relevant information prior to grant of prospecting license/mining lease/ concession. This information should, among others, contain:

- (i) The manner in which the interests of the village community will be affected;
 - (ii) Measures to safeguard the livelihoods of the persons in the affected zone;
 - (iii) Measures to augment the resources of the community through a stake in the revenue; and
 - (iv) A careful assessment of the economic, environmental and social impact on the affected persons.
- ✓ After considering the above information, the Gram Sabha may make its recommendations.
 - ✓ The Gram Sabha may impose conditions for protecting the environment, employment, etc in all cases.
 - ✓ The recommendations of the Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government.

III. Endowing Gram Sabhas with Powers and Authority under Section 4m (i) to 4m(v)

1. Intoxicants

- The Gram Sabha is to have full control over all the aspects related to any type of intoxicant within its jurisdiction. It means that the Gram Sabha may:
 - (a) completely stop the relaxation of allowing members of Scheduled Tribes to make local liquor for their own use or impose any type of ban on it in the village.
 - (b) give instructions to stop the sale of any type of intoxicant from a shop or in any other manner.
 - (c) impose a ban on bringing in any type of intoxicant or taking it outside the village territory.
 - (d) prohibit or impose a limit on the storage of intoxicants at any place.
 - (e) completely stop the use of liquor or other intoxicants in its village territory or impose any restriction.

(f) prohibit the sale of Mahua, Jaggrey etc. which are used in making liquor in the village or in the market.

(g) regulate the use of Taadi, Sulphi etc.

- Without the concurrence of the Gram Sabha, no new factory for manufacturing liquor or other intoxicants or shop for the sale of the same may be established.
- In order to continue a liquor shop for any year, a proposal would have to be presented by the Excise Department to the Gram Sabha. A liquor shop may continue only if a resolution is passed in the Gram Sabha to allow continuing the sale of liquor.
- The views of the women in the Gram Sabha will be given primacy in the matter. This may be ensured by forming an 'Intoxication Control Committee' of the Gram Sabha with adequate membership of women.

2. Minor Forest Produce

- MFP should be defined as per the Forest Rights Act, 2005 in all laws regulations.
- Before chalking out the departmental programme for forests and exploitation of MFP it will be compulsory for the Forest Department to consult the Gram Sabha.
- The management of forests will be done to protect the right of ownership, access to collect, use and dispose of MFP as per the Forest Rights Act, 2006.
- The Gram Sabha may chalk out an action plan about the use or exploitation of MFP in consultation with the Forest Officer concerned.
- One or more Gram Sabhas together, in consultation with the Forest Department, may decide the minimum price for the purchase or exchange rates of MFP.
- Gram Sabha may determine the royalty payable by the collector or the trader on MFP.
- It will be mandatory for all departments and institutions to give details to Gram Sabha before taking any MFP collected on the basis of any Act, rule or administrative instructions, outside the area of the Gram Sabha and obtain clearance from it for the same.

- If the State Government organizes the trade of any MFP in order to protect the interests of the people, that trade will be treated as trade carried out on behalf of people. But prior approval of the Gram Sabha will be needed for the proposed arrangement. On the basis of suggestions of the Gram Sabha, necessary changes may be carried out. Gram Sabha and the collectors will have complete rights over profits.
- For meeting the villagers' requirements such as grazing, fuel wood making houses and ploughs, Gram Sabha may chalk out a minor forest scheme for the use of forest resources used traditionally by the people in consultation with the concerned Forest Officers. Under this scheme every person will be able to use the resources after getting permission from the Gram Sabha.

3. Land alienation

(a) Land records

- The Gram Sabha should be empowered to review records of the village land to ensure that the farmers' names are correctly recorded and records are properly maintained
- Powers regarding mutation and partition of land in undisputed cases may be transferred to the Gram Panchayat, under to overall supervision of the Gram Sabha.
- It should be made mandatory for village officials to take permission from Gram Sabha prior to recording any kind of transfer of land.

(b) Prevention of land alienation

- The Gram Sabha should be empowered to ensure that no land belonging to STs is transferred to non ST persons.
- The Gram Sabha should be authorized to enquire into any land transactions, on the basis of complaints or suo- motto.
- If the Gram Sabha is of the opinion that attempts are being made to alienate lands belonging to STs, it should be empowered to issue instructions to prohibit the transaction.

(c) Restoration of alienated land

If the Gram Sabha finds that any person other than an ST is in possession of any land belonging to an ST without any lawful authority, it should be empowered to

restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs.

4. Money Lending

- The Gram Sabha should be empowered to take action to protect interests of people in relation to money lending.
- Gram Sabha should be empowered to decide the condition of maximum interest and repayment in the matters of private transaction.
- Gram Sabha may ask for any information regarding the loan extended by any person or institution to the villagers, its conditions, repayment status etc. and enquire into any complaints and given instructions to any person institution in case of injustice.

5. Management of markets

- Gram Sabha should be competent to manage and regulate any market in its jurisdiction. This would cover all aspects of management of markets including
 - (a) opening of shops and setting up of facilities,
 - (b) imposing restriction on sale of harmful products,
 - (c) ensure fair market price for products traded,
 - (d) ensuring use of correct weight and measures,
 - (e) fixing area of the operation of market,
 - (f) placing restriction on sale and purchase activity outside the market area, and
 - (h) other activities for the development of markets.
- All revenues from market operations shall flow to the concerned Gram Sabha to improve the facilities available for marketing.

Amendments proposed in the PESA Act

S.No.	Reason for amendment	Proposed amendment
1.	Some terms used in the Act have not been defined in Section 2, which has resulted in lack of implementation in keeping with the spirit of the Act.	The following definitions may be added to Section 2 of the Act: (ii) Community resources: Community resources include land, water, forest, minerals and other resources located in the territorial domain of the community. (iii) Consultation: Consultation means mandatory consultation on the basis of requisite information and transparency that shall be binding on the authorities concerned unless modified or rejected for reasons to be recorded in writing. (iv) Panchayat at appropriate level: Panchayat at appropriate level means the lowest tier of Panchayat which can perform a particular function or in whose area a particular resource is situated.
2.	Section 4 stipulates that the Legislature of a State shall not make any law which is inconsistent with the features of PESA. This formulation does not clearly state the rights of the Gram Sabha and Panchayats. It needs to be made explicit, to remove ambiguity.	It is proposed that rights, duties and powers under PESA may be stated in the Act itself. The wordings in Section 4 of the Act may be changed to: 'Not with standing anything in the Constitution or any other law in force, (i) the following shall be rights, duties and powers entrusted to the Gram Sabha and Panchayat at the appropriate level; and (ii) the Legislature of a State shall not make any law under that Part which is inconsistent with any of them, namely :-
3.	The definition of village in Section 4 (b) can be interpreted so that the 'village' specifies only the residential area.	The following may be added to Section 4 (b): The geographical jurisdiction of the village shall be deemed to extend to the physical boundaries that may have been so accepted by communities concerned according to their tradition.

4.	Section 4 (b) does not suggest a modality for notifying a village as per the definition.	<p>The following provisions may be added to Section 4 (b):</p> <ul style="list-style-type: none"> (i) if members of a Gram Sabha of any habitation/hamlet desire to constitute a separate village, the members of that habitation/hamlet may pass a resolution to that effect either by consensus or three fourths majority. All such application shall be enquired into and decided by the State Election Commissioner. (ii) the Gram Sabhas of a group of villages may, if so supported by at least two third majority of each Gram Sabha, either constitute a Pargana Parishad, or if already existing, inform the District Magistrate in writing about its existence. The Pargana Parishad shall comprise of at least two representatives of each village elected by the Gram Sabha.
5.	There is need to explicitly state that the Gram Panchayat or any other village level committee will function under the overall superintendence and control of the Gram Sabha.	<p>The following may be added to Section 4(c):</p> <ul style="list-style-type: none"> (i) The Gram Sabha may constitute Standing/ad hoc Committees for discharging their respective responsibilities from amongst their members. (ii) The members of such Committees of the Gram Sabha shall be elected in an open meeting of the Gram Sabha from among members of the Gram Sabha. (iii) The Gram Panchayat or any village level committee constituted under any statute or executive instruction by any government department or any other authority for any

		purpose, shall function under the superintendence, control and direction of the Gram Sabha.
6.	Section 4 (d) deems the Gram Sabha to be competent to safeguard the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution but it has no enabling provision for how a Gram Sabha may exercise this competence. There is no provision for appeal against the decisions of the Gram Sabha, which goes against the principle of checks and balances over all authority.	The following may be added to Section 4 (d): Provided that any person aggrieved by any decision of the Gram Sabha, or inaction on its part, or irregularity in the conduct of meetings or such like, can after inviting attention of the Gram Sabha in that regard and remaining dissatisfied with its conduct, make an appeal before the Pargana Parishad if constituted or the Sub-Divisional Magistrate, in case the Pargana Parishad is not constituted, whose decision in that regard shall be final and binding on the Gram Sabha. Provided that a second appeal shall lie to the District Magistrate regarding the decision of Pargana Parishad or the Sub-Divisional Magistrate as the case may be in case there is an infringement of law.
7.	The role of the Gram Sabha in scrutiny of activities of various agencies including Panchayats, government departments and corporate bodies through social audit needs to be defined explicitly.	The following may be added to Section 4 (e): iii. conduct regular social audit of works and programmes taken up in the village by any Panchayat State, corporate or private agency whatsoever;
8.	The words 'be required to' in Section 4(f) are unnecessary.	Words "be required to" in Section 4 of Clause (f) be deleted.
9.	Section 4 (i) does not articulate clearly that the	Section 4(i) needs to be amended as: (i) the Gram Sabhas and, if necessary, the

