

Appendices

Appendix - I

Government of West Bengal
Department of Panchayats & Rural Development
Panchayats Branch
11A, K.S. Roy Road, Calcutta-700 001.

No. 207/PN/O/I/AM-1/97.

Dated, Calcutta the 21.1.1999.

M E M O R A N D U M

At the time of Fifth Panchayat General Elections held in 1998, areas under the Tea Gardens and Forest Villages within different districts of this State, were brought within the operational jurisdiction of the West Bengal Panchayat Act, 1978 as subsequently amended (hereinafter referred to as the Act). Consequently, elections were held from such Tea Garden and Forest Village areas to 3-tier Panchayats and at present such areas together with other revenue land areas in most cases, constitute various units of different tiers of Panchayat i.e. Gram Panchayat, Panchayat Samiti and Zilla Parishad.

Various measures for infrastructural development in such areas recently included in the Panchayats as also a number of welfare measures for the inhabitants of such areas are being provided exclusively by the Lessee of the land and/or Tea Garden Management (hereinafter referred to as the Management) in Tea Garden areas and by the Forest Department of this State and as its agent by the Forest Directorate and/or the West Bengal Forest Development Corporation (hereinafter referred to as the Department) in forest villages. In terms of the provisions under plantation Act, 1951 (Act 29 of 1951) and rules thereunder in force, the Management is obliged to take appropriate measures in the field of health, sanitation, education and different social welfare measures in the tea garden. The Department on the other hand is maintaining communication facilities and implementing other infrastructural development programmes in the forest villages. It is also observed that in such areas, the entire land is leased out to the Management of the tea gardens and is under control of the latter; similarly the entire set of forest lands within which the forest villages are located, are under the ownership of the Department. Consequently, within the Tea Gardens and Forest Villages, there is no land available for use of the general public where jurisdiction and authority of the Panchayats statutorily extends.

In view of the aforesaid special features obtained in the tea garden and forest village areas, it is considered necessary to clearly define the powers, functions and duties of the Panchayats,

amendment of the relevant rules and other provisions of law as be necessary, powers, functions, and duties of the Panchayats and other units of administration operating in such areas need be defined by an order issued in this behalf.

Now, therefore, in exercise of the power conferred by section 212 of the West Bengal Panchayat Act, 1973 as subsequently amended, the Governor is pleased hereby to issue directions as follows :-

(1) In tea garden areas, the management concerned shall continue to remain responsible for the facilities and benefits now being provided as also required to be provided in future, to the workers of the tea gardens and the people inhabiting the tea garden area in terms of the provisions under the Plantation Labour Act, 1951 (69 of 1951), any rule made thereunder and any other provision of law for the time being in force. The Gram Panchayat or any other Panchayat shall not interfere in any manner, by any act or commission or omission, in valid performance of the aforesaid functions of the management. Without prejudice to the generality of the aforesaid provisions, the facility and benefits at present made available by the management as enumerated hereunder shall continue in future also without any interference from any Panchayat.

(a) Ration facility: The management is providing ration at subsidised rate to garden workers and their dependants. The facility shall continue.

(b) Medical facility: The management provides free medical facility to the workers and their dependants including non-worker adult family-members. Free ambulance service is also provided on occasions. Such facilities shall continue to exist.

(c) The management provides free house-hold requirements of fuel to the garden workers in commensurate with their working status. The arrangement shall continue.

(d) Under a statutory provision, the management provides safe drinking water to the workers and their families by sinking deep tube-wells, big bore tube-wells or pucca wells as may be appropriate. Bathing enclosures for the women are also provided by the management. Such facilities will continue in the same manner as necessary.

Management also provides street lighting in the labour lines and other places at their cost. The Management will continue to extend such facilities.

(f) Under statutory provision, the Management provides housing accommodation in pucca quarters to the workers and their families. The provision shall remain in force.

(g) Roads, streets and other communication links within a garden area, are the responsibilities of the Management for their construction, repair, drainage facility and maintenance. The arrangement will continue to exist.

(h) The Management provides certain recreational facilities such as club room, play ground etc. for use of the employees. The facilities shall be extended in similar manner.

(i) The Management prior to imposition of rural cess, was required to provide education to the children of the workers by setting up a primary school for every 25 children or more. The arrangement now existing shall continue. The Management also provides certain other facilities such as free transport for school-going children, provision of fund for construction of school/college building and for equipments in these institutions. The facilities shall be provided in the same manner.

(j) Additional workers who are usually employed for six to eight months in a year are usually extended the benefits and facilities stated in the foregoing paragraphs. The system at present in vogue, shall continue without any curtailment.

(2) (1) With respect to forest village, the Department shall continue to extend such communication, drainage and other facilities to the inhabitants of the forest villages as are being extended now or as a logical consequence, shall be extended later. The Gram Panchayat or any other Panchayat shall not interfere in any manner, by any act of commission or omission, in valid performance of the aforesaid functions of the Department. Any Panchayat body, an inhabitant of the forest village or any other person shall not make any permanent construction without clearance from the Department or when necessary from the Govt. of India. No one shall be allowed to violate any provision of the Forest (Conservation) Act, 1980 (59 of 1980) and National Forest Policy circulated by the Govt. of India.

(ii) In a forest village, the Panchayat may provide permanent infrastructure for the villagers only after obtaining written clearance from the Deptt.

(iii) The Forest Department/Directorate may identify the persons/families in a forest village who are willing to be shifted from such forest villages and send the list to the Panchayat Samiti/Gram Panchayat concerned. The Panchayat concerned shall endeavour to locate suitable resumed land or khas/vested land for shifting of such persons/families and take further action to rehabilitate them.

3. (i) Since control and management within the area of a tea garden is under the control of the Management and the entire land ~~of a tea garden or forest village~~ in a forest village is under the ownership of the Department, the Gram Panchayat or any other Panchayat concerned shall not normally undertake any land-based scheme within the area of a tea garden or a forest village. If any land-based scheme is considered necessary and expedient, the Panchayat concerned shall forward such proposal to the Management or the Department as the case may be, and obtain prior written concurrence of the Management or the Department before taking up implementation of the scheme. The Management, before communicating its concurrence, shall obtain permission of the District Magistrate concerned for implementation of such land-based schemes. If there is, however, any resumed land of a tea garden within the jurisdiction of a Gram Panchayat, Gram Panchayat is at liberty to take up appropriate land-based schemes in the area.

(ii) A Gram Panchayat may sponsor suitable self-employment schemes for one or more residents of a tea garden or forest village area taking into consideration income of the person/family concerned in terms of the guidelines applicable for a scheme.

4. There are considerable quantum of resumed land in many tea gardens. The Panchayat Samiti concerned with the assistance of the Gram Panchayat and in consultation with the local officers of the Land and Land Reforms Department of this Government, shall take measures to resist/remove encroachment on such land, arrange distribution of available land to the deserving families and explore the scope and possibility of making available to the Gram Panchayat a piece of land for construction of administrative building (Panchayat Ghar).

5. (i)(a) For the purpose of imposition of tax on land and buildings in tea garden areas by the Gram Panchayat concerned under section 46 of the Act, it is necessary to calculate the annual value on the basis of market value of the land and buildings.

after the assessment and construction of buildings made on diverse dates will be a lengthy and cumbersome exercise bringing in its wake some arbitrary considerations and giving rise to controversies and disputes.

(b) On careful consideration of different aspects, it is directed hereby that notwithstanding anything contained in section 16 of the Act, Gram Panchayat, for the purpose of assessment of annual tax on land and buildings within the area of a tea garden, shall tax annual value of the entire property at the uniform rate of Rs.1,500/- (Rupees one thousand and five hundred only) per acre ignoring the valuation of buildings and other installations, if any. On the basis of the annual value of the entire property thus arrived at, annual tax shall be assessed. The point is further clarified in the illustrative examples at annexure- I. It is further provided that the total amount assessed on tax on land and buildings shall in no case exceed Rs.20,000/- (Rupees twenty thousand only) per annum until further order in this respect. It is also provided that the Gram Panchayat shall not assess or impose any tax upon any employee of the tea garden or any other inhabitant residing within the area of the tea garden.

(b) In the forest village, the Gram Panchayat concerned shall not assess or impose any tax on any land and on any buildings or on any person residing within that area.

(d) In case of any dispute over the quantum of tax assessed, either the Gram Panchayat or the Management may refer the matter to the District Magistrate who shall on giving an opportunity of hearing to the Gram Panchayat and also to the concerned management and on perusal of records produced by either party and on causing such enquiry as he may deem necessary, shall take a decision and intimate all concerned.

(ii) It is further provided that an appeal preferred by any aggrieved party, shall lie with the Commissioner of the Division who may, after giving notice of the appeal to the District Magistrate and giving the appellant as also the other party an opportunity of being heard, modify or confirm the decision of the District Magistrate. The decision of the Commissioner shall be final and binding on either parties.

