



## Forest Management Policies and Tribals of Jharkhand: Retrospect and Prospect

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### ABSTRACT

Bir bano? disum ale horoko kale sukua, said the Mundas to Hoffman when he was writing his *Encyclopaedia Mundarica* in the last quarter of the 19<sup>th</sup> century. 'We the Mundas do not like to live in a country where there are no forests', is not just a casual statement of some nature lovers. The statement had a deep social and spiritual connotation. Hoffman noted that when somebody dies the Mundas avoid saying that so and so has died, but they would say so and so has been lost in the forest (birjanae instead of goejane). Forests are the dwelling place of the deceased ones. When the village is settled by clearing forests, a patch of the virgin forest is kept untouched with the belief that it is the abode of the mother earth (jaer era) or 'lady of the sacred grove' and other spirits. This 'sacred grove' or sarna or Jaer (Jaer of the Santals) is the only place of propitiation of the benevolent spirits of all the indigenous peoples of Jharkhand. The forest has a great relevance in life of the Mundas, who think it is associated with their souls and ancestor-hood. In this paper I had tried to explore the relation of forest with its Management in the life of this tribal people.

Once I asked the residents of a village with a mixed population of the Mundas and the Oraons that if one of them broke the wall of a temple or mosque and stole a few bricks from it what would happen. 'They will kill us and there would be a riot', they replied. Then I retorted by saying why they do not protest against the felling of the village forest, for the forest was also their temple. The reply was, 'Our fore-parents did so and died in thousands. Finally, the British accepted our demands partially. We could only save our sarnas. Our story begins from that time. Before the beginning of the colonial era Jharkhand was really a 'land of forest'. Neolithic culture of forest-based cultures dominated over the surplus produced by agriculture-based feudalism. The land under swidden cultivation (dahal dhya or jara) was very common. Only in some pockets plough agriculture was introduced by the medieval 'jungle' states. But in both cases the notion of land belonging to the king as the 'lord' paramount of the soil was absent. Community enjoyed total control over the land, the forest and their products. Forests were dense and full of wild animals. The forest was an integral part of the economic system. (personal communication)

A rather poetic observation of a colonial officer in Jharkhand by the turn of the last century goes like this, "Chotanagpur (Major portion of Jharkhand during the colonial time) is one long undulating sweep of hills throughout... Its centre is a vast plateau... All are covered with more or less thick tree jungle...while the lower and more undulating slopes grow vast tree forests that stretch

over the land for miles around.. The whole forms one of the most charming series of views imaginable. The far-off hills in the background, in exquisite tints of blue or purple as the light falls; the nearer hills picturesquely shaped and luxuriant in every shade of green, with their bold escarpments in black or grey; and the plains below furnishing their quota of color in the tender green of the early rice, the brilliant yellow of the sirguja, or the gold of the fields at harvest, - present a panorama of perfect charm and beauty” (Bradley-Brit 1910:2). The author gives the wayfarer’s description of the country of forests and hills and the social milieu of the land. He is, however, not an exception to his genre. Whoever wrote about the land and the people of the country could not but be impressed by the co-existence of nature and culture in a perfect balance.

However, British colonialism did not descend on Jharkhand to present a poetic appreciation of the biodiversity of the land. It was there to make a profit out of it. Thus, the view of the forest that predominated among the official circle finds that ‘all these trees mixed with shrubs loaded with parasites give the forest the appearance of a conservatory in disorder in which individual plants are indistinguishable’. The author laments the absence of ‘the majestic aspect of the pine forests of our countries, which bear more resemblance to galleries of gothic columns... (Jule 1879).

The colonial forces under the British East India Company entered the so-called ‘Bengal woodland’ or ‘Jungle Mahal’, as the Mughals called it, by 1770. “Colonialism made a distinction between public and private domain. While the environment was placed in the former, agriculture was made a private sector activity. The partitioning of landscapes and social spheres came to characterize the large aspects of the modern state formation” (Shivaramakrishnan 1999:80). In this process tribal territories were constructed, not only by curbing practices like shifting horticulture, but by assigning the tribes specific lands which designated the areas inhabited by unredeemable tribes practicing ‘backward agriculture’ (ibid page 81). By the 1870s, the south-western part of woodland Bengal – the emerging tribal heartland – was taking shape as a landscape where two elements of policy converged. One element worked to hasten the gradual transformation of wild lands and wastelands into an ordered terrain of fields and groves. The other element was the policy of forest conservation.” (ibid page 86)

However, the objective of the transformation of the wild lands and wasteland into ordered lands of fields and groves were not possible without the eradication of the wild animal kingdom. The forests were infested with snakes and wild beasts. Tigers, bears, leopards, and elephants pushed back the line of cultivation till the late eighteenth century. Besides, there were various types of deer and the nilgai (Indian antelope) freely moving into the cultivated plains, along with wild pigs and many types of wildfowl. Wild buffalo, gaur (bison), deer and carnivora were found in the forestland. The extermination of the wildlife, known as vermin eradication, became a regular practice. The classical mode of vermin eradication was hunting. The slaughter of wild animal, especially the large mammals and the carnivora went on throughout the 19<sup>th</sup> century. (Shivaramakrishnan 1999: 90-92)