<p>Gram Sabha as well as Panchayats at the appropriate level have to be consulted before land acquisition and the consent of the Gram Sabha is mandatory. Further, it also needs to be clarified that all Gram Sabhas affected by land acquisition projects need to be consulted and all facts regarding displacement and rehabilitation programmes, especially sustainable livelihoods of displaced people, have to be placed before the Gram Sabha.</p>	<p>Panchayats at the appropriate level depending on the geographical spread of the proposed activity, in the zone influence of any land acquisition project, shall be consulted before taking a decision for issuing any notification for the acquisition of land in the Scheduled Areas for any purpose and regarding the rehabilitation and sustainable livelihood plan. Full facts about the project, its zone of influence, its economic impact and rehabilitation and sustainable livelihood plans shall be placed before the Gram Sabha.</p> <p>Explanation: The recommendations of the Gram Sabhas shall be binding on all authorities unless it is decided otherwise by the State Government for reasons to be recorded in writing.</p> <ul style="list-style-type: none"> (ii) it will be mandatory for the agency acquiring land to place the progress of the rehabilitation and sustainable livelihood plan before the Gram Sabha after every 3 months from the date of notification for land acquisition. (iii) If the Gram Sabha is of the view that appropriate steps for the rehabilitation and sustainable livelihood are not taken, the Gram Sabha may recommend suitable measures. <p>Provided that if in the opinion of the Gram Sabha, suggested measures are not followed, the Gram Sabha may inform the State Government in writing regarding the same, and it will be mandatory for the State Government to take appropriate action.</p>
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10.	Section 4(j) provides that the planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level. It needs to be clarified that these shall vest with the Gram Sabha, and if necessary, with the Panchayats at the appropriate level.	Section 4(j) be replaced as: planning and management of minor water bodies in the Scheduled Areas shall vest in Gram Sabha and, if necessary, the Panchayats at the appropriate level depending on the spread of the water body;
11.	In Section 4(k) and 4(l) provide that the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals, and concession for exploitation of minor minerals respectively. It needs to be clarified that the Gram Sabha has to be consulted, and its recommendations are mandatory unless there are sufficient reasons to do otherwise.	Section 4(k) may be amended as: the recommendation of Gram Sabha and, if necessary, the Panchayats at the appropriate level depending on the spread of the proposed project shall be mandatory prior to grant of prospecting license or mining lease for minor minerals in the Scheduled Areas; Provided that the recommendations of Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government. Section 4(l) may be amended as: the prior recommendation of the Gram Sabha and, if necessary, the Panchayats at the appropriate level shall be mandatory for grant of concession for exploitation of minor minerals by auction; Provided that the recommendations of Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government.

12	In Section 4 (m) (v), the words 'control over money lending' are too general.	In Section 4 (m) (v), the words 'control over money lending' may be substituted by 'take action to protect the interests of tribals in relation to money lending'.
13	An important issue in Schedule V areas in the lack of protection of the rights of people who migrate for work.	A right of the Gram Sabha to be kept informed about migrating workers may be created by adding [section (m) (a)] as follows: The Gram Sabha shall be kept informed by the concerned about workers, including unmarried women and minors, taken out of their home district by any person for employment about the nature of work, wages and other working conditions;
14	Section 5 needs to indicate a time line whereby all Acts inconsistent with this amendment Act shall cease to be valid.	In Section 5 the following clause may be inserted after the proviso: Provided further that the provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this amendment Act receives the assent of the President, which is inconsistent with this amendment Act, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this amendment Act receives the assent of the President;
15	PESA does not confer rule making powers to the State Governments. Since a major problem in implementation of the Act has been that such rules have not been framed, and subject laws have not been amended, this needs to be made mandatory.	Section 6 may be added to the Act as follows: It shall be mandatory for State Governments to frame rules as per this Act and for the Central and State Governments to amend subject laws as per the provisions of this Act within six months of this Amendment. If rules are not framed by the State Government within six months of the passing of this Act, the model rules framed under PESA by the Central Government Annex - IV shall apply.

Annexure-4

REGULATORY MECHANISM OF BAMBOO & KENDU LEAF ACROSS THE STATES

Bamboo

Present status of regulation with respect to selected NTFPs	Andhra Pradesh	Orissa	Madhya Pradesh	Chhattisgarh
Control on extraction and trade regulation	Forest Department	Forest Department	Forest Department	CG MFP Federation
Price fixation by	APFD for bamboo industry based on market terms	State level committee	M.P. FD for Bamboo.	CG MFP Federation
Transit Rule	Transit pass required	Transit pass required for wild forest bamboo	Transit pass is required in natural bamboo growing areas (11 districts)	Transit pass required
Taxation	8% sales tax and income tax @ 2.75%	1% FDT and 4% VAT on produce and 12.5% VAT on finished products	4% commercial tax on buyers	4% Commercial tax, 15% surcharge on commercial tax, 29% income tax, 15% surcharge on income tax

Regulation of Tendu Patta Trade

Present status of regulation with respect to KL	Andhra Pradesh	Orissa	Madhya Pradesh	Chhattisgarh
Status	Nationalised	Nationalised	Nationalised	Nationalised
Control on extraction and trade regulation	APFDC APFDC/ APFD	OFDC	MP MFP Federation	CG MFP Federation
Price fixation by	Transit pass required	Forest Department and OFDC	MFP Fed.	Tendu Leaf
Transit Rule*	?	Transit pass required	Transit fee of Rs 100/ Standard bag	Transit pass required
Taxation	100% benefit sharing to VSS for Tendu but not implemented in practice	4% VAT	Commercial Tax- 25.30%, Mandi Tax- 4%	Forest development cess 3%, VAT on sale value & FDC 25%, Income tax 5%, Surcharge on Income tax 10%/2.5%, Educational cess 3%
Benefit flow to the community	Net profit shared with the pluckers as bonus	No direct sharing with communities. 50% of the net profit from state trading is	60% of net profit to member- pluckers, 20% for resource development,	80 % of net profit as incentive wages to the collector of Tendu leaves,

		shared through PRIs in the following proportion: Zila Panchayat- 8%, Panchayat Samity- 10%; Gram Panchayat- 72% (rest 10% retained by the government for direct grants for various purposes)	and 20% for infrastructural development	15 % of profit for collection, sale, godowning and value addition of non-nationalised MFP, 5% of profit for the temporary reimbursement of losses of societies.
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Author's Note:

The Government of Odisha is reportedly considering a revision in the sharing mechanism so that Gram sabha can also have a share in the KL grant.

The sharing ratio is proposed to be 8% for Gram sabha, 10% for GP, 66% for Panchayat Samiti, 5% for welfare of KL pluckers, and 10% for social welfare of ST.

Annexure-5

RECOMMENDATION OF RCDC TO MoEF

To

The Minister for Environment & Forests

Ministry of Environment & Forests

Government of India

Bhubaneswar

8th July 2010

You ref.- 'New Initiative on Panchayats and Forests', dtd.19-5-2010

Dear Sir,

Reference above, RCDC welcomes this new initiative on the part of the Ministry of Panchayati Raj and the Ministry of Environment & Forests. However, we would further suggest the following so as to make this initiative a holistic one having greater implications:

1. Whereas in most cases the concerned Standing Committee (for forest) of PRIs lie virtually defunct or inactive, the JFMCs themselves are often controlled by the Forest Department lacking their own spontaneous leading role. Hence, establishing effective organic linkages between PRIs and JFMCs in non-PESA areas would need specific directives & mechanisms so as to overcome the present limitations at PRI- as well as JFMC levels. We would rather suggest that since the Forest Rights Act, 2006 doesn't differentiate between PESA & Non-PESA areas, the JFMCs should be placed under the control of Gram sabha/Gram Panchayat in non-PESA areas also.
2. Whereas the term minor forest produce was defined for the first time, and also properly in the Forest Rights Act, 2006 our latest survey in Central- and South Indian states suggests that many states are yet to comply with the same. The result is lack of uniformity in the policy regime on NTFPs/MFPs which causes the JFMCs to suffer in those areas where minor forest produce doesn't mean, as per the previous regimes, items like bamboo, cane, gums & resins, etc. and on which they may not have full rights. Panchayats in Odisha are yet to get ownership/regulatory rights over

minor forest produce other than the 69 items specified by the government. Moreover, the ownership rights of GPs over MFPs have not been properly defined as a result of which GPs in PESA & non-PESA areas exercise the regulatory rights only. Therefore, MoEF should issue instructions to all the states to adopt a MFP/NTFP policy in conformity with the Forest Rights Act, 2006. RCDC offers voluntary support to any such initiative by your Department so that conservation needs of non-timber forest products can also be taken care of while conforming to Section 2(i) of the Forest Rights Act, 2006.

3. RCDC, in consultation with the Civil Society at large, has already submitted to MoEF specific recommendations to be incorporated in the Wildlife(Protection) Amendment Bill, 2010 (vide annexure-1) which may be duly emphasized.
4. Harmonization of the Indian Forest Act, 1927 and the Forest Conservation Act, 1980 with PESA also needs to consider Forest Rights Act, 2006.
5. The Odisha experience suggests that spontaneous community initiatives, without any financial investment on the part of government, could achieve what the huge investments under JFM/FDA programme could hardly do. The Odisha government had passed a resolution in 1990s which granted 100% rights over the forests protected by JFMCs irrespective of the legal status of the same, but it was not implemented. To bring in the effective dynamism of CFM into participatory forest management systems, and also to encourage the existing JFMCs, forest patches protected by village communities, be it JFMC or any other community institution, should be brought under the ownership of the respective communities of their organizations irrespective of the legal status and size of such patches. This will help establish a uniform participatory forest regime in the country. RCDC shall be happy to cooperate with MoEF, the Ministry of Panchayati Raj, and other ministries for the initiatives in the larger interest of the country and its people.

Thank you.