6. A newly constituted Gram Panchayat shall endeavour to construct Gram Panchayat Office of its own outside the area of a tea garden or a forest village.

comprises area of one or more tea gardens and/or forest village along with other areas. For this purpose, resumed land of a tea garden may also be utilised. In case a Gram Panchayat comprises only the area of one or more tea garden or forest village, the Gram Panchayat may request Management of the Department to allow them to have a suitable office, accommodation either free or on a monthly rental basis as a temporary arrangement. Attempt shall be made by the District administration to reconstitute such Gram Panchayats by including certain other areas outside the tea garden or forest so that the office of the Gram Panchayat may be constructed there in future.

By order of the Governor,

Sd/- S. N. GHOSH

Principal Secy to the Govt. of West Bengal

No. 207 (133)/S.N.K./IA-1/97 Dated: 21.11.1999

Copy forwarded for information and necessary action

to:

1. Land & Land Reforms Department of this Government.
2. Forest Department of this Government.
3. Consultative Committee of Plantation Associations, Royal Exchange, 6, Netaji Subhas Road, Calcutta-700001.
4. Commissioner, Jalpaiguri Division.
5. Sabhapati, Cooch Behar/Jalpaiguri/Uttar Dinajpur/Zilla Parishad.
6. Executive Officer, Cooch Behar/Jalpaiguri/Uttar Dinajpur Zilla Parishad.
7. District Land and Land Reforms Officer, Cooch Behar/Jalpaiguri/Uttar Dinajpur District.
8. District Panchayat & Rural Development Officer, Cooch Behar/Jalpaiguri/Uttar Dinajpur District.
9. Sub-Divisional Officer, Sub-Divn.
(all of 3 districts)
10. Sabhapati, Panchayat Samiti
(all of 3 districts)
11. Block Development Officer & Executive Officer, Block
(all of 3 districts)

-7-

12. Director of Panchayats & Rural Development, West Bengal.

13. Director, S.I.D. & R.D., Kalyani, Nadia.

W. A. (199)
Secretary to the
Govt. of West Bengal.

Appendix - II

GOVERNMENT OF WEST BENGAL FOREST DEPARTMENT FOREST BRANCH

No. 5969-For

Dated 3.10.2008

RESOLUTION

Whereas the National Forest Policy, 1988 envisages 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. National Forest Policy 1988 also recognises the symbiotic relationship between the tribal people and forests, and implores to associate the tribal people closely in the protection, regeneration and development of forests.

Whereas the National Forest Policy, 1988 envisages people's involvement in the development and protection of forests and whereas the requirements of fuelwood, fodder and small timber such as house-building material, of the tribals and other villagers living in and near the forests, are to be treated as first charge on forest produce.

And whereas "The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006" also recognises the responsibility and authority of tribals in conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of forests.

And whereas State of West Bengal has been the pioneer in development of Joint Forest management which has now been acknowledged as tool for management of forest resources universally and implemented successfully in the different states of the country.

And whereas, the Forest Department has taken up a massive programme for resuscitation of the degraded forests of the State as a whole for converting the areas into productive forests.

And whereas, active participation and involvement of local people are vital for generation, maintenance and protection of aforesaid forests/ plantations and successful implementation of the program.

In supersession of this department's resolution No.2340-For dated 14th July 2004, 2731-For dated 16th August 2004 and 2756-For Dated 17th August 2004, the Governor has been pleased to decide that Joint Forest Management Committees shall be constituted for the purpose of development of degraded forests and forests prone to forces of degradation in the districts of Jalpaiguri, Coochbehar, Darjeeling (excluding areas under Darjeeling Gorkha Hill Council), Malda, Murshidabad, Nadia, Uttar Dinajpur, Dakhin Dinajpur, Hooghly and direct that the composition, duties and functions, the usufructuary benefits and restrictive measure pertaining to such Joint Forest Management Committees shall be as following.

1. COMPOSITION

- i. The Divisional Forest Officer in consultation with "Bon-Bhumi Sanskar Sthayee Samiti" of concerned Panchayat Samiti shall select beneficiaries for constitution of the Joint Forest Management Committees(s), within their jurisdiction and within the frameworks of this resolution.
- ii. The beneficiaries ordinarily shall be economically backward people living in the vicinity of the forest concerned. Every family living in the vicinity of the forests shall, however, have the option of becoming a member of the Joint Forest Management Committee, if such family including the female members is interested in the work of protection.
- iii. There shall be normally a joint membership for each household (i.e. if husband is a member, wife automatically becomes a member and vice versa). Either of the two can exercise rights to represent household at any point.
- iii. Constitution of the Joint Forest Management Committee including the Executive Committee will be approved by the Divisional Forest Officer concerned on recommendation of the "Bon-O-Bhumi Sanskar Sthayee Samiti" of the concerned Panchayat Samiti.
- iv. The concerned Gram Panchayat(s) shall extend necessary support and help to such committees (s) to ensure their smooth and proper functioning.

2. EXECUTIVE COMMITTEE

- i. Each Joint Forest Management Committees shall have an Executive Committees to carry out the various activities assigned to the Committee.
- ii. The composition of the Executive Committee shall be as follows:
 - a. Sabhapati or any member of the "Bon-O-Bhumi Sanskar Sthayee Samiti" of the Local Panchayat Samiti as may be nominated by the SabhapatiMember.
 - b. Gram Pradhan or any member of local Gram Panchayat(s) as may be nominated by the Pradhan/Chairman of the Municipality or any councillor of the Local Municipality as nominated by the Chairman of the said Municipality.....Member
 - c. Elected representative of the beneficiaries Member (Three number of members of the FPC subject to the condition that at least one member will be women and tribal)
 - d. Concerned Beat Officer or his nominee in the rank of Head Forest Guard/Forest Guard/Ban Majdur/Ban ShramikMember Secretary
 - e. One Head Forest Guard/Forest Guard/ Ban Majdur/ Ban Shramik to be nominated by concerned Range Officer.....Member

The members of the Executive Committee shall elect the President in each meeting.

iii. The "Bon-O-Bhumi Sanskar Sthayee Samiti" of the respective Zilla Parishad will monitor, supervise and review functions of the Joint Forest Management Committees.

iv. The Member Secretary shall convene the meetings of the Executive Committee as well as Joint Forest Management Committee, as per agreed procedure.

v. The representatives of the beneficiaries to the Executive Committee shall be elected in each year in Annual General Meeting of the Committee, where the concerned Range Officer will be the observer.

vi. No member of the Executive Committee shall be elected or nominated for more than three years in succession.

vii. In order to ensure better coordination among the JFMCs and further consolidation of JFM practices, Coordination Committees of the JFMCs shall be constituted both at Beat & Range level. The composition and function of such coordination committees shall follow guideline to be prescribed by Principal Chief Conservator of Forests.

3. DUTIES OF EXECUTIVE COMMITTEE

i. The Executive committee of Joint Forest Management Committee shall maintain a register showing the necessary particulars of beneficiaries who are members of the committee, i.e. name, father's name, address, age, number of family members, name of nominee, etc nomination forms duly filled in and approved by the Executive committee should be pasted in the Register. Such Register is also to be maintained in the concerned Range Office of the Forest Department for permanent record.

ii. The Executive committee of Joint Forest Management Committee shall maintain a "Minute Book" wherein proceedings of the meeting of the Executive Committee held from time to time as well as the proceedings of the Annual General Meeting of the Joint Forest Management Committee will be recorded under the signature of the President of the Committee and such Minute duly attested by the member secretary shall be sent to concerned Range Officer for record.

iii. The Executive committee of Joint Forest Management Committee shall hold an Annual General Meeting once in very year where activities of Committee as well as details of distribution of usufructuary benefits are to be discussed, besides electing representatives of the beneficiaries to the Executive Committee.

vi. The Executive committee shall meet at least once every two months and discuss issues related to ongoing forestry works, preparation and implementation of microplan and other emergent works etc.

**4. FUNCTIONS OF JOINT FOREST MANAGEMENT COMMITTEE/
EXECUTIVE COMMITTEE**

A

- i. To ensure protection of forest (s)/ plantation(s)/wildlife through members of the committee.
- ii. To protect the said forest(s)/plantation(s) with the member of the Committee.
- iii. To inform forest personnel or any person or persons attempting trespass and willfully or maliciously, damaging the said forest(s) / plantation(s)/Wildlife or committing theft thereon.
- iv. To prevent such trespass, encroachment, grazing, fire, poaching, theft or damage.
- v. To apprehend or assist the forest personnel in apprehension of such person or persons committing any of the offence mentioned above.

B

- i. To ensure smooth and timely execution of all forestry and fringe area development works taken up in the area by extending necessary help to the officials of Forest Department.
- ii. To involve every member of the Committee in the matter of protection of forests(s)/plantations(s)/wildlife as well as other duties assigned to the Committee.
- iii. To assist the concerned Forest Officials in the mater of selection/engaging of labourers required for forestry worked.

C

- i. To ensure smooth harvesting of the forest produce by the Forest Department.
- ii. To assist the concerned Forest Official in proper distribution of the earmarked portion of the net sale proceeds among the members of the Committee (as per list maintained by Sthayee Samiti).
- iii. To ensure that usufructuary rights allowed by the Govt, is not in any way misused by any of the members and forest/plantation sites are kept free from only encroachment whatsoever.