Devoid of good forests in England, the British realised the commercial value of Indian forests and tried to establish a rigid control over them. We can trace the beginnings of a systematic forest policy to 1855, when the Governor General, Lord Dalhousie issued a memorandum on forest conservation called the charter of Indian forests. Dalhousie stated that the government should regard forests as a state property that required state control. The first attempt at asserting state monopoly was through the Indian Forest Act of 1865. The immediate purpose of passing the act was to facilitate the acquisition of those forested areas that were earmarked for railway supplies (Gadgil and Guha, 2000:123). The long-term purpose of the act was to replace community-managed forests by colonial silviculture, that is the “scientific forest management” of the state was achieved when the state usurpation was

consolidated in the Indian Forest Act of 1878. This changed the traditional pattern of resource use and made timber an important commodity, which in turn fundamentally altered forest ecology (Gadgil and Guha. 2000:85). The dominant forest structures were commonly changed from all-aged, diverse and naturally regenerating jungles to simplified, even-aged monocultures, often dominated by sal, teak and pine. (Jewitt 2004:62)

The fine-tuning of the forest legislation culminated in the Indian Forest Act of 1927 that elaborated the determination of proprietary rights as to forests (Vasan 2009:115). It formed the foundation of all forest legislation and policies framed during and after the colonial times. The IFA classified forests into three categories: Reserved Forests (RF), Protected Forests (PF) and Village Forests. Following a prescription by Dietris Brandis (known as 'the father of Indian forestry'), the forest department started employing the shifting cultivators and their traditional skill of fire management in the newly introduced 'taungya' plantations. Along with the plantations, it came the 'taungya' villages, a variant of the 'forest villages' which the forest department had started to establish as ghettoized labour settlements since the 1890s onwards (Ghosh and Bannerjee 2010). In Jharkhand 24 of such 'Forest Villages' were established, 14 in Singhbhum and 10 in Palamu.

In Jharkhand the colonial state only demarcated the Reserve Forests, largely in Singhbhum, Palamu and Hazaribagh districts (all old ones, now these districts have been further bifurcated into many more districts). The rest of the forests was part of the Zamindari holdings and recorded in the part II of the Khatian of every village along with the rights that the villagers have in those forests. However, in the 156 Mundari Khunti Katti villages the forests remained the joint property of the descendants of the original settlers.

Colonial forest management through the gigantic institution of the Forest Department progressively destroyed the symbiosis between human and nature that evolved in this land over a period unknown to history. The ship building factory in Diamond Harbour near Calcutta, the Bengal Nagpur Railway and the coal mining in Manbhum (Dhanbad was a part of this old district) signaled the beginning of an era of devastation of the old equations between the 'Ancestors – Human – Nature' that sums up the cosmology and cosmogony of the local indigenous people. The phenomenon of the out-transportation of minerals and the in-transportation of men of other cultures continued to flourish under the colonial state. The little known province describe by Bradley-Brit became well known as the 'Rurh' of India. The mining of minerals and the mining of timber turned the land of the adivasis upside down!

Colonialism alienated people from the forest along with land and water. It exposed them to the larger economy of the imperialist state. The hunting-gathering and swidden horticulturists were forced to be sedentary. Large-scale deforestation, coupled with Zamindari exploitation, led to food insecurity and eventually famine. The hundred years of British occupation of Jharkhand from the second half of the 19<sup>th</sup> century to the withdrawal in 1947 witnessed a chain of famine episodes especially in those places that were once clad with thick dense forests. In another context the Viceroy of Bengal admitted that the 'chief factor' of the Great Bengal famine of 1943 was 'morale' (as quoted by Sen1981). In Jharkhand the famines exposed a much deeper moral hollowness of the colonial rule. The rulers took advantage of the drought conditions to 'create' famines with a view to alienate the indigenous peoples from their ancestral lands and forests (Sing1996:72). Large-scale out-migration to Assam and Bhutan was the beginning of a never-ending process. This immorality of the colonial culture was perpetuated in the years to come.

## **Post-colonial Assault on Biodiversity**

The post-colonial forest policy of the central/state governments was the continuation of the Orientalist attitudes in the colonial power structure. Instead of casting off the shackles of the British colonialism “many British ideas and methods of rule have been continued by post-colonial governments, especially as India has become more and more hooked into Western commercial and consumer systems. Instead of rejecting the modernizing policies of the British and replacing them with a more socially and environmentally sensitive forest management strategy, the post-colonial forest department embraced and enlarged on British policies” (Jewitt 2004:71-72). “Strategies of achieving economic development that had evolved in a particular phase of colonial and capitalist development were adopted – with minimal alteration – as central element of post-colonial India. Two distinguishing features were its emphasis on rapid industrialization and its dependence on an ever-intensive and extensive extraction and exploitation of natural resources...retaining the same system in the post-1947 period meant that we had no choice but to colonise internally” (Kothari 2003:11).