Yours faithfully,

(Bikash Rath)

Sr. Programme Manager

Copy to:

1. The Minister for Panchayati Raj, Govt. of India
2. The Minister for Tribal Affairs, Govt. of India

**Excerpts from the RCDC Civil Society Response to
Wildlife (Protection) Amendment Bill, 2010**

Insertion of new section 65(A): Conformity with the Forest Rights Act, 2006

- (1) Exercising the power under section 24(c), the Collector shall, in due consultation with the Chief Wildlife Warden, the Forest Rights Committee(s) as well as the Gram Sabha of the concerned area(s), work out on a priority basis those individual families or communities(entitled under the Forest Rights Act, 2006) residing in the area of the proposed/existing Protected Area who would prefer continuation of their permanent stay in the area of their present habitation, instead of a relocation, on the condition of a modified right(s).
- (2) The modification, through a legal agreement with the concerned party, shall be in conformity with the technical requirements of the wildlife protection & conservation applicable specifically to the concerned area, and may consist of acquisition of the private lands used for cultivation or other such non-forestry purpose(excepting homestead land and the gardens/orchard attached to it), restriction on the use of otherwise disturbing vehicles, use of chemical fertilizer or pesticides, and use of exotic species(etc.).
- (3) One or more competent persons of the families thus agreeing to the modification of their rights would be offered recruitment, within two months of his/her/their agreement to this effect, for serving for the concerned Protected Area authority towards to cause of wildlife protection & conservation under a 'special forest service cadre' that would be applicable only in case of such individuals whose rights are to be modified in the proposed or existing Protected Area so as to avoid displacement.
- (4) Basic amenities like primary education & health, etc. is to be ensured for such families/communities, within three months of modification and/or acquisition of their rights.
- (5) Collection of such non-timber forest products, on which there is no primary/significant dependency of the local wild fauna, and no primary/significant ecological

dependency of local wild flora, can be allowed by the Chief Wildlife Warden only to those entitled under the Forest Rights Act, 2006 provided that commercial collection of the same will be allowed only on condition of sale to some public sector agency or women's SHGs or self-help cooperatives of the local residents as authorized by the government, and also only after the Chief Wildlife Warden is technically satisfied that such collection would have no significant impact on the wildlife of the area.

- (6) The local management plan shall essentially be designed, after consultation with the concerned Gram Sabha, in due consideration of the important anthropological elements or trends of the local communities (eligible under the Forest Rights Act, 2006) that help for their sustenance or development.

Insertion of new clause 8 in section 51(as per the Amendment Bill 2010):

- (8) In case the offence is challenged by the accused on the basis of Forest Rights Act, 2006 with due compliance to the duties & responsibilities specified therein, evidence provided by the Gram Sabha will be considered with due importance.

Insertions under Section 62 (only relevant portion of the recommendation reproduced here):

- (a) Provided further that the Chief Wildlife Warden may exercise a special power to declare a wild animal vermin even if specified in Sch. I and Part II of Sch. II, if his/her enquiry approves of an application to this effect from the local Gram Sabha or Gram Panchayat or an equivalent local body in urban areas, in case translocation(that would not endanger human life or livestock in the translocated area) of the same animal is not possible.

Insertion of section 68 in Chapter VII: Facilitation of participatory wildlife protection & conservation (only relevant portion of the recommendation reproduced here).

- (5) It is also provided that the Chief Wildlife Warden may declare any wild animal 'vermin', within 15 days of receiving an application to this effect from the Gram Sabha or Gram Panchayat or equivalent local body at urban level and on the basis of an enquiry.

Annexure-6

MEMORANDUM TO 3RD STATE FINANCE COMMISSION OF ORISSA ON NTFP/ MFP ISSUES BY CIVIL SOCIETY ORGANISATIONS

A consultation of key civil society organizations engaged on Non Timber Forest Produce (NTFP)/ MFP issues in the state of Orissa with 3rd State Finance Commission was organized on 19th September 2009 and discussed at length on possible areas of concerns. The consultation was held at PRIA-Orissa, Bhubaneswar and Mr. Swapaneswar Baya, Retd. IAS, Member, Third State Finance Commission was present in the consultation. On the basis of the discussion the following are recommended for consideration of 3rd State Finance Commission:

1. Vast potential of the NTFP resource of the state lies underutilized partly due to defective policy and partly due to poor scope in market. Successful R&D work is urgently recommended so as to develop market-oriented new utilities of the unutilized and/or single-utility products. This can help save products like kendu leaf that presently depend on single market and have no option to sustain in case the present market collapses. R&D work revolutionized NTFP-based livelihood and trade by developing market utilities for sal seed, banatulasi seed, mango kernel, etc., and this helped lakhs of poor people. Unfortunately, such initiatives have been made by individuals or private/non-government agencies, and it is high time that the Government of Orissa should review its role in this context. The review should also examine to what extent the role of the Institute of Mineral and Materials Technology (formerly RRL), Bhubaneswar has actually been beneficial for the State during the recent past.

2. The existing State Medicinal Plant Board(SMPB) has but a limited purview, and there is no nodal agency for overall NTFP development. In order to focus on the overall development of NTFPs in the state with an objective of facilitating community-based NTFP enterprises, an NTFP Development Board may be constituted in the state. The Uttarakhand Bamboo and Fiber Development Board (UBFDB), and MFP Federation in Madhya Pradesh and Chhattisgarh have been working in this line, but the proposed NTFP Development Board is required to have a greater and more diverse action programme as under:

- Mapping of socio-economic dependency including enumeration of NTFP collectors
- GIS-based inventorization of NTFPs
- NTFP certification and patenting
- NTFP product research and development
- NTFP market research and intelligence
- Promotion of NTFP-based enterprises
- NTFP conservation and propagation
- Alternative arrangement for food security of forest dwellers in NTFP-harvesting ban areas(like sanctuaries and National Parks)
- Policy recommendations
- Establishment of an NTFP museum and library
- Annual stock-taking of the production, collection, and trade of NTFPs
- Submission of annual report to State legislature for annual review of the Board's achievements and fulfillment of objectives
- Review of the roles and limitations of TDCC, OFDC and other similar public sector organizations involved in NTFP trade in order to make specific recommendations for their success in public interest.

This Board may have some reputed and independent NTFP-worker as its chairperson who should not have any political or institutional affiliation. As members, the Board may have Secretary-level representatives from Departments of Forest & Environment, Panchayati Raj, Tribal Welfare, Industry, and Finance, etc. and also high-level representatives from ORMAS, TDCC, OFDC, SMPB, Tribal Advisory Committee, etc.. Special wings/cells focusing on each major activities of the Board may be constituted as a follow up.

3. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as Forest Rights Act or FRA) has for the first time provided a clear definition of MFP and recognizes ownership rights of forest dependent communities over Minor Forest Produce (MFP). As defined in the Act, MFPs are all non-timber forest produce which, inter alia, include KL and Bamboo. This now brings Kendu Leaf (KL) & Bamboo within the purview of community ownership. In light of this the government should immediately make suitable amendments in MFP policy resolution of 2000 and amend/ repeal section of other concerned laws on Gram Panchayat; KL; bamboo etc. to make them in conformity with FRA. The NTFP Board may make specific recommendations in this regard.
4. Government should take steps to abolish control mechanisms over minor forest produces the ownership of which is now vested in the community under FRA. Further, steps are needed to be taken to restructure existing institutional systems with regard to MFPs like KL so as to facilitate actual transfer of ownership to the Gramsabhas as envisaged in the Act. Community based institutions for collection and marketing of MFP like cooperatives need to be promoted and provided requisite support. The system of KL grants to Gram Panchayats may be abolished, as pluckers would be directly benefited through profit sharing. To ensure that the deregulation works in conformity with the FRA's commitment towards conservation of threatened flora and fauna without adversely affecting the successful trading, the NTFP Board may make specific recommendations.
5. MFP based community owned and managed enterprises in the form of cooperatives, SHGs, women groups etc. may be exempted from all kinds of taxes and duties.
6. The NTFP Development Board may consider/recommend setting up specialised NTFP research station to be headquartered in one of the forested districts of the State.
7. While it is very much imperative to redefine the term 'Gram sabha' in the light of FRA, Gramsabha (which may mean all villages including forest villages, surveyed or unsurveyed villages inside forest areas, etc.) should be empowered to issue leases for NTFP collection and oversee its sustainable harvesting. The work of MFP data & business returns may be done by the NTFP Development Board. The

concerned monitoring cell of the Board may be a part of this but it should not have any controlling power over Gramsabha, which is violative of FRA.

8. MFPs may be regarded at par with Agriculture and suitable policies must be brought in. Special policy provision should be incorporated in Micro-, Small- & Medium Enterprise (MSME) Policy 2008 of GoO and necessary provisions to define community based NTFP venture may be incorporated in Industrial Policy Resolution 2006. Forested areas of Orissa may be divided into MFP specific cluster/ zones based on dominance of one or more potential and dominantly available MFP. These clusters may be provided facilities alike Special Economic Zones.
9. MSME policy of Orissa should specifically contain policies to encourage village/ habitation based MFP enterprises like primary collectors associations/ cooperatives/ producer companies etc. who can suitably linked to the market. Several such learning models existing in the State should be looked into focus should be given on providing scalability of such interventions.
10. Developmental schemes must be dovetailed to suit the needs of community based enterprises like working capital, critical infrastructures, tech-managerial support etc. Focus should be given on bring in converge of such enterprising activities and programmes like NREGS.

Annexure-7

GUIDELINES FOR TASSAR CULTIVATION IN FORESTS

F. No. 2-1/2003-FC (Pt II)

Ministry of Environment and Forests

Government of India

F.C. Division

Paryavaran Bhawan, CGO Complex

Lodhi Road, New Delhi-110003

Dated: - 7th June, 2004

To,

The Secretary (Forests),

All States and Union Territories.

All PCCFs,

All States and Union Territories.

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980-Revised Guidelines for Tusser Cultivation (Vanaya Silk Cultivation).