D

- i. To prevent any activities in contravention of the provisions of Indian Forest Act, of 1927 and any Acts and Rules made there under and the Wildlife (Protection) Act, 1972 as amended from time to time.

ii. To report about activities of particular member which are found prejudicial and detrimental to the interest of a particular plantation and or/forest wildlife to the concerned Beat Officer/Range Officer which may result in cancellation of membership of the erring member.

iii. To assist the Forest Officials to take action or proceed under Indian Forest Act 1972 and the Wildlife (Protection) Act 1972 and any Acts and Rules made there under, against the offenders, including may erring members of the Committee found to be violating the Act or damaging the forest/plantation/wildlife.

5. USUFRUCTUARY BENEFITS

i. The members will have to protect the forest and wildlife for at least 5 years to be eligible for sharing of usufructs under this programme.

ii. The members shall be entitled to collect following items free of royalty without causing any damage to forest.

a) Fallen twigs, grass, fruits (excluding cashew), flowers, mushroom, seeds, leaves and intercrops raised by JFMCs subject to any restriction imposed from time to time, Provided however such collection will be not allowed in Protected Areas

b) Medicinal plants will be permitted to be collected by the JFMC members free strictly on the basis of approved micro-plans, except in Protected Areas

c) Members of the JFMC will receive 25% of net sale proceeds of firewood and poles, which are harvested during thinning and cultural operations. The poles for the purpose of this order will be under 90 cm, gbh. For all species except Teak. For Teak upper limited of gbh is 60 cm.

d) Members of the JFMC will receive 15% of net sale proceeds of timber, which are harvested at the time of final felling. Share of JFMCs would be equally allocated to all the JFMCs in Forest Division proportionate to the strength of their members.

iii. Entire Sal seeds as collected shall have to be deposited with the West Bengal Tribal Development Cooperative Corporation Ltd., through the local LAMPS (where LAMPS are functioning) and LAMPS will pay the members, in approved tariff, against their individual collection.

iv. The concerned forest official will distribute to the eligible members their proportionate share of the usufructs from the harvesting after satisfactory performance of functions detailed herein before.

v. The usufruct sharing will be subject to restrictions imposed from time to time on account of Silvicultural and Management requirements and from preservation of wildlife point of view.

6. TERMINATION OF MEMBERSHIP DISSOLUTION OF COMMITTEE APPEALS ETC

i. Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act of 1972 Wildlife (Protection) Act or Acts and / or Rules made there under, may entail cancellation of individual membership and or/dissolution of the Executive/Joint Forest Management Committee, as the case may be by the Officers of the Forest Department as state below in (ii) and (iii) below.

ii. The concerned Divisional Forest Officer shall be entitled to take appropriate action even dissolution of any Executive/Joint Forest Management Committee on the grounds stated above, on the recommendation of the Bon-O-Bhumi Sanskar Sthayee Samiti, Panchayat Samiti.

iii. The concerned Range Officer may be authorized by the Divisional Forest Officer to take proper action, even termination of an individual membership, on the above mentioned grounds, on the recommendation of the Executive Committee of Joint Forest management Committee.

iv. Appeal against any such penal action by the Range Officer may be preferred to the concerned Divisional forest Officer through local Panchayat Samiti.

v. Appeal, against any such penal action by the Division Forest Officer may be preferred to the concerned Circle Conservator of Forests through the concerned Panchayat Samiti and the Zilla Parishad, whose decision shall be final.

ORDER

Ordered that the Resolution be published in the Calcutta Gazette and copy sent to all concerned.

By order of the Governor


(Smt. Shrida Nag, IAS)
Joint Secretary to the
Government of West Bengal

- . 6 . -

No. 5969/1-For.

Date:03.10.2008

Copy forwarded to the Managing Director, Basumati Corporation Ltd., 166, B.B. Ganguli Street, Kolkata- 12.

He is requested to publish it in the Kolkata Gazette for greater interest. 25 copies of the Gazette Notification may kindly be sent to this Department

Joint Secretary to the Government of West Bengal

No. 5969/2(6)-For. Dt. 03.10.2008

Copy forwarded for information to the :

7. P.C.C.F, (WL), West Bengal & C.W.L.W.
- ✓ 8. P.C.C.F., West Bengal.
- All concerned may be informed accordingly.
9. Accountant General (A&E), West Bengal.
10. Finance Department of this Government.
11. Sabhadhipati
12. P.S. to M.I.C., Forests Department.

Joint Secretary to the Government of West Bengal

No. 5969/3-For. Date 03.10.2008.

Copy forwarded for information to the Secretary to the Govt. of India, Ministry of Environment & Forests , National Wasteland Development Board, C.G.O. Complex, Lodhi Road, New Delhi: 110 003.

Joint Secretary to the Government of West Bengal

Appendix - III

रजिस्ट्री सं. डी. एल.—(एन)04/0007/2006—08

REGISTERED NO. DL—(N)04/0007/2006—08


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2]

नई दिल्ली, मंगलवार, जनवरी 2, 2007 / पौष 12, 1928

No. 2]

NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928

इस भाग में पिन पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

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

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

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

No. 2 of 2007

[29th December, 2006]

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

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

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

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

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

CHAPTER I

PRELIMINARY

Short title and commencement.

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

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

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 of 2001. (n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002,

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

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

(p) "village" means—

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

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

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

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

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

CHAPTER II

FOREST RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69 of 1980.

- (a) schools;
- (b) dispensary or hospital;
- (c) *anganwadis*;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres:

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

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

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

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

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

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

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

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

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

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

53 of 1972.

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

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

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

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

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

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

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

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

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

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

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

69 of 1980.

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

Duties of holders of forest rights.

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

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

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

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

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

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER V

OFFENCES AND PENALTIES

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

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

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

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

Cognizance of offences.

CHAPTER VI

MISCELLANEOUS

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

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

Protection of action taken in good faith.

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

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

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

Nodal agency.

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

Power of Central Government to issue directions.

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

Act not in derogation of any other law.

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

40 of 1996.

Power to make rules.

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

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

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

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

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

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

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

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

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

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

Table-16.8

STATEMENT SHOWING THE DETAILS OF FOREST VILLAGES OF NORTH BENGAL

Sl.No.	Name of Forest village	District	Division	No. of regd. family	Total (Permanent population)	Tribal Population	Area under possession of forest villagers in ha.	Name of the G.P.
1	Sipchu	Jalpaiguri	Jalpaiguri	16	200	63	21.28 hec.	Sukāpara
2	Panjhora			43	200	72	53.28 hec.	Matell-Batabari-II
3	Khunia			43	1304	693	110.19 hec.	Matell-Batabari-I
4	North Indong			17	210	200	57.00 hec.	Matell-Batabari-I
5	Kalamati			31	320	320	78.23 hec.	Ramsai
6	Bamni			11	80	80	30.41 hec.	Kumial
7	Baradighi			34	220	220	80.99 hec.	Bidhannagar
8	Gnsathai			29	345	325	65.00 hec.	Jhar-Altagram-II
9	Sonakhali			20	121	121	23.80 hec.	Sakoajhora
10	Khoidong			22	310	310	48.00 hec.	Jhar-Altagram-II
11	Mela			12	158	158	26.94 hec.	Salbari-I
12	Khutimari			10	115	115	47.75 hec.	Salbari-I
13	Totapara			15	130	65	27.20 hec.	Salbari-I
14	Mugalkata			18	407	285	52.00 hec.	Salbari-I
15	Dalgona			20	258	258	53.00 hec.	Jateswar
16	Reri			20	410	205	25.70 hec.	Birpara-I
17	Kalapani			10	105	53	5.50 hec.	Birpara-I
18	Budhiram			17	105	105	42.43 hec.	Ramsai
19	Sursuti			13	85	85	38.59 hec.	Lataguri
20	Bichhabhanga			20	150	30	27.28 hec.	Lataguri
21	South Indong			12	125	125	20.03 hec.	Matell-Batabari-II
		TOTAL :	21	433	5158	3888	934.60 hec.	
22	Dhupjhora	Jalpaiguri	Wildlife-II	18	185	185	68.83 hec.	Matell-Batabari-II
23	Kalipara			14	170	170	31.22 hec.	Ramsai
		TOTAL :	2	32	355	355	100.05 hec.	

Contd.

Contd.....table-16.8

Sl.No.	Name of Forest village	District	Division	No.of regl. family	Total (Permanent population)	Tribal Population	Area under possession of forest villagers in ha.	Name of the G.P.
24	Magurmari	Jalpaiguri	BKPUR	22	110	110	17.50 hec.	Rajadanga
25	Salogharia			67	700	700	52.80 hec.	Rajadanga
26	Mechibusty			53	1164	718	42.40 hec.	Rajadanga
27	Gajaldaha			8	87	87	12.84 hec.	Odiabari
	TOTAL :		4	150	2061	1615	125.54 hec.	
28	Dumchi	Jalpaiguri	COB	16	255	255	49.00 hec.	
29	North Khairbari			30	385	287	38.00 hec.	
30	South Khairbari			19	191	58	34.00 hec.	
31	Ballaguri			30	310	109	24.00 hec.	
32	Kudal Busty			53	1056	381	200.00 hec.	
33	North Mendabari			38	1150	1150	74.00 hec.	
34	South Mendabari			10	427	427	24.00 hec.	
35	Montharam			14	200	72	70.00 hec.	
36	Salkumar			18	335	335	35.00 hec.	
37	Andn busty			20	338	336	48.00 hec.	
38	Kurmial			18	169	169	34.00 hec.	
39	Bania			24	282	282	55.00 hec.	
	TOTAL :		12	290	5098	3861	685.00	
40	Bhuthri	Jalpaiguri	BTR(W)	23	240	120	30.00 hec.	
41	Dal Badal			90	200	82	20.00 hec.	
42	Godamdabri			71	1046	758	103.00 hec.	
43	Barni			6	51	51	6.00 hec.	
44	Pampn			14	194	194	15.00 hec.	
45	20 th mile			11	148	146	52.00 hec.	
46	21 st mile			9	119	119	14.00 hec.	
47	Kaikui			40	539	539	92.00 hec.	
48	Panjihora			20	202	202	35.00 hec.	