After the independence the Indian ruling elite under caste-class combine dubbed as ‘omnivores’ by Gadgil, having satisfied its hunger of power engaged itself in satiating its thirst of wealth. The semi-feudal structure of Indian society refused to accept the land reform (1956) and the sharing of power at village level under the Panchyati Raj (1957), the rule of the village council. “‘National interest’ was the ‘log in name’ and ‘Development’ became the password to have a smooth access to the natural resources of the country for their inhuman exploitation and criminal expropriation in order to exploit and expropriate them” (Basu Mulick 2007:22). Public servants, police and politicians formed a nexus to this end. Where colonialism left off, development took over (Kothari 1988:143, as quoted by Jewitt 2004). World of artefacts devastated the natural world. While dams and mines displaced millions of peasants and tribals, the destruction of forests caused hunger and destitution. The swelling multitude of ‘ecological refugees’ (Gadgil 2000), who constitute about one third of the Indian population, were turned into sweat labourers and treated as development waste. Development in Jharkhand took place under the threat of guns. Behind the repression that accompanies development there was a perception of the adivasi (indigenous) peasantry as physical obstacles in the drive to gain full access to land, raw materials and natural resources (Devalle 1992:104-105).

Jharkhand has been the largest producer of ecological refugees. The total number of people displaced in Jharkhand since the year 1951 – 1995 has been 15, 03,017. Out of which 6, 20,372 belong to a scheduled tribe, 2, 12,892 belong to a scheduled caste and 6, 76,575 belong to other categories. Ecological devastation has completely broken the chain of food security. According to the official estimate 10% people of Jharkhand today suffer from hunger frequently and 2% suffer from chronic hunger.

## **The Management Policy of Forest**

Forests continued to be the largest zamindari (fiefdom) of the state and forest officials acted like despotic landlords even after the end of the colonial rule. Developmental projects are usually identified with ecological destruction and consequent devastation of the Indigenous Peoples. The role of the forest department in its ‘gold rush’ at the cost of the humans and nature was neither studied nor exposed till recently when the confrontation between the forest-dependent people and the forest department could not be suppressed any longer in the central Indian states and the foot hills of the Himalayas. The Chipko, Jharkhand and Narmada movements exposed the highhandedness of the forest departments and the rampant corruption that it had inherited and multiplied since the colonial

times, besides challenging the forest policies of the government.

Immediately before independence in Jharkhand the Zamindars (landlords) and the forest officials took full advantage of the unstable political conditions, marked by the quit India movement and the Second World War, to convert natural woods into artificial wealth. The rate of felling trees went up to such an alarming scale that the British government during the fag end of its rule decided to take over the village forests from the custodianship of the Zamindars by enacting the Bihar Private Forest Act of 1946 (III of 1946). It was 're-enacted as Bihar Private Forest Act, 1947 (Act IX of 1948) with certain modifications' after independence. When the Zamindari status was abolished and the Land Reform Act (Bihar Act XX of 1950) was operative, all these forests became vested in the Government and were constituted as Protected Forests (PF) under the Indian Forest Act of 1927. However, that turned out to be a boon in disguise for the officials of the forest department. They cleared what was left out by the Zamindaris as a gift from independence and reward to their loyalty to the British Raj.

In its quest for quick currency bills the Forest Department in collusion with the revenue department declared the Mundari Khuntkatti villages (where the Mundas enjoyed absolute ownership of land and forest) as Zamindari villages and notified the forests as Private Protected Forests by overtly violating the provisions of the Chotanagpur Tenancy Act 1908 under which the Adivasis belonging to the Munda community enjoyed a special status. However, the Mundari Khuntkattidars lodged a strong protest this injustice on the ground that the Mundari Khuntkatti tenure was quite different from the Zamindari tenure. They were neither tenants nor tenure holders and they collectively owned the forests within the boundary of the village. However, it yielded no positive results and the Forest Department virtually took away the Mundari Khuntkatti forests from the Mundas with a plea of managing their forests 'scientifically' and a promise of sharing the profit that they never kept. In 1984 the Roy Burman Commission visited these villages and found to its utter disbelief that the forest department denuded miles after miles forests mercilessly.

Popular upsurge against the Forest Department till the turn of the last century and its cruel suppression by calling the forest-dependent peoples, especially the indigenous peoples, as encroachers in the post colonial period reveals two facts. One, the rising aspiration of the people to regain rights over the forest biodiversity by getting rid of the perpetuation of the illegitimate rule of the Forest Department on the forestland; and the other, the Forest Department's effort to declare more and more forestland as protected areas in the garb of the protection of biodiversity and wildlife. The indigenous peoples raised the very fundamental question of the usage of forest and biodiversity. Their opposition was against the felling of forest trees to supply subsidized timber to the industries and conversion of forest into plantations. The forest department, on the other hand, kept calling the indigenous peoples the destroyers of the forest and poachers of the wildlife. In the ensuing debate the small but powerful lobby of the conservationists took the side of the forest department. Gadgil and Guha called this phenomenon as an instance of class collaboration of the people of the same economic and cultural background whom they called the 'omnivores' (Gadgil and Guha 2000:151).

Sudha Vasan has dealt the issue of the 'encroachment of forest by the forest dwellers' at length in recent times (Vasan: 2009).