Sir,

I would like to draw your attention towards the National Forest Policy, 1988 which recognizes that the holders of the customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive their livelihood. The rights and concessions from forests should primarily be for the bonafide use the communities living in and around forest areas, especially tribals.

The National Forests Policy also recognized that the symbiotic relationship between tribal people and forests is essential for sustainable forest management. It emphasized that the

primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to them. Tusser culture is a way of life for many tribal families and forests dwellers particularly in Central and Eastern India. Therefore, silk cultivation in forest areas which can be termed as "Vanya Silk Cultivation" with active participation of local communities could be one such area which can earn benefit for them and help conservation and protection of forests by reducing their dependency on forests. The silk cultivation has got tremendous potential for contributing to the economy of the forests dependent communities. It is estimated that at least one family can earn upto Rs. 13,000/- per annum through cultivation of silk.

The issue of cultivation of silk worm in forests areas was examined in detail in the Ministry of Environment & Forests in consultation with various State/UT Governments and Ministry of Textiles, Government of India. After careful consideration in the interest conservation and protection, the Central Government hereby, issues following guidelines for VANYA SILK CULTIVATION under Forest (Conservation) Act, 1980

- 1 The State/UT Forest Department shall encourage silk cultivation in forests areas by tribals and non-tribals who live in and around the forests and are dependent on such forests for their livelihood. However, priority shall be given to the tribals and to those enjoy traditional rights on such forests.
- 2 The State/UT Forests Departments shall permit such activities in already identified naturally grown forest areas for silk cultivation and the plantation raised for the purpose thereof in coordination with the State/UT Sericulture Department and Central Silk Board.
- 3 Central Silk Board and the State/UT Sericulture Department shall ensure training of the growers involved in soil cultivation prior to taking up such activities in forests areas.
- 4 Cultivation of trees on which Vanya Silks or silk worms of Tusser, Oak Tusser, Muga, Eri and Frithi could be reared by tribals and non-tribals living in and around the forest areas for their livelihood without undertaking monoculture plantations shall be traded as forestry activity. Therefore, no prior permission of the Central Government under Forests (Conservation) Act, 1980 is required. The concerned Divisional Forest Officer/Deputy Conservator of Forest shall however, maintain the record of such activities and people involved in it.

- 5 The State/UT Sericulture Department or Central Silk Board shall issue the pass books to each silk worm grower.
- 6 The State/UT Sericulture in forests area which specific plantation food trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity. This will not require prior approval of the Central Government under Forest (Conservation) Act, 1980 provided such plantation activities do not involve any felling of trees; provided further that while undertaking such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area.
- 7 Vanya silk cultivation shall be allowed on following tree species as host trees.
8. This activity could also be introduced on degraded forest lands under Joint Forest Management, especially in tribal areas through tribal cooperative societies with proper investment from public or private sources for raising a mixture of indigenous species including tee species suitable for silk cultivation as given in list mentioned in para 6 above. For this purpose, a Micro-plan shall be prepared jointly by the State/UT Forest Department, village communities, State/UT Sericulture Department and the Central Silk Board.

Sl. No.	Scientific Name For Tusser:	Local Name / Common Name
(i)	Terminalia arjuna	Arjun
(ii)	Terminalia tomentosa	Asan
(iii)	Shorea robusta	Sal
(iv)	Lagerstroemia indica	Saoni
(v)	Lagerstroemia parviflora	Sidha
(vi)	Syzygium cumini	Jamun
(vii)	Zizyphus mauritiana	Ber
	For Oak Tusser (Temperate Tusser)	
(viii)	Quercus serrata	Phanat
(ix)	Quercus seniserrata	Phanat
(x)	Quercus dealbata	Udung
(xi)	Quercus semicarpifolia	Phanat
(xii)	Quercus leucotrcophora	Phanat
(xiii)	Quercus glauca	Phanat

(xiv)	Quercus himalayana	Phanat
	For Muga :	
(xv)	Machilus bombycina (Persea bombycina)	Som
(xvi)	Litsea polyantha (L. monoptela)	Soalu
	For Eri :	
(xvii)	Heteropanax fragrans	Kesseru
(xviii)	Evadia fraxinifolia	Payam
(xix)	Ailanthus altissima	Barkesseru
(xx)	Ailanthus grandis	Gulancha
(xxi)	Other Ailanthus species	Maharukh, Bhotera

9. In order to ensure that the silk cultivation is within the carrying capacity of the forests, the concerned Divisional Forests Officer shall issue the permit based on the recommendations, which shall involve technical parameters evolved by the State/UT Sericulture Department and Central Silk Board for rearing of silk worms.
10. To preserve the ecology of a particular forests area, no exotic silk worm or any hybrid variety developed by using exotic genome, shall be introduced in forests areas.
11. This activity shall not be permitted in National Park, Sanctuaries or Biosphere Reserves.
12. Biannual monitoring of the forest areas under silk cultivation shall be done by a team comprising of the concerned Divisional Forests Officer, Director (Sericulture Department) and the officials of Central Silk Board in order to ensure prevention of any epidemic in forest areas as well as proper handling or trees by the growers. The monitoring report shall be submitted to the concerned Regional Office of Ministry of Environment & Forests.

The States/UTs should follow these guidelines while considering proposals for diversion of forest lands for Vanya Silka Cultivation on forest lands.

This issues with the approval of the component authority.

Yours faithfully,

Sd/-

(ANURAG BAJPAI)

Asstt. Inspector General of Forests

Annexure-8

**Excerpts from
LIST OF THE GRADING AND
MARKING RULES NOTIFIED UNDER
THE AGRICULTURAL PRODUCE
(GRADING AND MARKING) ACT, 1937
(as on 05-01-2010)**

- Lac Grading and Marking Rules, 1950
- Essential Oils Grading and Marking Rules, 1954
- Myrobalans Grading and Marking Rules, 1962
- Tendu (Bidi Wrapper) Grading and Marking Rules, 1963
- Seedless Tamarind Grading and Marking Rules, 1971
- Mahua Seeds Grading and Marking Rules, 1982
- Sal Seed Grading and Marking Rules, 1982
- Guar Gum Grading and Marking Rules, 1982
- Gum Karaya Grading and Marking Rules, 1982
- Castor Seeds Grading and Marking Rules, 1982
- Catechu Grading and Marking Rules, 1982
- Dried Tamarind Grading and Marking Rules, 1983
- Tamarind Seeds and powder Grading and Marking Rules, 1983
- Sheekakai Grading and Marking Rules, 2008***
- Mahua Flower Grading and Marking Rules, 2008
- Amla Grading and Marking Rules, 2008
- Honey Grading and Marking Rules, 2008
- " Karanj Seeds Grading and Marking Rules, 2009

(Source: <http://agmarknet.nic.in/cgmr.pdf>)

Annexure-9

MAHUA FLOWER GRADING & MARKING RULES, 2008

[To be Published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (i)]

**GOVERNMENT OF INDIA
MINISTRY OF AGRICULTURE
(Department of Agriculture and Co-operation)**

NOTIFICATION

New Delhi, dated 21-08-2008

G.S.R. 615(E), – Whereas the draft of Mahua Flower Grading and Marking Rules, 2007, were published in the Gazette of India, Part II, Section 3, Sub-section (i) vide number G.S.R. 285 dated the 22nd December, 2007, inviting objections and suggestions from all persons likely to be affected thereby within forty-five days from the date on which the copies of the said notification published in the Gazette of India were made available to the public;

And whereas copies of the said notification were made available to the public on the 17th February, 2008 and whereas the objections and suggestions received from the public in respect of the said draft rules have been duly considered;

Now, therefore, in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937, (1 of 1937), the Central Government hereby makes the following rules, namely:-

RULES

1. Short title, application and commencement

- (1) These rules may be called the Mahua Flower Grading and Marking Rules, 2008.
- (2) They shall apply to mahua flower obtained from varieties *Madhuca latifolia* and *Madhuca longifolia*.
- (3) They shall come into force on the date of their final publication in the Official Gazette.

2. Definitions. -In these rules, unless the context otherwise requires

- (a) "Agricultural Marketing Adviser" means the Agricultural Marketing Adviser to the Government of India as defined in clause (e) of rule 2 of the General Grading and Marking Rules, 1988;
- (b) "Authorised Packer" shall have the meaning as assigned to it in clause (f) of rule 2 of the General Grading and Marking Rules, 1988;
- (c) "Certificate of Authorisation" shall have the meaning as assigned to it in clause (k) of rule 2 of the General Grading and Marking Rules, 1988; and
- (d) "Schedule" means the Schedules appended to these rules.

3. Grade designation mark

The grade designation mark shall consist of "AGMARK INSIGNIA" consisting of a design incorporating the number of the Certificate of Authorisation, the word "AGMARK", name of the commodity and grade designation resembling the one as set out in Schedule-I.

4. Grade designation

The grade designation to indicate the quality of the mahua flower shall be as set out in column (I) of the Table to Schedule-II.

5. Quality

The quality of mahua flower shall be as set out against each grade designation in columns 2 to 8 of the Table to Schedule-II.

6. Method of packing

- (1) Mahua flower shall be packed only in sound, clean and dry containers made of jute, cloth bags, laminated polyethylene or poly propylene or high density polyethylene bags, pouches, cartons or any other packaging material duly approved by the Agricultural Marketing Adviser or any officer authorised by him in this behalf.
- (2) The container shall be free from any insect infestation or fungus contamination and also free from any undesirable or obnoxious smell.
- (3) Mahua flower shall be packed in such a way as to protect the produce properly and the container shall be securely closed and sealed in a manner approved by the Agricultural Marketing Adviser or an officer authorised by him in this behalf.
- (4) The use of materials particularly of paper or stamps bearing trade specifications is permitted:
Provided that the printing or labeling has been done with non toxic ink or glue.
- (5) Each package shall contain mahua flower of one grade designation only.
- (6) Suitable number of small packets of mahua flower containing graded material of the same lot or batch and grade designation may be packed in a master container such as jute bags, wooden cases, cardboard cartons, etc., with details on master containers.
- (7) Mahua flower shall be packed in the pack sizes as per instructions of the Agricultural Marketing Adviser issued from time to time.