Contd.....

Contd...table-16.8

Sl.No.	Name of Forest village	District	Division	No. of regd. family	Total (Permanent population)	Tribal Population	Area under possession of forest villagers in ha.	Name of the G.P.
49	Godhadhar	Jalpaiguri	BTR(W)	71	538	538	215.00 hec.	
50	Garam			50	564	564	109.00 hec.	
51	Pana			38	542	242	46.00 hec.	
52	Raj Matang			38	610	809	17.81 hec.	
53	Nlomat			34	600	600	76.00 hec.	
54	Poro South			28	598	595	87.04 hec.	
55	Gangurhja			22	516	223	11.34 hec.	
56	Gao Basty			71	1043	1043	80.00 hec.	
57	Adhna Basty			25	520	73	20.00 hec.	
58	Bhuta Basty			20	300	170	35.00 hec.	
59	Poro North			54	660	680	14.57 hec.	
	BTR (West)	TOTAL:	21	735	9230	7248	1078.76 hec.	
60	Bengdova	Jalpaiguri	BTR(E)	25	259	259	25.00 hec.	
61	Sankoshi			44	300	260	106.50 hec.	
62	Kumar Gram			27	418	130	75.30 hec.	
63	New lands			12	162	62	24.29 hec.	
64	Sitlong			26	308	306	80.97 hec.	
65	Tiamari			12	159	49	14.00 hec.	
66	Chipra			14	198	196	32.39 hec.	
67	Lepraguri			11	210	210	45.75 hec.	
68	Indabusti			10	155	155	30.75 hec.	
69	Khundimari			25	223	223	65.00 hec.	
70	Balapara			17	198	166	38.46 hec.	
71	Santalabari			40	660	280	10.00 hec.	
72	Chunabari			18	480	280	25.00 hec.	
73	Tasiv Gaon			50	972	772	50.00 hec.	
74	Buxa Road			12	500	398	0.00 hec.	
75	Bhutia basty			11	180	136	UNDER SHIFTING	
	BTR (East)	TOTAL:	16	354	5582	3882	623.41 hec.	

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MISCELLANEOUS INFORMATION 133

Appendix - V

Empwerment Sheet.sav

	Cooperatio n	Resistance	Cooperatio n' Deviation	Code_Coop eration	Cooperatio n Level	Resistance Deviation	Code_Resi stance
1	24.00	20.00	3.43	1.00	High_Coop	3.89	1.00
2	16.00	23.00	-4.57	2.00	Low_Coop	6.89	1.00
3	20.00	20.00	-.57	2.00	Low_Coop	3.89	1.00
4	17.00	15.66	-3.57	2.00	Low_Coop	-.45	2.00
5	17.00	22.00	-3.57	2.00	Low_Coop	5.89	1.00
6	13.00	24.00	-7.57	2.00	Low_Coop	7.89	1.00
7	18.00	25.00	-2.57	2.00	Low_Coop	8.89	1.00
8	22.00	1.00	1.43	1.00	High_Coop	-15.11	2.00
9	18.00	22.00	-2.57	2.00	Low_Coop	5.89	1.00
10	27.00	20.00	6.43	1.00	High_Coop	3.89	1.00
11	20.00	6.50	-.57	2.00	Low_Coop	-9.61	2.00
12	13.00	22.50	-7.57	2.00	Low_Coop	6.39	1.00
13	13.00	13.50	-7.57	2.00	Low_Coop	-2.51	2.00
14	8.00	18.50	-12.57	2.00	Low_Coop	2.39	1.00
15	11.00	6.25	-9.57	2.00	Low_Coop	-9.86	2.00
16	11.00	12.25	-9.57	2.00	Low_Coop	-3.86	2.00
17	9.00	14.50	-11.57	2.00	Low_Coop	-1.61	2.00
18	11.00	5.25	-9.57	2.00	Low_Coop	-10.86	2.00
19	12.00	9.25	-8.57	2.00	Low_Coop	-6.86	2.00
20	10.00	11.25	-10.57	2.00	Low_Coop	-4.86	2.00
21	18.00	20.00	-2.57	2.00	Low_Coop	3.89	1.00
22	26.00	20.00	5.43	1.00	High_Coop	3.89	1.00
23	15.00	24.00	-5.57	2.00	Low_Coop	7.89	1.00
24	31.00	23.80	10.43	1.00	High_Coop	7.69	1.00
25	14.00	23.80	-6.57	2.00	Low_Coop	7.69	1.00
26	30.00	20.80	9.43	1.00	High_Coop	4.69	1.00
27	19.00	22.80	-1.57	2.00	Low_Coop	6.89	1.00
28	18.00	24.00	-2.57	2.00	Low_Coop	7.89	1.00
29	21.00	19.80	.43	1.00	High_Coop	3.69	1.00
30	23.00	24.00	2.43	1.00	High_Coop	7.89	1.00
31	29.00	16.60	8.43	1.00	High_Coop	.49	1.00
32	24.00	6.20	3.43	1.00	High_Coop	-9.91	2.00
33	20.00	.40	-.57	2.00	Low_Coop	-15.71	2.00
34	19.00	19.60	-1.57	2.00	Low_Coop	3.49	1.00
35	17.00	13.40	-3.57	2.00	Low_Coop	-2.71	2.00
36	25.00	13.40	4.43	1.00	High_Coop	-2.71	2.00
37	29.00	15.60	8.43	1.00	High_Coop	-.51	2.00
38	22.00	11.66	1.43	1.00	High_Coop	-4.45	2.00
39	20.00	6.20	-.57	2.00	Low_Coop	-9.91	2.00

Appendices

Empwerment Sheet sav

	Resistance Level	Code_Coop Resist	Empowerment
1	High_Res	1.00	HC_HR
2	High_Res	2.00	LC_HR
3	High_Res	2.00	LC_HR
4	Low_Res	3.00	LC_LR
5	High_Res	2.00	LC_HR
6	High_Res	2.00	LC_HR
7	High_Res	2.00	LC_LR
8	Low_Res	4.00	HC_LR
9	High_Res	2.00	LC_HR
10	High_Res	1.00	HC_HR
11	Low_Res	3.00	LC_LR
12	High_Res	2.00	LC_HR
13	Low_Res	3.00	LC_LR
14	High_Res	2.00	LC_HR
15	Low_Res	3.00	LC_LR
16	Low_Res	3.00	LC_LR
17	Low_Res	3.00	LC_LR
18	Low_Res	3.00	LC_LR
19	Low_Res	3.00	LC_LR
20	Low_Res	3.00	LC_LR
21	High_Res	2.00	LC_HR
22	High_Res	1.00	HC_HR
23	High_Res	2.00	LC_HR
24	High_Res	1.00	HC_HR
25	High_Res	2.00	LC_HR
26	High_Res	1.00	HC_HR
27	High_Res	2.00	LC_HR
28	High_Res	2.00	LC_HR
29	High_Res	1.00	HC_HR
30	High_Res	1.00	HC_HR
31	High_Res	1.00	HC_HR
32	Low_Res	4.00	HC_LR
33	Low_Res	3.00	LC_LR
34	High_Res	2.00	LC_HR
35	Low_Res	3.00	LC_LR
36	Low_Res	4.00	HC_LR
37	Low_Res	4.00	HC_LR
38	Low_Res	4.00	HC_LR
39	Low_Res	3.00	LC_LR