*Any discussion of encroachment on these land (18.5% of RF and 81% of PF of the total forestland in Jharkhand) is necessarily premised on the idea that these forests are the legitimate legal property of the state from the date of settlement... (However,) there is some evidence that*

*the process mandated by the IFA for creation of RFs/PFs was blatantly violated... The illegal creation of legal state property in forests in different parts of Jharkhand has not only been noted by local activists, but also by colonial and Indian settlement officers. In the Singhbhum region, for instance, the adivasis had specific and extensive rights in lands declared as PFs. Several old abandoned village sites and burial grounds (sasan diri) found insides RFs indicate that the adivasis lived there prior to state reservation... A settlement officer in Singhbhum noted that 'the reservation was the one great encroachment on the Khuntkatti rights (original settlers rights) in Khas Porahat' (Vasan. 2009:117-8).*

Conversion of Zamindari forests or Private Protected Forests that were recorded as a part of the village and village community having usufruct rights over it into PFs, is another major violation of legitimate rights of the people. In this context it should be mentioned that a large number of Khuntkattidars jointly filed a case in the Hon'ble High Court, Ranchi in 2005 against the conversion of their forests into PFs by the Forest Department under the IFA in 1956. The case has been heard twice but the judgment has been pending since long, the reason of which is best known to the Hon'ble High Court. Actually all the PFs are village commons and state has no rights to them.

## **Post Colonial Forest Legislations**

A brief description of the policies and legislative measures adopted by the state reveals a slow but definite shift from overtly anti-people position to the recognition of the role of the indigenous peoples in the preservation of the biodiversity.

### ***National Forest Policy of 1952***

The adoption of the policy exhibited the deep-seated antagonism between the state and forest-dependent communities when it stated that, "the accident of a village being situated close to a forest does not prejudice the right of the country as a whole to receive the benefits of a national asset" (Poffenberger and Singh 1996:61). This led to the curbing of the so called 'concessions and privileges' legally granted to the rural population, especially the indigenous peoples, as an essential step to protect the 'national interest'.

Commercial exploitation and degradation of Indian forests increased dramatically after 1947 in a post-independent India. Indeed, the 1952 National Forest Policy set out guidelines, which were, for the most part, directed towards the supply of cheap timber and non-timber forest products for state-sponsored industrialization and modernization (Corbridge and Jewitt 1997; Kuchli 1997).

### ***The Forest Conservation Act 1980***

Its objective was to centralize power in terms of decision-making about the use of forests. It restricted the transfer of forestland for non-forest purposes by the provincial government without the consent of the central government. But the Act neither defined what forest was nor clarified what were the non-forest uses. Thus, the provincial governments continued to divert forestland to commercial plantation like tea, coffee, rubber etc. While it placed control over logging it did little to reverse the historic swing towards bureaucratic control. 'As government agencies exerted greater controls over forests, millions of rural inhabitants throughout India, who had used these lands to meet basic needs of food, fuel, building materials, fibers, and medicines, increasingly lost access rights. As the rights of the rural communities were eroded, conflicts grew between the state agencies and the Indian villagers. Disagreements over management priorities led to unsustainable pattern of forest exploitation and to

gradual degradation of India's vast forests. By 1990, less than 10 per cent of the country possessed good forest cover' (Poffenberger and Singh 1996:61).

The Ministry of Environment and Forest claimed that the diversion of forestland came to a low of 38,000 hectare per annum since 1980 as against 150,000 hectare per annum from 1950 to 1980. However, data for diversion of forestland from 1980 to 2004 does not prove it.

### ***The National Forest Policy, 1988***

The National Forest Policy, 1988, envisages people's involvement in the development and protection of forests. Accordingly the strategy of the Joint Forest Management (JFM) was prepared to establish management 'partnerships' between local forest-dependent communities and the state for the sustainable management and sharing of public forestland.

The JFM does not involve the transfer of ownership over forests, but attempts instead to restructure the formal system of access, decision-making, and sharing of benefits to account for the needs of local communities.

Dr. Ajit Bannerjee, the author the JFM, observed after two decades of JFM practice that the reasons for the failure of the strategy are many but the three major deficiencies are as follows:

1. The FD plays the role of the major partner reducing the fringe people as an insignificant minor partner. For example, the FD writes a micro-plan (though visibly consult people) and takes decisions in respect of felling, allocation of funds for forest and rural developments, selection of species for forestation, punishing and prosecuting offenders and others. The only thing that it totally leaves it to the people is forest protection and to a certain extent in selecting some rural developments items. This unequal sharing of power has dampened the spirit of joint management and the people have not unleashed their initiative to make a success of the JFM.

2. Technically the JFM should have plans to satisfy people's needs such as firewood, fodder, small timber and other NTFPs for home use and sale for enhancing the livelihood. In only a very few cases, the FD has done so. They have continued to focus on timber production and planting of such species that have little impact on the people daily requirements and enhancement of livelihood.

3. Additionally the people are in need of forest-based employment opportunities, which are insufficiently provided.

The JFM policy had been adopted by the Bihar Government since November 1990, when a large tract of forestland was already degraded and the forest department became completely alienated from the people. (The Government of Bihar admitted way back in the 70s that out of 29,232 Sq. Km of declared forest 10,000 Sq. Km was degraded (A Draft Perspective Plan, Bihar – 1978-89). Presently the Jharkhand Government admits that there is only 18-19% of the total state land is under forest cover (Vision 2000, Jharkhand Government) as opposed to the conflicting claims of 27% by the Forest Department.)