7. Method of marking and labeling

- (1) The grade designation mark shall be securely affixed to or clearly and indelibly printed on each container in a manner approved by the Agricultural Marketing Adviser to the Government of India.
- (2) In addition to the grade designation mark, the following particulars shall be clearly and indelibly marked on each package, namely:-
 - (a) name of the commodity;
 - (b) variety;
 - (c) grade designation;
 - (d) name and address of the packer;
 - (f) net weight;

- (g) storage conditions, if any;
- (h) country of origin;
- (i) date of packing;
- (j) best beforedate, month and year;
- (k) lot or batch number;
- (l) maximum retail price; and
- (m) any other particulars as may be specified by the Agricultural Marketing Adviser.

Note : *The date of packing shall be the date of completion of the analysis of the sample.*

8. Mahua flower may be graded and marked as per buyer's requirements for export provided minimum requirements specified in the relevant Schedule-II are met.
9. Special conditions for grant of Certificate of Authorisation.
 - (1) In addition to the conditions specified in sub-rule (8) of rule 3 of the General Grading and Marking Rules, 1988 every Authorised Packer shall follow all instructions issued by the Agricultural Marketing Adviser from time to time;
 - (2) The Authorised Packer shall either set up his own laboratory or has access to the State Grading Laboratory or Private Commercial Laboratory approved for the purpose and manned by a qualified chemist approved by the Agricultural Marketing Adviser or an officer authorised by him in this behalf in accordance with rule 9 of the General Grading and Marking Rules, 1988 for testing the quality of mahua flower.
 - (3) The premises for processing, grading and packing shall be maintained in perfect hygienic and sanitary conditions.
 - (4) The personnel engaged in these operations shall be in sound health and free from any infectious, contagious or communicable diseases.
 - (5) The premises shall have adequate storage facilities with pucca floor and free from rodent and insect infestation.

SCHEDULE - I
(see rule - 3)
DESIGN OF THE AGMARK INSIGNIA



Name of the Commodity.....

Grade.....

SCHEDULE - II
(see rules 4 and 5)
Grade designation and quality of mahua flower

Mahua flower means dried corolla of Mahua flower obtained from varieties of Madhuca latifolia and Madhuca longifolia;

2. Minimum requirements

- (i) Mahua flower shall have the size, shape and colour characteristics of the commodity.
- (ii) It shall be,-
 - (a) dried, sound and clean;
 - (b) free of any visible foreign matter;
 - (c) free from insect infestations, live insect, dead insects, mould growth, larvae and added colouring matter, rodent hair and excreta, etc.;
 - (d) free from fermentation, rancid taste and musty odours;

- (e) free from dirt, extraneous matter and other adulterants;
 - (f) free from any fungal or bacterial contamination; and
 - (g) free from any external moisture.
- (iii) The taste and smell of mahua flower shall be associated with the produce.
- (iv) Mahua flower shall comply with the residue levels of heavy metals, pesticides and other food safety parameters as laid down by the Codex Alimentarius Commission for exports.
- (v) It shall comply with the restrictions in regard to metallic contaminants, naturally occurring toxic substances, insecticide and pesticides as specified in rules 57, 57B and 65 of the Prevention of Food Adulteration Rules, 1955 respectively and other provisions of the said rules.

3. Criteria for grade designation

TABLE

Grade designation	Special characteristics						
	Organic extraneous matter per cent by mass on dry basis	Inorganic extraneous matter per cent by mass on dry basis	Moisture content per cent by mass	Total ash per cent by mass on dry basis	Acid insoluble ash per cent by mass on dry basis	Crude fibre per cent by mass on dry basis	Total reducing sugar plus sucrose per cent
	Maximum	Maximum	Maximum	Maximum	Maximum	Maximum	Minimum
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Special	0.8	0.3	12.0	3.0	0.5	3.0	60
Standard	1.0	0.5	14.0	4.0	1.0	4.0	50
General	1.5	0.8	16.0	5.0	1.5	5.0	40

4. Other requirements

The condition of the mahua flower shall be such as to enable them--

- (a) to withstand transport and handling; and
- (b) to arrive in satisfactory condition at the place of destination.

Explanation 1: For the purposes of these rules, "organic extraneous matter" means vegetable matter of plant other than the mahua flower.

Explanation 2: For the purposes of these rules, "inorganic extraneous matter" means sand, stones, pebbles, lumps of earth, clay, mud etc.

[F.No. 18011/21/2007-M.III]

(U.K.S.CHAUHAN)

Joint Secretary (Agricultural Marketing)

Annexure- 10

NON TIMBER FOREST PRODUCTS MANAGEMENT GOVERNMENT OF KERALA

Abstract

(G.O (Rt) No. 40/2001/F&WLD (G) Department dated, 2.2.2001)

1. Objectives

- To enlist the participation of tribal communities living in the forest area for Sustainable Management of Non Timber Forest Products (NTFP) and Protection of Forests. To utilize the indigenous knowledge of the tribal communities as far possible for the above purpose.
- To empower the tribal communities so that they confidently take part in the programme
- To nurture the community collectiveness of the tribal people in order to help them to solve their basic livelihood problems
- To organize Forest Protection Committee (Vana Samrakshana Samihti-VSS) based on traditional tribal hamlets.

2. Constitution of Tribal Forest Protection Committee (VSS)

Organisation will be at the level of traditional tribal hamlet

Membership : All adult tribal individuals in the tribal hamlet

Executive Committee : 9 representatives of the tribal hamlet (Executive shall have a minimum representation of 4 women. At least 5 of the Executive members shall be primarily dependent on collection of Non Timber Forest Products for livelihood).

- Ex-Officio Members : Grama Panchyat ward member Representative of Tribal
Department Representative of Non Governmental
Organisation
- Secretary : Forester/ Forest Guard.

3. Area of Operation

The area of operation of one Tribal Forest Protection Committee (VSS) shall be the area traditionally foraged by the inhabitants of the tribal hamlet and confined to the forest range.

4. The Style of Intervention

The wilderness indigenous to each locality in the forest will be nurtured and the forest will be maintained as a sustainable source (store house) of forest products.

5. Organizational discipline

This will be the same as prescribed for Participatory Forest Management in the fringe area.

6. Certification for sale of Non Timber Forest Products

The VSS shall certify to the effect that the Non Timber Forest Products are collected as per the prescription of the micro plan, while transporting the articles for sales.

7. Collection of Forest Products for Bona fide local use

The State Government shall notify the rights and privileges of the tribal communities, over forest products, for bona fide local use. The VSS will have to handle this responsibility on behalf of the members of the tribal hamlet.

8. Micro Plan

VSS members, Kerala Forest Department, related social & scientific institutions shall jointly prepare the micro plan.

Content of the micro plan

- 1 Inventory of various Non Timber Forest Products and availability at sustainable levels of collection in the area.
- 2 Resource map

- 3 Area of operation of each VSS
- 4 Detailed management strategy for ensuring sustainability of species, which are identified as source of Non Timber Forest Products.
- 5 The rights, responsibilities and duties of the VSS
- 6 Special rescue/care programmes for rare and endangered Non Timber Forest Product species.
- 7 Management of gene pool conservation zones.
- 8 Special enrichment programme for regeneration of degraded forest.
- 9 Forest protection
- 10 Collection, processing, distribution and marketing of Non Timber Forest Products and keeping accounts of various transactions.
- 11 Functioning of Operational Fund & Core Fund
- 12 Auditing
- 13 Training programmes
- 14 Crop damage from wild animals in tribal hamlet
- 15 Socio-economic and cultural situations and crisis confronted
- 16 Essential activities needed for the well being of the tribal community The plan will be for a period of 10 years

9. Operational Fund

These will be managed in the following two ways.

1. Credibility Fund
2. Non Timber Forest Product Management

Money can be withdrawn from the Operational Fund only as per the permission granted by the Divisional Forest Officer (either proceedings or bills passed). Joint account of the Ex-officio Secretary and the President of VSS will be maintained.

9.1 Non Timber Forest Product Management (Forest Activities)

- Special rescue/care programme for rare and endangered Non Timber Forest Product species.
- Management of gene pool conservation zones
- Special enrichment programme for regeneration of degraded forest.

9.2 Credibility Fund

Rs 3000/ VSS member primarily depended on Non Timber Forest Products collection. Total amount will be calculated and passed on to the VSS through the Operational Fund. The account will be jointly managed by the President of the VSS and the Ex-officio Secretary in the following ways.

1. To set up the office with necessary forms and registers
2. (a) As advance payment for Non Timber Forest Products processing unit of the hamlet
(b) For running the processing unit at the hamlet level
(c) VSS contribution for maintenance of Range Level Non Timber Forest Products store. The VSS will advance money for the above activities, which will be claimed back for members to re-establish the fund.
3. Advance to VSS for incurring expenditure for forestry activities as prescribed in the micro plan. The advance will be claimed back when bills are settled by the Divisional Forest Officer.
4. The VSS can utilize this fund for buying agriculture produce from its members and selling them. This is permissible in extra-ordinary situations where the VSS intervention is felt essential to rescue the tribal farmers from exploitative middlemen. The VSS should take special decision in this regard. The money should be refunded later to keep the fund intact.
5. In extreme situations the VSS general body is authorized to utilize the money to help individual members after making sure that the amount would be refunded.

In essence the Credibility Fund shall be kept intact by the VSS as a revolving fund.

10. Core Fund

The Core Fund is the money at the disposal of VSS. This will be a joint account of three VSS members including at least one-woman member.