Appendices

Empwerment Sheel.sav

	Cooperatio n	Resistance	Cooperatio n Deviation	Code_Coop eration	Cooperatio n Level	Resistance Deviation	Code_Resi stance
40	13.00	6.33	-7.57	2.00	Low_Coop	-9.78	2.00
41	29.00	19.80	8.43	1.00	High_Coop	3.69	1.00
42	21.00	9.40	.43	1.00	High_Coop	-6.71	2.00
43	24.00	8.20	3.43	1.00	High_Coop	-7.91	2.00
44	32.00	19.80	11.43	1.00	High_Coop	3.69	1.00
45	27.00	11.40	6.43	1.00	High_Coop	-4.71	2.00
46	29.00	20.60	8.43	1.00	High_Coop	4.49	1.00
47	25.00	18.60	4.43	1.00	High_Coop	2.49	1.00
48	6.00	20.40	-14.57	2.00	Low_Coop	4.29	1.00
49	28.00	18.40	7.43	1.00	High_Coop	2.29	1.00
50	28.00	15.60	7.43	1.00	High_Coop	-.51	2.00
51	18.00	18.80	-2.57	2.00	Low_Coop	2.69	1.00
52	20.00	18.80	-.57	2.00	Low_Coop	2.69	1.00
53	33.00	17.80	12.43	1.00	High_Coop	1.69	1.00
54	25.00	16.80	4.43	1.00	High_Coop	.69	1.00
55	21.00	17.80	.43	1.00	High_Coop	1.69	1.00
56	22.00	13.60	1.43	1.00	High_Coop	-2.51	2.00
57	16.00	18.80	-4.57	2.00	Low_Coop	.69	1.00
58	25.00	19.60	4.43	1.00	High_Coop	3.49	1.00
59	20.00	13.60	-.57	2.00	Low_Coop	-2.51	2.00
60	28.00	18.80	7.43	1.00	High_Coop	.69	1.00
61	24.00	18.60	3.43	1.00	High_Coop	2.49	1.00
62	25.00	17.60	4.43	1.00	High_Coop	1.49	1.00
63	23.00	.60	2.43	1.00	High_Coop	-15.51	2.00
64	21.00	18.60	.43	1.00	High_Coop	2.49	1.00
65	17.00	80	-3.57	2.00	Low_Coop	-15.51	2.00
66	21.00	17.60	.43	1.00	High_Coop	1.49	1.00
67	32.00	20.60	11.43	1.00	High_Coop	4.49	1.00
68	24.00	18.60	3.43	1.00	High_Coop	2.49	1.00
69	20.00	20.60	-.57	2.00	Low_Coop	4.49	1.00
70	13.00	16.60	-7.57	2.00	Low_Coop	.49	1.00
71							

Appendices

Empowerment Sheet.sav

	Resistance Level	Code_Coop Resist	Empowerment
40	Low_Res	3.00	LC_LR
41	High_Res	1.00	HC_HR
42	Low_Res	4.00	HC_LR
43	Low_Res	4.00	HC_LR
44	High_Res	1.00	HC_HR
45	Low_Res	4.00	HC_LR
46	High_Res	1.00	HC_HR
47	High_Res	1.00	HC_HR
48	High_Res	2.00	LC_HR
49	High_Res	1.00	HC_HR
50	Low_Res	4.00	HC_LR
51	High_Res	2.00	LC_HR
52	High_Res	2.00	LC_HR
53	High_Res	1.00	HC_HR
54	High_Res	1.00	HC_HR
55	High_Res	1.00	HC_HR
56	Low_Res	4.00	HC_LR
57	High_Res	2.00	LC_HR
58	High_Res	1.00	HC_HR
59	Low_Res	3.00	LC_LR
60	High_Res	1.00	HC_HR
61	High_Res	1.00	HC_HR
62	High_Res	1.00	HC_HR
63	Low_Res	4.00	HC_LR
64	High_Res	1.00	HC_HR
65	Low_Res	3.00	LC_LR
66	High_Res	1.00	HC_HR
67	High_Res	1.00	HC_HR
68	High_Res	1.00	HC_HR
69	High_Res	2.00	LC_HR
70	High_Res	2.00	LC_HR
71			

Appendix - VI

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FORESTRY FOR LOCAL COMMUNITY DEVELOPMENT PROGRAMME

GCP/INT/347/SWE

India and Sri Lanka

Agroforestry



FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

THE TAUNGYA SYSTEM

General

In many parts of the country, particularly in the hilly areas, the primitive agricultural practice of jhum is still followed wherever it is permitted. From the purely forestry point of view, it is one of its most striking successes that this destructive practice has been successfully turned into a method of regeneration so cheap and successful that it has latterly been intentionally introduced into areas where it had died out or been put down at an earlier stage.

The first organized attempts at taungya in India began in the last century soon after its first introduction by Brandis in Burma in 1856. The first taungya plantations were raised in 1863 in North Bengal followed by further attempts in 1886 at Sylhat in Assam and in 1890 in Coorg. However, regular taungya cultivation was not taken up until 1911 when it was used for raising Shorea robusta (sal) plantations in North Bengal where it was soon extended to Tectona grandis (teak) in 1912. It took a number of years to penetrate further and it was not until 1923 that it was adopted to regenerate failed sal coppice coupes in Gorakhpur Division in Uttar Pradesh (U.P.). The success was so remarkable that it soon became the standard method of regenerating sal in the lower alluvium forests and reliance on coppice regeneration was given up. In Madhya Pradesh and Maharashtra it was used extensively in the Berar region for raising babul. By 1931-32 it had been applied to regenerating forests in dry areas in Saharanpur (now Siwalik) Division in U.P. and in 1935 to the dry fuel forests of the then Madras Presidency. In the hills, taungya with deodar has been tried without great success in the Western Himalayas but has done well in Darjeeling hills with a variety of species including Cryptomeria, Quercus spp. (oaks), Michelia doltsopa, and several deciduous species. In addition to growing trees for timber and fuelwood, valuable cash crops or fruit trees like Anacardium occidentale (cashew) are also grown. Teak and sal are, however, by far the commonest species grown in India in taungya plantations.

Taungya plantations are now the standard practice in certain States for regenerating forests and species groups. It is a popular, extensively used technique in West Bengal, U.P. and Kerala. To a lesser extent taungya plantations are also taken up in Maharashtra, Andhra Pradesh, Orissa, Karnataka and Tamil Nadu. It has been tried and is practised on a smaller scale in most of the States. Areas are seldom reported separately from artificial regeneration as a whole, as village taungya may occasionally have to be converted into a departmental one or the area may be leased out to a neighbouring owner of an agricultural farm where operations may be largely mechanised. However, in densely populated areas like eastern U.P. and Kerala, taungya is the principal source of livelihood for a considerable number of poor people.

Brandis had originated the system by making the shifting cultivators plant up their jhum areas with teak before they vacated it, thus taking these areas out of the jhum cycle. This original pattern of taungya was followed in Assam from 1934 onwards when certain tribes practising jhum were put on raising taungya in sal forests where regeneration was difficult to achieve, resulting in substantial reductions in the area under the undesirable practice of jhum.

Wherever the basic conditions for its successful introduction - land hunger and unemployment in communities with a low standard of living were present - it spread, with multiple variations, all over the developing countries. The system was found to be very suitable for forest communities with a tradition of jhum. In some cases the right for taungya cultivation is even taken on lease by well-to-do agriculturists/co-operatives at a competitive price.

The taungya system may be defined as a method of establishing forest crops in temporary combination with agricultural crops. Agricultural cropping is confined to the period which ends with the casting of dense lateral shade or closing of the canopy of the forest crop. The farmers tend the forest crop and may also be required to plant it although this is often done departmentally. They usually receive use of the land in return for this labour. Lease rents may or may not have to be paid and there may or may not be a permanent plot for settled cultivation in addition.

Where free to do as he pleases, the taungya cultivator clearfells a patch of forest, perhaps leaving a few big tall trees or only girdling them and as soon as the felled material has dried out enough to burn, he fires it; he then broadcasts or dibbles in his field crop after as much soil working as may be necessary. His crops tend to be good as they are being raised on virgin or at least long-fallowed soil with the additional advantages resulting from the burn.

Thus the system begins with the clear-felling and burning of either the remains of a recently exploited forest or of the secondary growth. Some tree species may be marked for retention for their value or for shade. In most cases the first agricultural crops are planted one or sometimes two years before the tree crop, in other cases they are planted with or after the tree crop. The actual time of the year for planting both types of crops is regulated by the rainfall regime of the area concerned. Where agricultural planting precedes forest planting the objectives are to provide an incentive to the farmer to clear the land, to allow him to cultivate the area at its highest level of fertility, during a period when he is not burdened by the necessity of caring for the forest crop, and to ensure that the land is properly cleared before the forest crop is introduced. When the two crops are planted simultaneously the trees will receive an initial boost in growth from the burnt vegetable matter and the farmer will give more attention to weeding and tending of the trees at the same time as his own crops. When his field crops start giving returns, the tree crop also benefits from the intensive cultural practices that he adopts for his agricultural crops.

One or two year's cultivation without any forest crop is often permitted in any new area in which the method is being introduced, or in which a good deal of work is found necessary in getting the area ready for tree planting. This is often done in the drier areas in order to get the soil in good condition as there is little or no burn, and in these circumstances it is only after the first two or three years that the best crops are obtained. Seen from the purely forestry angle, delay is obviously to be avoided as the tree crop loses the great benefit of the favourable soil and growth conditions of the first season after clearing and burning, and the weeds get a start; it also lengthens the period of exposure of the soil, which is often harmful especially in dry areas. In the Khasi hills, cropping is continued for two years before the introduction of the tree crop (pine), which only takes place when the area is abandoned by the cultivators. The sowing is often done departmentally so that the cultivators actually only do the clearing and soil preparation.