Therefore, it was not surprising that the progress of the programme staggered with a ridiculously

negligible average of 17 JFM community organizations formed every year. However, the expectation was quite high. In an important policy shift, the Indian national Forest Policy of 1988 underscored the need to involve local communities in the management of forests; and regeneration of forests and alleviation of rural poverty were the expected outcome (Sanjay Kumar 2004). With a view to assure the involvement of the forest peoples 33% of the total net profit was promised to be shared with them. The programme was hailed as a revolutionary new scheme (Jewitt 2004).

After the formation of the Jharkhand state, the new state government reinitiated the project. The Govt. of Jharkhand has a new Joint Forest Management Resolution dated September 27, 2001, that supersedes the Govt. of Bihar Resolution on the same issue (GoB Resolution No. 54/90 – 5244 V.P. dated 09.11.90). The main objective of the resolution is to establish joint forest management committees for the protection of Reserved and Protected Forest of the state and for the betterment of the villagers living in these forests.

The Jharkhand Resolution begins by accusing the forest dwellers of destroying the forests. Then it allures them by promising 90% of the net profit made from the sale procedures of the forest products including timber and demands responsibility of protection and regeneration of forests in return. Forest Protection Committees would be formed in the villages, but the portfolios of the secretary and the treasurer would be held by the Forest Department. The members of the committee would be given the policing power and authority to collect fines for small offences. A detailed analysis of the Resolution makes it clear that the sole purpose of it is to re-establish a centralised power in the forest with the help of the forest dwellers. 90% profit sharing is a hoax because it is the net profit, which will be taken into account and after the colossal expenses of the Forest Department it is anybody's guess how much would be left for distribution to the people. Moreover, people would not be deciding the price of the forest produces and would have no say in the money management. It violates the Chotanagpur Tenancy Act 1908 and the Panchyati Raj (Extension in Schedule Areas) Act 1996. The most dangerous consequence would be a division within the village and between neighbouring villages on the issue of stopping people's access to the forest.

### ***The Environment Protection Act, 1986***

The Act was designed in response to the decline in the quality of environment due to increasing pollution, loss of vegetal cover and biological diversity, excessive concentration of harmful chemicals in the ambient atmosphere and in the food chain, growing risk of environmental accidents and threats to life support system. Under the act the Central Government retains power to take measures to protect and improve the environment and power to direct closure, prohibition or regulation of any industry. The Act requires the obtaining of environmental clearances for specific type of new/expansion projects and for submission of environmental statement to the State Pollution Board.

However, the policy makers and policy implementing authorities always hold high the interests of the industries and the market. As a result of that the provisions of the Act are ignored to facilitate the 'economic growth'. The National Mineral Policy is given precedence over the Act to water down the provisions of the Act.

### ***The PPESA 1996***

The Provisions of Panchyati Raj (Extension in Scheduled Areas) Act 1996 was framed with an optimistic view of doing away with the unfortunate confrontation between the state and the tribal people. The Act aimed at recognising the indigenous peoples' traditional system of governance as



the foundation of the present day governance in their habitats comprising the 5<sup>th</sup> Scheduled Areas of the Country. However the initial enthusiasm about the Act died down as soon as people found that the Act diluted considerably the Report of the Bhuria Committee on the basis of which the Act was supposed to be framed. As against the aspiration of the indigenous peoples the Act denies the ownership rights of the indigenous peoples in the village forests. Moving a step further the Jharkhand state Panchyati Raj Act of 2001 has taken out even the rights over the Minor Forest Produces from the jurisdiction of the Gram Sabhas, which was granted in the Central Act. However, even then the Act has recognised the rights of the self-rule of the indigenous peoples to a certain extent. The section 4 (d) of the PPESA provides management rights of the forest to the Gram Sabha. In Jharkhand the Act has not been implemented till now as it has been challenged in the apex court of law in the country by a section of the non- indigenous peoples living in indigenous peoples territories as undemocratic and unconstitutional.

### ***The Biological Diversity Act 2002***

“The Indigenous People have, for centuries, been engaged in protecting and sustaining biodiversity in the regions where their homelands are located. It is in fact, a testimony to their efforts that the world presently has any biodiversity to speak of. Yet they have played very minimal roles, if any at all, in the various international and national processes that have been put in place by nation-state and other entities interested in protecting and sustaining biodiversity. It is not for lack of trying that the Indigenous Peoples are left out” (Grey: 2006:ix) India is no exception to this global observation.

India as one of the signatories of the UN Convention on Biological Diversity (CBD) which framed the Biological Diversity Act 2002 to address the challenges of stalling the further destruction of the already degraded and severely threatened biodiversity of the country. Its avowed objectives are

- The conservation of biodiversity;
- Regulation of access to biological resources;
- The sustainable use of biological resources;
- Equity in sharing benefits from such use of resources;
- Mechanisms needed for the protection of traditional knowledge and its holders.