11. Utilization of Profits from the Sale of Non Timber Forest Products

25% of the profits or 25% of the amount credited as credibility fund, which ever is less, should be credited to the credibility fund every year. 50% shall be distributed to the VSS members through their Self Help Groups. 25% shall be kept apart as fund for future Non Timber Forest Management and Forest Management and Forest Protection

12. Non Timber Forest Products Processing Unit

Each tribal hamlet will have its own local Non Timber Forest Products processing unit.

13. Non Timber Forest Products Store

There will be a store at the Range Level for the Non Timber Forest Products for articles brought from the Processing Unit.

14. Supervisory Team

There will be a team of representatives from VSS to supervise the performance of the store.

15. Duties and Responsibilities of VSS

The VSS shall assist Kerala Forest Department in protecting the forest from all sources of illicit and illegal activities. Further, the responsibilities explicitly mentioned in the micro plan shall be borne by the VSS.

16. Social and Human Resource Development

To reconstitute the tribal community organisations in the present context in order to help them confidently confront the present realities. This is a core activity to empower the tribal societies. An organisation at the Range Level, decide the marketing strategy of Non Timber Forest Products, assess the short comings in matters related to Forest Protection and Non Timber Forest Products Management, advice the VSS for improved performance, review the performance of the Non Timber Forest Products Store, discuss any additional subject of emergency nature and take decisions if required.

17. Advisory Committee

Representative of VSS, Tribal Department, NGO and Panchayat under the chairmanship of the Range Officer will function as an Advisory Body. The committee

shall coordinate the activities of VSS at the Range Level, decide the marketing strategy of Non Timber Forest Products, assess the short comings in matters related to Forest Protection and Non Timber Forest Product Management, advice the VSS for improved performance, review the performance of the Non Timber Products Store, discuss any additional subject of emergency nature and take decisions if required.

18. Phases of the Programme

The first phase will concentrate on matters related to Non Timber Forest Products and Forest Management including processing of the products. This will be based on micro plan for the first three years. Side by side, formation and strengthening of Self-Help Groups will be activated particularly as an initiative of the women. A women social activist will be specially put in charge of the organizational work. The programme will be reviewed continuously and improved. Meanwhile a detailed participatory process will be started for Village Development in the fourth year based on micro plan for Participatory Village Development. The village will have to contribute 25% of the contribution as voluntary service. The funds for the Village Development might flow from other sources also.

19. Review

The executive of the VSS will have to review its performance every month and submit it to the Divisional Forest Officer through the Range Officer. The Divisional Forest Officer will review the performance and assist those concerned with the programme for progressive improvement in the quality of out put. The Conservator will review the programme every six months and give directions to every one concerned. Report on this review shall be furnished to the Chief Conservator of Forests.

20. Evaluation

There should be an evaluation of the programme every two years. The socio-economic and cultural transformations in the tribal society, impacts on the environment and biodiversity features of the forest, forest protection, marketing and distribution of Non Timber Forest Products, the attitudinal changes of the participants are to be evaluated and the programme should be continued with recommended changes. Representatives of Tribal VSS, Kerala Forest Department, Tribal Department, Social Scientists, Forestry Scientists, and Social Activists shall constitute the study team.

Annexure-11

POLICY ON PROCUREMENT AND TRADE OF NTFP

**Government of Orissa
Forest and Environment Department**

RESOLUTION

No.5503 / F&E

Dated Bhubaneswar the 31st March, 2000

Sub: Policy on procurement and trade of non-timber forest produce.

1. Non-Timber Forest Produce (NTFP) has traditionally been perceived as an important source of forest revenue. Accordingly the policies relating to NTFP over the years have generally tended to aim at maximization of revenue. However, NTFP is an important source of livelihood of tribals and the rural poor. These gatherers of NTFP, majority of whom are women, have limited access to the market, and their primary concern is getting a fair price for the NTFP gathered by them and being able to dispose off the produce gathered. The prevailing system does not adequately provide these facilities to the primary gatherers. At the same time, it is also equally important that collection of NTFP must be on non-destructive basis so that sustainability of forests and long term sustainability of the NTFP based livelihood can be reasonably ensured.
2. The State Government have had under their consideration proposals for formulation of an appropriate policy on Non-Timber Forest Produce, keeping in view the consideration outlined in the preceding paragraph. While formulating the policy the provisions of the Panchayats (Extension to scheduled areas) Act, 1996 have also to

be kept in view. The term 'minor forest produce' has not been defined. Under the policy of Joint Forest Management, the local communities are being closely involved as partners of Forest Department in the management of degraded forests; and the members of the Vana Samrakshyana Samiti are entitled to share of the usufructs, including the entire NTFP gathered from such a forest area. Considering all aspects of the matter, Government have been pleased to approve of the following policy guidelines for streamlining the system of collection and disposal of various Non-Timber Forest produce items:-

3. Forest Produce

- (a) The items of Non-Timber Forest Produce listed in Annexure-A will be treated as Minor Forest Produce (MFP) and the term MFP will only mean and include items listed in Annexure-'A'. The list of items of NTFP to be treated as MFP may however be modified by Government from time to time. Gram Panchayat/ Gram Sabha in the scheduled areas will have the ownership over MFP produced within its territorial jurisdiction, i.e. in respect of the MFP produced in and collected from the Government lands and forest lands within the limits of the revenue villages comprising the Gram Panchayat. Under law, ownership of MFP in non-scheduled areas is not vested in Gram Panchayats. Gram Panchayats both in the scheduled and non-scheduled areas, will however, have the authority to regulate purchase, procurement (as distinct from collection by primary gatherers) and trading in MFP in accordance with the policy outlined in the succeeding paragraphs.
- (b) No Gram Panchayat, whether situated within or outside the scheduled area will have ownership over MFP produce in Reserve Forests, in forest areas under Wildlife Sanctuaries and National Parks which are outside the limits of revenue villages. The Gram Panchayats will not therefore have the right to grant lease or licence to any individual or agency for collection of Minor Forest Produce from any Reserve Forest or Sanctuary or National Park. However, members of Vana Samrakshyana Samitis, and tribals, artisans, etc. as part of their customary rights will be free to collect Minor Forest Produce from forest areas excluding sanctuaries and National Parks. When any such MFP collected from forest areas is brought to a village, i.e. into the territory within a Gram

Panchayat, it will come under the Gram Panchayat's powers to regulate procurement and trading. Where Vana Samrakshyana Samiti has been formed, the Samiti and its members will have priority over the Gram Panchayat in the matter of collection and disposal of Minor Forest Produce of the respective forest area.

- (c) Any person desirous of purchasing MFP from primary gatherers or trading in MFP so purchased shall apply for registration to the concerned Gram Panchayats and the Gram Panchayat may register such dealers or traders for a season from the first day of October to the last day of September of the following year. Dealers and Traders will have to seek fresh registration for the next season. Gram Panchayats shall make all efforts to promote free competition in procurement of MFP by engaging as many dealers for each item of Minor Forest Produce as reasonably practicable. The Gram Panchayat shall also levy on annual registration fee from such dealers or traders at such rate as may be determined by the Gram Panchayat and shall issue a certificate of registration to the registered dealers and traders. The dealers registered by the Gram Panchayat will have to furnish a monthly return to the concerned Range Officer indicating the item of MFP procured, quantity procured and the GP from which the procurement was made during the month. No person will be allowed to operate as a Dealer/Trader in MFP in any area without being registered as such by the concern GP.
- (d) The collection of MFP by the primary gathers will be subject to reasonable control to be exercised by the DFO in accordance with the provisions of law and sound silvicultural principles laid down in the Forest Working Plan which shall be given publicity in advance in the adjoining GPs.
- (e) The Government agencies like Orissa Forest Development Corporation, Tribal Development Cooperative Corporation etc. may also register themselves with one or more Gram Panchayats for procurement and trading in one or more items of Minor Forest Produce.
- (f) A Gram Panchayat may cancel the registration of any dealer/trader or may refuse to grant registration for the subsequent seasons if after summary enquiry in course of which the affected party shall be given an opportunity to show

cause it satisfied that the dealer/trader has procured any MFP from the primary gatherers at a rate lower than the minimum procurement price fixed for that item of MFP under para 5 of this resolution for the relevant year.

- (g) No lease shall be granted by Government in respect of any Minor Forest Produce nor shall it levy any royalty on these items after commencement of this Resolution. No Forest Department Transit permit will be required thereafter for transport/movement of any Minor Forest Produce within the State.

4. Other items of NTFP

- (a) The Trade in kendu leaf will continue to be directly controlled by the State Government as there are well laid down statutory provisions for control of trade in this item. Sal seed which is the one NTFP items notified as a specified forest produce under the Orissa Forest Produce (Control of Trade) Act, 1981 will also be dealt with in accordance with the provisions of law by Government keeping the overall interest of the trade, the industries and the gatherers in view.
- (b) Certain items, namely sal leaves, gums and resins of different trees, khaira and catechu, the barks of different trees and climbers and roots of various species which have medicine or other uses will not be leased out, as the collection of these items on commercial scale has adverse impact on the sustainability of the particular species and the forest. In particular localities, however, based on sound assessment of silvicultural availability and enforcement of appreciate collection procedure, any of these lease-barred items may be allowed to be collected either directly by field organization of Forest Department or a Government undertaking.
- (c) The remaining items of NTFP as per the list at Annexure-B, which may be modified by Government from time to time, will be allowed to be procured and traded by the dealers who have been registered for the purpose under this Resolution by the concerned Divisional Forest Officers. Individuals, societies, Cooperatives, Government Undertakings and Corporations may be registered as a dealer for the above purpose. Such registration shall ordinarily be granted by the Divisional Forest Officers for season (from the first day of October to the last day of September of the following Calendar year) to applications seeking

such registration, unless there are valid reasons for refusing registration. The DFOs will endeavour to promote competition among the traders and dealers by registering as many dealers as reasonably practicable for specified area. For each item, as many dealers as may come forward can be engaged for each Forest Division/Range. OFDC, TDCC, Cooperative Societies like LAMPS etc. will also be eligible to register themselves with the DFOs and should be encouraged to engage themselves in trading in these items. The Vana Samrakshyana Samiti, Mahila Samiti, recognized groups of primary gatherers may also get themselves registered for this purpose. The fees to be paid for registration shall be prescribed by Government.