Where there is ample forest, primitive peoples tend to take the one crop only before moving on to a new site. Elsewhere there is a tendency to demand a greater return from the labour involved in clearing a taungya and to continue to cultivate for two or even several years till the labour of weeding and reduced returns outweighs the other considerations. Thus in the Garo hills, 2 year's cultivation is usual, while in Gorakhpur it is continued for 4 years and in Saharanpur (U.P.), even 7 or 8 years. Agricultural cropping, especially if it is prolonged, may be harmful to the tree crop, although in general the soil working and other cultural practices are beneficial. In southern India for example, a definite loss of teak growth has been demonstrated for each successive agricultural crop, even the first. A second year's cultivation is liable to increase grass at the expense of woody regrowth which checks the growth of the teak. However, as the tree crop almost everywhere needs intensive weeding in its second year of growth, and as the deterioration consequent on a second year's cropping (when the trees are raised in the first year itself) is not great, except perhaps on steep slopes or with heavy rainfall, two years' cultivation is permitted in general. A longer period than 2 years must ordinarily be viewed as undesirable except perhaps in dry areas and other special circumstances.

Usually under current practice, the main goal is to establish a tree crop as soon as possible, but sometimes taungyas are raised at a wide spacing for production of leaf fodder and grass or fodder legumes. Because of socio-economic reasons, sometimes, although not as frequently as desirable, the farmer is assisted by making a compromise between the agricultural and the forestry objectives, and allowed to cultivate the land as long as possible. The trees chosen may be such as make it feasible to cultivate the area during the whole rotation, as in the case of hybrid poplars or cottonwood.

The area of taungya plantation which can be effectively dealt with by one family varies with locality, but usually ranges from one to four acres.

Some classes of taungya cultivator are not accustomed to live entirely on the dry crops they can raise in the forest taungyas and expect to supplement these with rice etc., raised with wet cultivation. In some areas where the water table is high, temporary unlined wells are dug for irrigation (Gorakhpur) and even a patch of paddy may be grown. Elsewhere, as is very generally the case in Bengal and Assam, the practice exists of allotting each family an area of wet cultivation as well as the forest taungya. The area of wet cultivation allotted is usually kept to the minimum for real requirements, otherwise there is resultant neglect of the taungya. One acre of wet cultivation per household is generally enough, and even this is given only where local custom already demands it. Occasionally land for dry cultivation without a forest crop is similarly given (west U.P.). Where cultivation continues for two or more years, it is sometimes customary for each cultivator to be allotted an additional new area every year, and sometimes only on vacating his original area after two or more years.

The taungya plantation procedure varies with the part of the country, the type of cultivator and the length of time the work has been going on. Generally, terms of cultivation are kept lenient at the beginning and are only gradually tightened up to what is necessary for good results. In the Darjeeling hills, the labour employed in the winter on timber and fuel extraction undertakes taungya work during the summer.

In most centres, the crops raised are fixed by local custom, particularly among the self-supporting tribes; this is commonly a mixture of hill rice, maize and cotton, with some tobacco and vegetables near the houses. In the more developed areas, the cultivators tend to combine meeting their own food and clothing requirements with raising other crops for which a profitable market exists - it may be cotton, or vegetables - and it is possible to regulate to some extent what is grown. This is particularly the case where the method has only recently been introduced, and it is both possible and expedient to disallow the raising of crops which will unduly shade the seedlings (e.g. maize or sugarcane), will climb over and smother them (some kinds of legumes), or will encourage vermin (sugarcane and Cajanus (arhar)). The season at which the different crops shade the seedlings and the ground requires consideration for each set of conditions as any crop may be harmful in one locality but good for another, sugarcane and arhar providing examples of this. Generally, the second year's crop is different from the first, thus potatoes may be followed by paddy or maize (Khasi hills). An agreement is usually drawn up excluding such crops as are considered harmful, though little information is available on the influence of different crops on the trees. Tapioca is generally recognized as a soil exhausting crop. The range of crops raised in taungyas is very wide and includes maize and grain crops, root crops (tapioca, potatoes), a big range of pulses, cotton, oil seeds (sesamum, castor oil etc.), all kinds of vegetables, sugarcane, bananas, and papayas. Generally the less tall and dense crops, and those which are thoroughly weeded, are preferable, cotton being one of the best.

Apart from the extent of land given out, the possible inclusion of wet cultivation, the period of cultivation and the crops permitted, taungya agreements vary considerably in the nature of the work required to be done on the forest crop, and in the question of payments if any. In South Bengal the practice still continues of making a cash payment at the end of a specified period (1 or 2 years) regulated on the number of plants or the proportion of the area considered adequately stocked; this payment has usually been about Rs.1 per 100 plants, or Rs.25 to 30 per hectare, with a sliding scale penalizing poor work. The cultivators have to leave the lines clean weeded, and there may be an additional clause calling for free

weeding in the following year and even later - or such further weedings may be contracted for at specified rates. In any case, it is usually important to make some definite arrangement for any further cleaning the plantations may need, as other labour may be difficult or impossible to procure. At the opposite extreme, where there is a keen demand for land, the cultivators will readily pay for the privilege of using the land, and a rent of Rs.2 $\frac{1}{2}$ or so per hectare is paid in some localities, Rs.5 in Gorakhpur.

Seed collection may be made the responsibility of the cultivator unless it has to be brought in from a distance and sowing may also be done by him. Staking out the area is done by a forest subordinate with or without the help of the cultivator. Nursery work is nearly always done departmentally except for the small nurseries often maintained by each cultivator near his house for prompt replacement of failures. Planting work which requires skill and care is usually done by the cultivator under supervision but is sometimes done departmentally as a separate operation. Special attention has to be given to seeing that the sowing or planting is done promptly at the right time, as the cultivator naturally will attend to his own crop first if both need work at the same time; it is accordingly necessary to organize the work and adopt methods which as far as possible do not coincide with the field crops in respect of the season when they make demands on the labour; an example of this is provided by the different methods of raising teak, sowing or stump planting - which can be done in April or May in some areas - being preferable to entire planting which must be done in June or July, just when the cultivator is busy with his own field crop and cleaning in the older plantations is also needed.

A good organization calls for an approximately equal new area to be taken up each year, a suitably sited, well constructed and sanitary village with good water supply (the site may have to be shifted every few years with the progress of the work, and some tribes prefer to move annually), and a forest staff sympathetic to and trusted by the cultivators. A vacillating policy and frequent changes of staff and methods spell failure, though it is possible to make steady and even fairly rapid improvements in methods if they are introduced gradually and tactfully.

Social aspects

In the taungyas, the emphasis has always been placed on the success of the forest planting, more particularly on establishing a forest crop at the least possible cost. All operations are primarily in the interest of the forest species. Scant attention has been paid to the seasonal crops grown by the agriculturists, or to their possible benefits to or interference with the forest crop but without much supporting evidence, many of the most paying crops have been prohibited in different localities on the grounds that they interfere with the growth of tree seedlings.

This is in spite of the fact that the very existence of artificial crops of many forest species or on many refractory sites has been possible only as a result of the adoption of the taungya technique, quite irrespective of the fact that the plantations are usually raised without any, or only at a nominal cost to the department. In fact, where there is pronounced land-hunger, the Forest Department sells taungya leases at high prices and thus not only establishes plantations at no expense but makes money in addition. Sometimes the cash revenue is extremely high (Kerala) and over and above the benefit of free establishment of forest crops.

As against these benefits what does the cultivator get, apart from his crop? He gets very little. The usual inducements that are offered (and by no means at all centres) consist of land for erecting temporary hutments, some inferior timber and thatching material, a hand pump for potable water, sometimes the right to manufacture charcoal from stumps which are too big to be removed otherwise and have to be dug out by the cultivator at the expense of considerable labour, elementary education for his children, and nominal medical facilities. Fencing is also sometimes erected around the taungyas and/or ditches are dug to keep out wild animals, to protect the tree seedlings as much as the agricultural crops. There may or may not be an elementary community organization or panchayat and small credit facilities.

It will be seen that these facilities are designed primarily to keep the labour force of the taungya cultivators tied to their plots and in tolerable shape to enable them to look after the plantations because if they have no place to live if they fall ill, frequently the plantation will suffer. These incentives are, therefore, primarily linked with benefits to the forest crop rather than with the welfare of the taungya cultivators and are given to them at the minimum possible scale. The system is frankly exploitive in concept and operation and cashes upon the needs of the landless and poor people to serve its own ends. The much vaunted incentives are only a cloak for uninhibited exploitation, as the savings effected by the Forest Department are many times more than the expenditure incurred on elementary conveniences provided to the working force.

In some states such as West Bengal permanent forest villages have been established where reasonably comfortable houses have been constructed. The people settled in these villages normally constitute the forest work force but some of them also do taungya cultivation. The adoption of the taungya system may sometimes benefit an impoverished and rather isolated community and may make a positive contribution towards community development as demonstrated by the Bhinga case study.^{1/} But these are exceptions and one or two small exceptions, however significant in their local impact, do not alter the basic fact that the taungya system as practiced in India is purely forest-oriented and exploitive in character. The elements of community development are rudimentary and the contribution of this technique to the enhancement of the living standards and quality of life of the rural poor is minimal.