The Act does not explicitly bring in the indigenous peoples in the decision-making processes to meet the above objectives. It, however, recognizes the role of the indigenous peoples in the protection and promotion of the Biodiversity and, therefore, has the

- Provisions for local communities to have a say in the use of their resources and knowledge, and to charge fees for this and
- Protection of indigenous or traditional knowledge, through appropriate laws or other measures such as registration of such knowledge.

But it does not fully empower local communities, to protect their resources and knowledge from being misused, or to generate benefits (except charging collection fees). It has very weak or no representation of local community members on the State Biodiversity Boards or the National Biodiversity Authority.

The power of declaring a Biodiversity Heritage Sites lies with the state government (Article 37 of the Act): It is important that the heritage sites should be designated only after receiving free prior and

informed consent of the affected communities. Further, these should be in the control/management of local communities, and the provision for compensation made in the State Biodiversity Fund (Section 32) be applied only where there is a mutually agreed to dislocation/curbing of rights. Else we will have the people-parks conflict recurring in another form, as decisions for which areas need to be conserved would be top-down.

Thus, the spirit of the article 8j of the Convention on Biodiversity is not reflected in the Act, which provides Indigenous communities to have control and self-determination. This article clearly states that “Subject to its national legislation, respect, preserve and maintain knowledge, innovation and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of the such knowledge, innovations and practices.” The Act neither recognize the property rights of indigenous peoples nor it is accepting the Gram Sabhas (‘village councils’ under the PESA 1996) as the ultimate decision making body.

### ***Article 10(c): Sustainable Use***

Each Contracting Party, shall, as far as possible and as appropriate: (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

But all these provisions only succeed in burying biodiversity under a mountain of bureaucracy that can only serve to alienate ordinary farmers from their resources while making international biopiracy easier, say leading activists Suman Sahai of the Gene Campaign and Vandana Shiva of the Research Foundation for Science Technology and the Environment (RFSTE).

## **Post-Colonial Forest Management**

Between the compulsions of economic development and the commitment to social justice the nation state of India has been progressively tilting towards the former at the cost of the latter. Between the twin objectives of the colonial forestry the ‘conservation’ has been sacrificed to augment ‘harvesting of timber’ beyond redemption. And between the protesting humans and the innocent animals the Forest Department chooses to protect the latter! The postcolonial forest management rests on these principles.

The net result of that has been the pauperization and dislocation of forest dwellers and depletion of the forest cover at an alarming rate. Whereas 22% of the total landmass of the country was declared as forest at the time of independence about 17% was reported to be really forested till the satellite images revealed more alarming picture in 1982. The government admitted that only 10% of the Indian soil had forest cover around that time (Fernandez et al. 1988:3)

The forest facts today are even more horrible. The internationally famed magazine *Nature* (issue 24 August 2010) reports that native forests in India are disappearing at a rate of up to 2.7% per year. It could put India ahead of most other countries in terms of deforestation. The figures, published in an analysis of the country’s forest cover, stand in stark contrast to those of a 2009 survey by an Indian governmental organization (Forest Survey of India), which said that forests have expanded by 5% over the past decade. The researchers say that much of India’s claimed growth in forest cover has come from plantations, and that this is masking a fall in native forests. In the analysis, the researchers assessed

data on the growth in Indian plantations collected for the Food and Agricultural Organization (FAO) of the United Nations. It estimates that plantations grew by around 15,400 square kilometers a year between 1995 and 2005. The researchers subtracted the rates of plantation expansion from the growth in total forest cover as measured by remote-sensing imagery, and found that coverage of native Indian forests actually declined by 1.5–2.7% between 1995 and 2005 — an “alarming” average of 2.4% a year and a loss of more than 124,000 square kilometers over the decade.

This has happened despite a policy change in 1988 when the National Forest Policy adopted the same year emphasized on the ecological balance and conservation. “The Policy envisaged “it as one of the essentials of forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits”. In June 1990 the government adopted the Joint Forest Management (JFM) as a strategy to implement this shift of policy in forest management. The strategy was based on a success story in some districts of West Bengal during the 70s where a sensitive and farsighted young forester successfully tired the idea of mobilizing villagers to protect and regenerate forest by lifting the restrictions to the access to the forest and sharing of benefits after the harvesting of timber.

However, Thapar, a hardcore conservationist, observed, “everyone at the end of the 1990s was trying to get away with the murder of nature. None of the big projects (industrial, mining and hydro-electric) followed their mandatory conditions. They violated the Environment Protection Act of 1986 and endlessly violated the Forest Conservation Act of 1980. There was little will to enforce (these acts)... The makers of the law had become the breakers of the law” (Thapar. 2003:349). It was the time when the government of India adopted the New Economic Policy to usher in the ‘free market economy’ in the country. The big business houses were given a free hand and Foreign Direct Investment by the transnational companies was encouraged. The rate of natural resource use augmented unprecedentedly. The globalization process of Indian economy showed no ‘green concern’.