- (d) The registered dealers will be required to furnish the names of their authorized agents/nominees and the names of their collection and storage centres to the concerned Divisional Forest Officers, and will also record the daily transactions in prescribed formats. The dealers will have to enter into an agreement with the concerned DFOs under which the dealers will be responsible for achieving a minimum target of procurement to be fixed by the Divisional Officer, of a particular item during a collection season. If the collection method of any particular item in any particular area is considered to be harmful or injurious to the forest, the DFO may impose temporary ban on such collection.
- (e) The registered dealers will have to pay royalty to the local Forest Range Officer at the rate fixed for the quantity of produce collection. The rate of royalty shall ordinarily not be less than 10 per cent of the minimum procurement price for the particular item, but this rate may be varied by Government from time to time, suo muto or on proposals submitted by the Divisional Forest Officers.
- (f) The registered dealers will be required to take transit permits from competent Forest Officers for movement/transport of the produce out of the collection centres after setting the royalty dues, etc.
- (g) The Divisional Forest Officer may cancel the registration or refuse registration of any dealer/trader if after summary enquiry in course of which the affected party shall be given an opportunity to show causes it is found that the dealer has procured any forest produce from the primary gatherers at a price less than the minimum procurement price fixed for the relevant year under para 5

of this Resolution or has failed to file the prescribed returns or has failed to settle the royalty dues in time.

5. For all NTFP items including MFP, the Committee appointed by Government in SC & ST Development Department will fix the minimum procurement price each collection season or part thereof. These procurement prices shall be announced every year ordinarily during the month of September and will be given wide publicity as decided by Government.

By order of the Governor

H.S. Chahar

Commissioner-cum-Secretary to Government

ANNEXURE - A

Sl.No	Common Trade name of the item of forest produce	The botanical name of the concerned species
1.	Tamarind, deseeded Tamarind, Tamarind Seed	
2.	Mahua Flower	
3.	Hill Brooms	
4.	Thorn Broom (Jhadu or Ghoda Lanji)	
5.	Phula Jhadu	
6.	Broom Grass	
7.	Nux Vomica (Kochila Seeds)	
8.	Harida Myrobolons	
9.	Bahada	
10.	Amla	
11.	Soap Nut (Ritha Phala)	
12.	Marking Nut (Bhalia)	
13.	Cleaning Nut (Nirmala)	
14.	Honey	
15.	Siali Leaves	
16.	Sabai Grass	
17.	Mango Kernel	
18.	Thatch Grass	
19.	Simul Cotton	
20.	Arrow Root (Palua)	
21.	Dhatuki Flower	
22.	Putrani	
23.	Sikakai	
24.	Jungal Jada or Gaba	
25.	Palasa Seed	
26.	Siali Seed	
27.	Indro Jaba (Korai Seed)	
28.	Gila (Seed and Coat)	

29. Benachera
30. Bana Haladi
31. Bana Kolatha
32. Gaba
33. Basil
34. Makhana seed (Kanta Padma)
35. Tala Makhana Seed
36. Baidanka Seeds
37. Baghanakhi Seeds
38. Kamala Gundi Fruit
39. Landa Baguli
40. Bela
41. Chiratta (Bhui Neem)
42. Khajuripata
43. Rohini Fruit
44. Bhursunga Leaves
45. Rasna Root
46. Phenphena Fruit
47. Sidha Fruit
48. Sathabari
49. Katha Lai
50. Atundi Lai
51. Khelua Lai
52. Suam Lai
53. Eksira Fruit
54. Katha Chhatu(mushroom)
55. Mat Reed (Sapa Masina Grass)
56. Ananta Mula
57. Antia Pata
58. Nageswar Flower
59. Mankad Kendu
60. Atundi Fruit

ANNEXURE - B

1. Mahua Seed
2. Kusum Seed
3. Karanja Seed
4. Neem Seed
5. Char Seed
6. Chakunda Seed
7. Babul Seed
8. Any other item(s) as may be notified by Government.

Items covered under Para 4(b)

1. Sal leaves
2. Sal resin (Jhuna)
3. Gums (Dharua Gum, Babul gum, Genduli gum, Bahada gum, Palas gum, Salai gum etc.)
4. Khaira and Catechu
5. Barks of trees/climbers (Sunari, Lodha, Medha, Phenaphena, Arjuna barks, etc.)
6. Roots of Patala garuda (R.S. roots)
7. Sandal Wood
8. Tassar Cocoon
9. Canes

Author's Note:

7 oil seeds listed under annexure-B were later added to the MFP list.

Annexure- 12

COMMUNITY FOREST RIGHTS UNDER FRA

Forest Rights Act, 2006 recognized diverse community rights in the traditionally accessed forest, known as community forest rights(CFR). This includes ownership over traditionally collected minor forest produce, which implies that this ownership would not be applicable to minor forest produce that have no known traditional use but gain sudden importance due to some recent R&D work, etc.. However, as the following CFRs would show, there has not been a consistency in the claims as well as approval thereof. For instance, the 1st CFR in the country was granted to Mendha-Lekha village in Maharashtra in 2009. Whereas the general situation has been that CFR claims have been ignored and hence pending in large numbers, this village got the credit of having it first because of a number of other additional factors strengthening its position(like, it was the first village in India to have a biodiversity register, and the district administration, local people, and civil society were as if in solidarity with each other). However, the CFR Title of this village doesn't describe the rights clearly; rather it refers to clauses elsewhere.

In Odisha, the translated version of Golamunda village's CFR Title shows that whereas as per FRA kendu leaf is one of the minor forest produces, this Title distinctly recognizes a right to its collection & sale. This is obviously because the state government is yet to recognize kendu leaf as a minor forest produce.

As the Golamunda Title would suggest, a case filed by the Retired Forest Officers' Association in the Odisha High Court against the implementation of FRA has put the matter under subjudice. Similar cases are pending in other state High Courts. However, the Hon'ble Courts have decided not to stop the process of implementation of FRA in the meantime.

Community Forest Right(CFR) Title of Mendha-Lekha

Government of India, Ministry of Tribal Affairs

The Schedule Tribes & Other Traditional Forest Dweller

(Recognition of Forest Right Act, 2006 & Rules,2008)

Title of the Community Forest Right

ANNEXURE: III

See Rule- 8(h)

Number of district topic: 2201/09

1. **Name(s) of the community forest right holder(s)** : Mr. Birju Jogi Tofa and other community members of village (Lekha) (Mendha)
2. **Village/Gramsabha** : At/post. (Lekha) (Mendha)
3. **Gram panchayat** : Lekha
4. **Tahsil/Taluka** : Dhanora
5. **District** : Gadchiroli
6. **Scheduled tribe/other traditional forest dweller** : Scheduled Tribes
7. **Nature of community Rights** : Rights as per the above Rules & Nistar rights as per the claims number 1, 2, 3,4,5,6 of the claims of the Community.
8. **Conditions if any** : As per the rules of Government
9. **Description of boundaries including Customary boundary and/or by prominent Landmarks including khasra/compartment No** : Araj. 1809.61 hectare Compartment no. Survey No.468, 469,470,471,511.
10. **Name(s) of the holder(s)of community forest right:**
 - All the villagers of Lekha(Mendha) village.
 - Non timber forest produces as per the Nistar letter.
 - Recognition to lawful rights
 - Recognition to other rights & Nistar rights as per the claims1, 2, 3,4,5,6.

We the undersigned, hereby, for and on behalf of the Government of Maharashtra affix our signatures to confirm the community forest right as mentioned in the Title. In case of a change in the compartment number through re-measurement of land in the Nistar forest, the nistar right will be applicable as per new survey number. Those lands which have been distributed earlier and now recorded under individual forest right, excluding such lands community forest rights are applicable on the remaining land.

DFO/Dy. C.F., Gadchiroli. Additional Commissioner, Tribal Development (Nagpur)
District Collector/Deputy Commissioner
(Translated version courtesy : Econet, Pune)

Community Forest Right(CFR) Title of Golamunda

Serial No.- 99/2010

Till final hearing of the
writ petition # W.P. S. 4933,
year 2008 of the Hon'ble High Court

Annexure-III (See Rule 8(h))

The Schedule Tribes &
Other Traditional
Forest Dweller
(Recognition of
Forest Rights) Act, 2006
Government of India
Ministry of Tribal Affairs

Title for Community Forest Right

1. Name of the community forest right holder(s): Villagers of Golamunda
2. Village/Gram sabha: Golamunda
3. Gram panchayat: Golamunda
4. Tahsil/taluk: Golamunda
5. District: Kalahandi
6. Scheduled tribe or other traditional forest dwellers: Both
7. Types of community rights:
 - a. Right to collect, use, and sell minor forest produce and kendu leaf (only headload, shoulder-load, cart & cycle)

- b. Right to use traditionally used forest roads
- c. Right to worship on places of deities (like, dharanipenu, budhadangar, etc.) traditionally worshiped prior to 13-12-2005
- d. Right to collect fish, crab and other produce of water bodies in the traditional method, and also the right to use for own as well as for domestic animals the water bodies
- e. Right to protect, regenerate, conserve, and manage traditionally protected & conserved community forest resource for sustainable utilization

Conditions:

- a. These rights are inheritable, but not transferable
- b. If any of the villagers leave the village, then they will be deprived of these rights.
- c. These rights are enjoyable by the current & future generations provided they:
 - i. Do not hunt wild life and do not extract their body parts
 - ii. Protect wildlife habitat & corridors
 - iii. Do not allow any encroachment in future
 - iv. Take necessary/adequate measures to protect & well-manage the forest produce & biodiversity, as per Section 5 of the Act.