In the socio-economic conditions prevailing during foreign domination in the 1920's and 1930's when the taungya system was first introduced on a large-scale in most parts of India, such discrimination and exploitation of a hapless segment of the population might have appeared normal and had to be tolerated in any case; but now, by no stretch of imagination could these nominal concessions be described as benefits or real incentives in a welfare state whose citizens have every right to expect and demand equity and economic justice. It might be expected that in return for all that the taungya cultivators do, and all the money that the Forest Departments save in plantation operations, at least 50 percent of the normal departmental plantation cost might be spent towards their welfare. In cases where nothing but a taungya plantation is a practical proposition and no alternative technique of artificial regeneration has been evolved it would be quite in order to spend much more to provide comfortable living conditions to the usually destitute taungya cultivators.

The taungya system in India has been adopted by the Forest Department for regenerating areas mainly within the reserved forests, especially those where other systems of management had failed. Environmental protection or local community use can hardly be expected to have any relevance in such a situation. However, the raising of good forests in depleted areas and planting trees which may be in demand locally do fulfil both environmental and local community needs, almost inspite of the Forest Department.

In the case of resident cultivators the whole family resides in the taungya village which is usually situated in the current or one or two year old taungya areas. The whole family of 5 or 6 individuals, especially the adult men and women and older children are engaged in all operations connected with raising the field crops and looking after the forest plants. In cases of non-resident cultivators the able-bodied members of the family take charge of the taungya cultivation, the rest concentrating on their village holdings. The non-residents normally come for work as and when needed and may spend several nights in temporary hutments at taungya centres at the time of sowing, reaping and other operations which require intensive labour. Sometimes when damage from wild animals is excessive inspite of a fence or ditch, the cultivators also spend the night on temporary covered platforms inside their fields.

^{1/} See page 104 of this document in Appendix 3.

Appendix - VII

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
The 29th November, 1979 :

Present :

The Hon'ble Chittatosh Mookherjee,

One of the Judges of this Court.
Civil Rule No.5165 (W) of 1976, C.R.8893
(W) of 1976 and C.R.800 (W) of 1976 issued
by this Court.

In No.C.R.8902(W) of 1976.

In the matter of :-

An application Under Article 226 of the
Constitution of India ;

-And-

In the matter of :-

Issuance of a writ, direction and/or direction
or writ in the nature of Mandamus and/or in the
nature of Certiorari and/or in the nature of
Prohibition and/or any other appropriate writ,
Order, direction under article 226 of the
Constitution of India ;

-And-

In the matter of :-

1. North Bengal Jagir Cultivators Union
Registered.No.9977 represented through
Durggch Chandra Neogi, working president,
(a) Budu Rana ;
2. Bags Rana ;
3. Epu Rana ;
4. Punu Rana ;
5. Mahanar Rana, all are Forest Villagers of
Khukhum Forest,Village,
6. Jogin Rana ;
7. Rajen Rana ;
8. Niren Rana ;

contd...P/2.

3.

of West Bengal, Writers' Buildings,
Calcutta-1.

2. Deputy Commissioner, P.O. and
District-Jalpaiguri.

3. The Divisional Forest Officer,
Jalpaiguri, Forest, District ^{Cooch Behar} ~~Jalpaiguri~~.

4. Sub-Divisional Officer, Alipurdwar,
District : Jalpaiguri.

5. Sub-Divisional Officer, Sadar Jalpaiguri,
P.O. and District-Jalpaiguri.

6. Conservator of Forest, Northern
Circle, West Bengal.

.... Respondents.

6
17/11/09

- 2 :-

9. Unar Rana, - All are forest Villagers of
Mella Forest Village ;

10. Pan Rana ;

11. Chandra Rana ;

12. Pulsi Rana ;

13. Sain Rana ;

14. Bhujel Rana ;

15. Dhiru Rana ;

16. Somra Munda ;

17. Dera Munda ;

18. Sune Oraon ;

19. Habil Christian ;

20. Charwa Oraon ;

21. Ratia Oxan ;

22. Mose Munda, - All are forest Villagers at
Gosaihat, Forest Villagers ;

23. Srimanta Rana ;

24. Akul Rana ;

25. Teng Rana ;

26. Suni Rana ;

27. Fulsingh Rana ;

28. Indu Rana ;

29. Chuang Rana ;

30. Badu Oraon ;

31. Somrah Oraon- All are forest Villagers of
Mogalkata Forest Village,

32. Maila Ghosing, ;

33. Pode Tamang ;

34. Ganesh Bhadur Tamang ;

35. Kancha Magor,

36. Dong Maila Tamang ;

37. Jheta Gising, -All are forest Villagers at
Rati Forest Village.

.... Petitioners

-Versus-

1. State of West Bengal, represented through
the Secretary, Department of Forest, Government

contd...P/3.

Appendix - VIII

১৬-১৭ই জানুয়ারী ১৯৯৯

দশমাইল বনবস্তিতে উত্তরবঙ্গ বনাঞ্চল (তরাই ক্ষেত্র) থেকে আগত গ্রামসমষ্টির প্রতিনিধি সভার কার্যবিবরণী ও সভায় গৃহীত প্রস্তাবাবলী

জানুয়ারী ১৬/১৭-১৯৯৯-এ মহানন্দা বনাঞ্চল সংরক্ষণ ক্ষেত্রের অন্তর্গত দশ মাইল বনবস্তিতে উত্তরবঙ্গ বনাঞ্চল (তরাই ক্ষেত্র) থেকে আসা বিভিন্ন এফ. সি. সি./ই. ডি. সি. প্রতিনিধিদের এবং গ্রাম প্রতিনিধিদের এক সভা অনুষ্ঠিত হয়।

নেস পন এবং দশমাইল ই. ডি. সির পক্ষ থেকে যুক্তভাবে ডাকা এই সভাটি ছিলো উত্তরবঙ্গে এ দ্বিতীয় প্রথম উদ্যোগ।

এই সভায় উত্তরবঙ্গ বনাঞ্চলকে নিশ্চিত ধরনের হাত থেকে বাঁচাতে ক্ষমত ও কার্যকরী কর্মসূচী গ্রহণের প্রয়োজনীয়তা নিয়ে বিশদ আলোচনা হয়। প্রতিনিধিরা সবাই এই মত ব্যক্ত করেন যে একটি বিকল্প বননীতি এবং বিকেন্দ্রিত সংরক্ষণ কর্মসূচী ছাড়া স্থায়ীভাবে কিছু করা এ অবস্থায় সম্ভব নয়। গ্রামের মানুষকে তৃণমূলস্বরে পরিকল্পনা গ্রহণের ক্ষমতা দেওয়া, স্থানীয়ভাবে সংরক্ষণ প্রকল্প গড়ে তোলার প্রয়োজন এবং সামগ্রিকভাবে এক গণমুখী সংরক্ষণ নীতির প্রয়োজন ইত্যাদি নিয়েও সভায় আলোচনা হয়। প্রতিনিধিরা পর্বসম্মতভাবে সিদ্ধান্ত নেন যে সাধারণ মানুষের জন্য এবং সাধারণ মানুষ পরিচালিত এক বন-সংরক্ষণ আন্দোলন গড়ে তোলা এ মুহুর্তে আন্তঃপ্রয়োজন। প্রতিনিধিরা এ বিষয়েও একমত হন যে বনদপ্তরের বর্তমান কাজকর্মের পদ্ধতি এবং বর্তমান বননীতি বন-পরিচালন ব্যবস্থায় সাধারণ মানুষের সক্রিয় অংশগ্রহণের পথে বড় অন্তরায়।

এই সভা থেকে নিম্নলিখিত সিদ্ধান্ত গ্রহণ করা হয় :

"উত্তরবঙ্গ বনবাসী সমিতি (তরাই ক্ষেত্র)" নামে এক নতুন সংগঠন গঠন করা হবে। এই সমিতিতে বৈকুণ্ঠপুর বনাঞ্চল (অংশ) কাশিয়ান বনাঞ্চল (অংশ), এবং মহানন্দা বনাঞ্চল সংরক্ষণ ক্ষেত্রের বিভিন্ন বেঙ্গ থেকে প্রতিনিধিরা নির্বাচিত হবেন। এই সমিতি নিম্নলিখিত মূল লক্ষ্যে কাজ করবে :

- উত্তরবঙ্গে এক গন বন-সংরক্ষণ আন্দোলন গড়ে তোলা।
- এই অঞ্চলের যাবতীয় বনবস্তি এবং বনসংলগ্ন গ্রামের অধিবাসীদের স্বার্থে এবং তাঁদের অধিকারের জন্য লড়াই করা।
- "সামুদায়িক বন-পরিচালন ব্যবস্থা" (গ্রামের মানুষদের হাতে বন-পরিচালনার সম্পূর্ণ দায়িত্ব তুলে দেওয়া)।

(২)