JFM and its different variants, such as, the World Bank-funded Community Forest Management, in Madhya Pradesh and the Participatory Forest Management in Jharkhand, failed to reach their goals on two counts. One, big business interests in forests in collusion with the politicians and forest bureaucracy wanted to keep the forest-dependent communities at bay to perpetuate their plunder of nature. The other, the forest bureaucracy was not ready to share power with people (Pattnaik, 2010; Kumar, 2000; Roychaudhury, 1995). The forest officials held the important portfolios in the JFM committees. In some places even the powerful non-tribals held such positions in the predominantly tribal villages (Shah. 2010:123). In West Bengal after protecting the forest for more than 20 years the villagers got at the most a paltry sum of Rs.800 per family as their share of profits from timber harvesting.

Poffenberger and Bannerjee (the initiator of JFM) have rightly observed, “The transformation in management is part of a historic process of social and political change. It reflects a reversal of power from the state to the community. Forest departments, proud of their century-old tradition as resource custodians, may find the process painful; delegating responsibilities to rural communities may be seen as a sign of lost authority” (Poffenberger et al, 1998:332).

### ***The Forest Rights Act 2006***

A ray of hope in the dark horizon of the fate of the forest-dwelling communities of India has just emerged with the framing of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. The Act is expected to usher in a new era of forest management by

resolving the crisis of long-standing conflict between the forest-dwelling people, especially the Schedule Tribes (indigenous peoples), and the Forest Department. The Act recognizes that the forest-dwelling communities of the country have so far been subjected to the 'historical injustice' that it aims at undoing. The Act recognizes the rights of the STs and OTFDs to reside in forestland and continue cultivation legitimately. They are now free to collect all kinds of Non-Timber Forest Produces and sell them in the local market without restrictions. They are now recognized as the real managers of the forests. The Act by implication rejects the Joint Forest Management Strategy and facilitates the community rights to manage the 'communal forest resources' of the village. The right to hold forest land for cultivation and homestead by the people displaced from their original habitat under the developmental projects is also recognized. The villages of the people who were forest workers under the *toungya* system of silviculture will now be transformed into Revenue Villages. The rights of the foraging communities and those of the nomadic ones to move and reside freely inside the forest.

However, there is a common saying that the government has two sets of teeth like the elephants; one for showing off like the ivory tusks and the other for chewing the food. In other words there has been a gulf of difference between the state process and the state mechanism. It has been observed that usually what is given in the state process to the people is diluted and even distorted in the state mechanism of its implementation. The state in the last analysis acts in the interests of the property owner classes and the indigenous peoples being the lowest of the low in the ladder of social and economic hierarchy are always at the receiving end. The shift of the strategy of the forest and biodiversity conservation that the above acts and policies exhibit has been the outcome of the state process. None of them has so far been honestly implemented. In Jharkhand the PESA has not yet seen the light of the day, the JFM has been a hoax and the FRA 2006 is yet to take off by defying the gravitational pool of the vested interests inherent in the bureaucracy. But it is observed that more than the reluctance of the Forest bureaucracy the policy of the state has created a huge discrepancy between the *de jure* and *de facto* versions of the FRA.

### **Mining and Biodiversity Loss**

It has been a universal feature that the maps of available forest biodiversity and watersheds regions, the mineral bearing areas and the habitats of the indigenous peoples overlap. The unfortunate convergence of the sources of life and livelihood, on the one hand, and minerals and timber resources, on the other, has been proved to be a curse to the indigenous peoples in the present era of capitalism, private and state alike. It has been a fatal overlap with far-reaching adverse socio-economic and environmental implications. The mad rush for economic growth with the expansion of extractive and metal industries at the cost of every concern for life and sources of life have now reached a diabolic dimension in Jharkhand. Today the number of Memorandum of Understanding reached between the state government and the private companies crossed 100. If all of these MoUs are honoured there will be no land or forest left for the indigenous peoples' habitat and no water shade in Jharkhand. Mining, metal industries and dams have already displaced about 17,10,787 persons from their homes and hearths with the loss of 24,15,698 acres of forestland (Lurduswamy: 2004) and police firing against the protesting people claimed hundreds of lives in the past.

Hard rocks are the major sources of minerals but they usually abound in hilly terrains linked to forest and water sources. Jharkhand has more than 25% of the total coal reserve of the country and over 80% of it lies in the Damodar river basin. Damodar river valley is now dotted with coalmines that produce 60% of India's medium grade coal. There are 33 limestone mines, 5 copper mines and 84 mica mines along the banks of Damodar. According to the Sacred Sites International the lower valley

of Damodar had a 65% forest cover in the past; today, it stands for meagre 0.05 per cent (Banerjee, S. 2008:13). The forest bio-diversity in other major rivers valleys of Jharkhand faces the same fate.

Mining in India presents a terribly dismal picture about its environmentally and socially destructive activity. 'Between 1950 and 1991, mining displaced about 2.6 million people in the country. About 52% of those displaced were the indigenous peoples. The number is expanding at an alarming rate as the extractive industry is registering an unprecedented growth especially after the adoption of the new economic policy of liberalization by the government. During 1998-2005, 216 mining projects were granted forest clearance annually, as against 19 per year during 1980-1997. Government estimates put the total forestland diverted for mining across the country in the period 1980-2005 at 95,003 ha. In terms of numbers, 1,198 mines were granted forestry clearances during 1980-2005 for operating in forest areas under the provisions of the Forest (Conservation) Act, 1980' (Banerjee, S. 2008:74). The forestland diversion in Jharkhand is estimated to be 9,059 ha (Behar, A. et al. 2005:57).