Description of the boundary- customary boundary and/or prominent land marks- alongwith kharsa/compartament number : As shown in the departmental map of Adabari reserve forest

Name of the community forest right holder(s): Present & future villagers of Golamunda

We, the undersigned, hereby sign and approve on behalf of the Government of Odisha the Community Forest Rights shown in the above Title.

DFO, Kalahandi

District Collector, Kalahandi

District Welfare Officer, Kalahandi

THE SUSTAINABILITY ISSUE OF NTFPS IN ODISHA : A SUPPLEMENT

The sustainability issue was one of the major determining factors in the NTFP policy of 2000 in Odisha. Whereas the previous decades had seen large scale unsustainable extraction of valuable tree bark and medicinal roots, etc. due to poor and ineffectively monitored lease agreements, thereby endangering many plants like those of *Litsea* spp. and *Rauvolfia serpentina*, not to speak of gums & resins, etc., which got the whole policy approach criticized by conservationists; the policy of 2000 almost totally reversed the situation. All kinds of vulnerable species or NTFPs were no more permitted for commercial extraction, and permission was possible (but not guaranteed) only to some government agency or other such authorized bodies provided the sustainability factor was ensured even prior to the extraction, i.e. the concerned forest officer was first to certify that the available potential in the locality is suitable for sustainable extraction.

After the policy was implemented, permission for commercial extraction for *R. serpentina* roots was granted under a very special circumstance during 2001-02 when the local government authorities in Koraput district observed, under recommendation by a government agency ORMAS, that the permission would benefit women primary collectors. Of course the local forest officer was not much in its favour apprehending risks of unsustainable collection, but socio-economic interest was given top priority and hence the permission was granted. The procurement was done by ORMAS. However, the permission was discontinued later though by that time the adverse impact had already been seen in the field.

Similarly, TDCC was granted short-term lease (3 years) for few items like gums, cane, siali fibre, and *R. serpentina* roots in 2002-03; but despite its interest the lease was not renewed later chiefly on the ground of sustainability. The Conservator of Forest, Koraput recommended to completely stop extraction of bark, gum, root, and fibre, etc. in all areas under his jurisdiction due to the adverse impacts experienced. The DFO, Malkangiri agreed to the extraction of

Gum Karaya subject to the following conditions(vide his letter dtd. 11th July 2005 to the CF, Koraput):

1. Tapping cycle to be adopted: 4-5 years
2. Trees of 0.9-1.35 metre girth are best for tapping and will have two blazes while trees above 1.35 metre girth will have 3-4 blazes. Initial blaze should be 7.5 cm wide and 15 cm long, gradually increasing to a width of 25 cm & 45 cm respectively. Initial blaze should be at breast height.
3. Bark shall not be hammered as this prevents exudation of gum. Not more than 1.5-3 mm of fresh bark need to be cut & removed each time.
4. Exudation is highest within 24 hrs of blazing but continuous for some days. Round the year it goes, but most copious in hot weather from April to June.

Against this the CF, Koraput recommended the permission to be for one year.

Sal leaf business, with platters & cups made thereof, started from Odisha itself in the Mayurbhanj district. Gradually it spread to other areas, even outside Odisha, but the trade is still mostly concentrated in the Mayurbhanj district with impacts in the neighbouring Balasore and Keonjhar district. The policy of 2000 put sal leaf in the list of lease-bared item, but the collection and marketing continued in the Mayurbhanj district and the Forest Department used to issue free permits for that. When DFO, Keonjhar stopped issuing permits for sal leaf collection in his area as a fall out of the NTFP policy of 2000, the resentment of people led to the intervention of the local District Collector requesting for a uniform system in the two districts, and as an interim arrangement the DFO, Keonjhar agreed to issue permits(against royalty) to small-scale units only for dry, fallen sal leaves. However, his superior the CF, Angul pursued the matter with the office of the PCCF following which the government issued an instruction in October 2000 that procurement rights for sal leaf(products) would be granted to TDCC and OFDC in four forest divisions subject to the following conditions:

- The collection & sale by primary collectors has to be only through the VSS, and to TDCC/OFDC.
- Leaves should be collected only from areas having approved microplan, and from alternate strips of trees from the branches & non-leading shoots.
- Maximum permissible limit of harvesting would be 1.5 quintals per hectare, per year from the degraded forest.

- Collection would be allowed against a paid transit permit, and in two phases in a year, i.e. only during summer & winter seasons.

The upper limit of harvesting was increased to 2 quintals in September 2002 in view of the kendu leaf experience because the Forest Department observed that KL is collected @70 kg/hectare, that too from a bush whereas sal is a tree and hence it would not be dangerous to fix the upper limit of collection at 2 quintals.

In October 2009, the leader of opposition in Odisha wrote to the PCCF that whereas small entrepreneurs earned their livelihood on preparation of plates/cups from leaves, it was reported that plucking of sal leaves was not permitted in the Kalahandi district but allowed in other districts. He requested the Forest Department to allow commercial collection of sal leaves in Kalahandi district too. The DFO, Kalahandi responded to this with his observation that whereas the dependency of the people on sal leaves was a fact, given the poor condition of sal forests in the area, the collection ought to be regulated. He agreed to allow 0.5 quintals/hectare only in blocks with 9% to 39% sal trees, rest being not proposed for collection. Further, he wrote that whereas storage transit permits would not be required if local households possessed upto 5 kg of the sal leaf, no collection to be allowed, besides from leading shoots, from saplings of less than 3 metre height; and plucking from tree to be allowed upto 2 metre height only with leaves at the top intact (vide letters of the DFO, Kalahandi to the CCF, Protection & Sustainable Management, on 5-11-2009 and 24-11-2009).

The CCF, Protection & Sustainable Management wrote to the Forest Secretary on 20th October 2009 that given the interest of the sal silviculture, the collection be restricted from April to June (main season) to 75% of the level reached in different blocks during 2008-09, and that the amount of royalty be increased & imposed on total procurement irrespective of its destination so as to discourage overexploitation. It may be mentioned here that royalty on sal leaves has been a sensitive issue, and it is imposed on supplies outside the district. It is therefore not surprising that the government decided to continue the previous system of royalty upto 2011-12.

The norms for collection are not followed strictly for obvious reasons. The Regional CCF, Angul Circle was surprised to find that the DFO, Dhenkanal had not involved VSS in collection of sal leaves, and hence advised him to do the needful (vide his letter dtd. 24-4-2010).

Procurement right for sal leaf was later allowed to registered private traders also when it was realized that TDCC/OFDC could hardly compete with them. The period of no harvesting

was mentioned to be from 1st January to 31st March and 1st June to 30th September. There have been demands to include sal leaf in the 'MFP list', but the government has not yielded to it.

Orissa Cooperative Silk Federation Limited(SERIFED) is granted lease for tassari cultivation. The Director of Textiles & Handloom, GoO requested the government to denotify tassari as a forest produce, like some neighbouring states, and also to waive the lease money so that free trade can help grow the business. The Chief Minister, Odisha announced in January 2002 that no lease money would be charged on cocoon gatherers from forests. However, tassari was not denotified as a forest produce. The DFO, Khariar wrote to the MD, SERIFED on 28th January 2009 that while regular lopping of branches of host plants should be carried out so as to get good quality leaves for feeding the insects, SERIFED would be responsible for any damage occurred to other natural tree species in the neighborhood at the time of pollarding host plants. The DFO, Nabarangpur wrote on 17-12-2008 that SERIFED should take steps to increase the population of host plants in due consultation with him.

The CF, Koraput opined in November 2000 that although the NTFP policy did not mention 'lac' and hence 'it is not clear if it is a lease-barred item', still given the good potential in the Division against the low rate of collection, lease for the same might be granted to TDCC. However, the DFO, Sundargarh recommended in February 2001 to recognize lac as a lease-barred item, and the CF, Sambalpur endorsed it. Although this did not cause any revision in the policy that had indirectly put lac in the lease-barred list by banning commercial lease of gums & resins, the restriction on lac has resulted in underutilization of the state's good potential of lac production.

Excepting few such items no lease is now granted in the state for collection of NTFPs. The kendu leaf wing carries out silvicultural operations(bush cutting), makes arrangements for processing of the leaves, and hands over the same to OFDC for marketing. It is allowed to procure siali fibre for binding the kendu leaf bundles. The CF, Working Plan, who had recommended to the PCCF in April 2003 for a 4-year cycle for *Rauvolfia serpentina* roots and 4-5 year tapping cycle for gums, advised for 5 years cutting cycle for siali fibre.



The political economy of non-timber forest products, otherwise known as minor forest products, has been quite complex particularly after several new utilities of otherwise obscure NTFPs were discovered in and after 1960s. The business of kendu leaf and sal seed is known to have significant political repercussions in states like Odisha and undivided Madhya Pradesh. The overall indications of the complex political economy of NTFPs have been that the primary collectors, who supply these products, have not been benefited at par with the traders and/or politicians/bureaucrats. One of the key factors responsible for this disparity is the lack of a clear definition of NTFP/MFP in India. The PESA Act gave ownership rights over minor forest produce to the Gram Panchayats in scheduled areas, but did not clarify what the MFP or ownership over it should mean. Such kind of lacuna in fact proved quite disadvantageous to the beneficiaries themselves and quite advantageous to the Forest Department and other such government agencies. Now, the scope of rectifying such mistakes is available through the Forest Rights Act, 2006 which has clearly specified what NTFP or MFP should mean. In this publication we have attempted to analyze to what extent the policy makers in various states have actually availed this opportunity in the interest of the primary collectors.



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