চালু করার জন্য লড়াই করা।

- ঘ) উত্তরবঙ্গের বিভিন্ন জায়গায় এ জাতীয় সমিতি গড়ে তোলা এবং উত্তরবঙ্গ ভিত্তিক এক কেন্দ্রীয় ফোরাম গড়ে তোলা।
- ঙ) উত্তরবঙ্গ অরন্যাকালের ধ্বংস রোধে প্রয়োজনীয় পদক্ষেপ গ্রহণ।
- এই সমিতি পরিচালনার জন্য উপস্থিত প্রতিনিধিদের দ্বারা এই কার্যকরী কমিটি গঠন করা হবে। এই কার্যকরী কমিটি আপাততঃ অস্থায়ী বা অ্যাড-হক হিসাবে কাজ করবে, এবং এই কমিটিতে ১৭ জন সদস্য থাকবেন। উপস্থিত প্রতিনিধিদের মধ্যে থেকে বিভিন্ন রেঞ্জের ন'জন এবং নেসপনের দু'জন এই সমিতিতে আপাততঃ নির্বাচিত হবেন। যে সব রেঞ্জ থেকে প্রতিনিধিরা সভায় উপস্থিত নেই, সেই রেঞ্জগুলি থেকে ৬ জন প্রতিনিধি ভবিষ্যতে নির্বাচিত হবেন। দশমহিল বনবস্তির শ্রীগোবিন্দ রুককা, কালাবাড়ি বনবস্তির শ্রীরাজকুমার রিজাল এবং জলডুড়ুর বনবস্তির শ্রী নৃপেন্দ্রনাথ রায় এই কমিটির যৌথ আহ্বায়ক হিসাবে কাজ করবেন।
- এই সভা, নেসপন ও দশ মাইল ই. ডি. সির আনা ভবিষ্যৎ কর্মসূচী, উপস্থিত সংশোধনীনমূহ সহ অনুমোদন করছে। এই কর্মসূচী/দাবীপত্র উত্তরবঙ্গ বনবাসী সমিতি তাঁদের কর্মসূচীর অন্তর্ভুক্ত করবেন।

Appendix - IX

Memorandum to the Chief Minister by NFFPFW

**NATIONAL FORUM OF FOREST PEOPLE AND FOREST WORKERS
(Rastriya Bana Sramajibi Mancha)
North Bengal Regional Committee**

**Sree Buddhadeb Bhattacharyya
The Hon'ble Chief Minister
Government of West Bengal
Writers Buildings
Kolkata-700 001**

Date: 26.03.2008

Sub: Implementation of Scheduled Tribes and Other Traditional Forest Dwellers(Recognition of Forest Rights) Act,2006 in West Bengal

Re: Principal Secretary, P&RD's Order no. 1220/PN/O/I/1A-2/07, dated 17/03/2008

Sir

We take this opportunity for thanking the State Government for initiating the much-delayed and much required process of implementing the historic Forest Rights Act,2006,in the state of West Bengal.

While welcoming the move, however, we would like to convey our concerns and apprehensions about the legality and justification of the process that has apparently been initiated through the Principal Secretary, P&Rd's Order referred above, and enclosed as Annex 1.

We found the said order in most points utterly violating the provisions of the Act it tries to implement, and thus creating serious legal and administrative impediments for any future process for implementation of the Act in a proper and just manner.

The above Order thus violates the *Scheduled Tribes and Other Traditional Forest Dwellers(Recognition of Forest Rights) Act,2006*:

It says(a) "A committee named Forest Rights Committee shall be formed at the level of Gram Sansad in the Meeting to be held to before 31st March,2008..", whereas the Rules for the Act(Rule 3.1) clearly says, "*The Gram Sabha shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee..*". It will be prudent here to remember that the Act clearly defines what a Gram Sabha is:

Section 2(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;

The Act further defines what a "Village" is:

Section 2(p): "village" means—
a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 or;

any area referred to as a village in any State law relating to panchayats other than the Scheduled Areas; or

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

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

Gram Sansads in West Bengal may perhaps be treated as any area referred to as a village in any State law relating to panchayats other than the Scheduled Areas, but by limiting Gram Sabhas to the Gram Sansad level, and what is more dangerous, by making Gram Sansads co-terminus to Gram Sabhas(as defined under FRA,2006),the Order entirely violates the letters and the spirit of the Act. Not only this deprives the residents of Forest Villages and other habitations, settlements and un-surveyed villages of the State from their just rights of having their own Gramsabhas, and thus conducting the rights settlement process in a way suited to the hamlet-level situation, it also makes the actual implementation of the Act almost impossible. For instance, we have come to know that 11 remote and spatially separated forest villages in the Buxa Hills of the Alipurduar Sub-Division, Jalpiguri District, now need to function and operate through a single Forest Rights Committee, which has been hastily formed in the Area on 25.03.2008. We have been also informed of similar arbitrary and impractical Forest Rights Committees being formed elsewhere in the district.

Repeated mention of Gram Unnayan Samitis in the Order baffle us. The Order(c) says, "*Since Gram Unnayan Samiti has been constituted at the level of Gram Sansad, Forest Rights Committee shall act as a functional committee under Gram Unnayan Samiti comprising 10 to 15 members of Gram Unnayan Samiti subject to the compliance of condition regarding Scheduled Tribes and Women Members..*"

We fail to understand the logic of including Gram Unnayan Samitis in the Order, where neither the Act nor the Rules mention any such body/bodies, and which are clearly external to the Act. We will very much like to know that whether the P&RD Department, and, for that matter, the West Bengal Government, has any legal jurisdiction over the FRA, and whether any authority of thus changing the Act rests with the State Government. This Order further says that(d) "The Chairperson and the Secretary of Gram Unnayan Samiti shall act as the Chairperson and the Secretary of the Forest Rights Committee," whereas the Rule 3.2 clearly says, "*The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee*". By illegally imposing an external and pre-existing Committee upon the FRC, the Order deprives the Gram Sabha members from the democratic option to elect their own FRCs, and attacks the democratic and participatory essence of the Act.

We are also astonished at the very inappropriate and unwarranted haste implicit in the Order. Before this Order, the Government of West Bengal has taken no steps whatsoever to ensure that the potential rightsholders are informed of the Act, and the rights enshrined in it. The FRCs can only be meaningfully formed when and after the Gram Sabhas have been democratically constituted, people are sufficiently aware of their rights, duties and obligation as Gram Sabha members, and the Gram Sabha Meeting to form FRC has been attended by two thirds of the members. These are impossible to achieve within such a time-frame, and, according to the best of our knowledge, in many villages in Jalpiguri District, where FRCs have been formed on 24th and 25th March, there was no quorum, and Attendance Registers are being circulated either the previous day, or, after the meeting.

There is also the matter of actual, physical coverage of the Act. By confining itself to the Forest Department furnished list of Forest Villages, the process ignores the residents of many unrecorded forest settlements of the State, which have so far been not shown in any Forest Department Map.

Finally, we would like to draw your attention to the fact that the Act mentions "*The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf*" as the "*nodal agency for the implementation of the provisions of this Act*". Does the P&RD Department qualify as the nodal agency here, and, does it have any legal authority for issuing Orders for implementation of the Act?

As a People's organisation working among the forest Communities of West Bengal and the country, and also as an organisation actively involved in the entire process of formulating the Act, we request you to immediately take all necessary steps to ensure that:

1. The Illegal and arbitrary Order issued by the P&RD Department gets immediately withdrawn.
2. All Governmental Activities to form FRCs under this Order in all parts of the State are suspended immediately.

Appendix - X

Agenda for Workshop on Community Governance at Takdah

NATIONAL FORUM OF FOREST PEOPLE AND FOREST WORKERS
(Rastriya Bana Sramajibi Mancha)
North Bengal Regional Committee

**FOREST RIGHTS ACT &
WORKSHOP ON COMMUNITY FOREST GOVERNANCE**
24th-26th May,2008,Takdah,Darjeeling

23rd May-6 PM: Inaugural Session
Speaker: Sanjay Basu Mullick,Munnilal,Shibo Sunuwar

DRAFT AGENDA

Thematic Session 1:(24th May and 25th May-pre-lunch)
Defining Community Forest Governance

10-10.40 AM
Resource use/Resource Ownership rights in FRA, and rights/duties to ensure sustainability.
(Soumitra Ghosh)

11 AM-1 PM
Interaction/discussion on FRA
(Initiator: Bijoy Debnath)

1 PM-2 PM
Lunch Break

2 PM-3:45 PM
Technical and Institutional Inputs in CFG
(Dr. A.K.Bannerjee, and responses)

3:45-4 PM
Tea Break

4 PM-5:30 PM
Experiences of CFG in India/Institutions and Governance Issues like Equity and Democracy
(Sanjay Basu Mullick, Munnilal, Mamata, responses by Dr. A.K.Bannerjee)

5:30-6:00 PM

Threats to CFG in post-FRA Scenario: Dangers of Privatization
(Souparna Lahiri)

6:00-6:15 PM

Tea Break

6:15-6:35 PM

Recap of the Day, outlining Day 2
(Soumitra Ghosh)

25-05-08

9.30-11 AM

Group Work: Identifying Actions to initiate CFG

11-11.15 AM

Tea Break

11.15 AM-1:30 PM

Plenary

**(Presentation by groups followed by Discussion: Initiated by Dr.A K Bannerjee,
Sanjay Basu Mullick)**

1:30-2:30 PM

Lunch Break

Thematic Session 2: Strategy in North Bengal

2:30-5 PM

Identifying Pilot CFG Sites
Preparing Action-Plans

5:5:20 PM

Tea Break

5:20-6 PM

Conclusion

(Sanjay Basu Mullick, others)