The Singhbhum East and Singhbhum West districts of Jharkhand present a glaring example of biodiversity destruction by the extractive industry in Jharkhand. Sranda, the largest Sal forest of Asia, situated in Singhbhum West, was so dense even 40 years ago the sunrays could not penetrate its thick foliage. The canopy cover was 70-80% on an average. A survey done by the Forest Department showed that a small patch of 40 by 40 metres had about 30 plant species. The forest had elephants, leopard, four-horned antelope, deer and flying squirrel among many others. And it has been the homeland of the Ho and many other indigenous communities. Today the land has been destroyed beyond recognition by indiscriminate mining of iron ore. According to the State of Forest Reports between 1997-1999, about 3,200 ha of forest were lost in the Singhbhum region. Between 2001 and 2003, some 7,900ha of dense forests were lost in both the districts taken together (Banerjee: 2004:165).

### **Protectors of Biodiversity**

The conflict between the indigenous communities and the forces claiming stakes over the forest biodiversity has become more and more intense over the years. Initially the state and its forest department played the dominant role in the conflict by serving the interests of the capital on the one hand and satisfying the urges of the wilderness conservationists. Today the scenario has changed radically. The indigenous peoples and the capital are now confronting each other more directly than before and the other two players are being forced to make a shift from their out and out anti indigenous positions.

The capital's claim over the natural resources of the country for the benefit of the nation is becoming increasingly difficult for the conservationists to defend. The compulsion of the electoral politics is pushing the state to recognise the claims of the indigenous peoples at least in principle. Moreover, the failure of the forest department to protect the forest and forest biodiversity has also caused its removal from the process of implementation of the FRA 2006 by the state. Similarly, the conservationists' campaign for the preservation of wilderness by throwing out the indigenous peoples from the forests failed to find any takers, neither in the government nor in the non-government domains. However, the paradox is that the state cannot ignore the claims of the capital in terms of extractive and wood based industries over the natural resources for the economic growth of the country.

### **Conclusion**

In Jharkhand the conflict between indigenous peoples and the forest department reached its

fiercest phase in the 70s. Areeparampil noted four basic reasons for this. They were, encroachment by the Forest Department on indigenous villages and on their customary rights on forests, exploitation and harassment of indigenous peoples by forest officials, commercialization of forests and resultant pauperization of the indigenous peoples and looting and destruction of forests by contractors in collusion with forest officials (Areeparampil 1992). The immediate cause of the conflict was the large scale felling of the Sal, having both economic and cultural significance in the lives of the indigenous peoples, and plantation of Teak in its place. The conflict claimed more than 50 indigenous lives and many languished in jails for years together. But the state oppression instead of succeeding in suppressing the movement fueled the anger of the people. The movement took a different turn from protection of the natural forests to destruction of the plantations. This move compelled the forest department to make a retreat.

The history of the last three decades of the forest regime in Jharkhand shows a sign of new hope and positive thinking. A new movement emerged, the movement to reclaim forests. Most of the villages in Jharkhand have patches of forests within their respective boundaries, which are surveyed and legally recognized as a part of the record of rights of the village. Three fourth of the forestland of Jharkhand falls under this category. After the end of the colonial rule, as we mentioned above, the forest department took over these forests and declared them as the Protected Forests. Now the people, especially the indigenous peoples, have started reclaiming them as the communal natural resources of the village. Every village has now a Forest Protection Committee with elaborate rules of forest protection and use of timber and non-timber forest produces. Families by turn provide male members to form groups of about 10 persons each to keep a vigil on the village forest every day. The village council (Gram Sabha) takes the consensus decision on the management of the forest and about the punishment of the violators. This has resulted in the 'coming back' of the forest and in many places the wildlife too. Increasing availability of the medicinal plants has also helped the revival of the traditional health care system. The forest department has virtually disappeared from many of such village forests. The available data prepared by the forest department shows that whereas the average dense forest cover declined in the state over the period 2001-2003 there has been a positive change in the forest area classified as 'open forest' (the degraded forest) in the indigenous-dominated districts. Destruction of the dense forest areas is still going on by forest mafias in collaboration with the forest officials and the local administration.

It notes, 'Adivais are traditionally aware of the ecological interest of preserving forest cover, and the protection of biological diversity including wildlife conservation for their community life.' On the contrary, 'the commercial and industrial over exploitation of forest produce including timber and minerals create hazards for ecological balance... Forest conservation has found a strange companion in industrial forestry. While the rights of the forest-dwellers are severely restricted in the name of forest conservation, the forests are increasingly shaped to suit the needs of industry.

Adivasis (not just the Scheduled Tribes) have walked a long way in their interaction with the colonial and Indian nation state. But they could not be integrated with the state system of either kind. Is it their fault or they have been systematically kept outside the state process by the builders of the state? Vasani observed that 'the divide is one that has been created and sustained historically, and is so through that even the elite among the adivasis do not find themselves integrated in the state that governs them' (Vasani 2009:131).

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