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**EMPOWERMENT OF SCHEDULED TRIBES AND
OTHER TRADITIONAL FOREST DWELLERS FOR
SUSTAINABLE DEVELOPMENT OF INDIA**

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Abstract

The Forest Rights Act 2006 aimed at correcting the historic injustice done to scheduled tribes and other traditional forest dwellers by giving usufruct rights on certain forest resources and associating them in forest management. This paper reviews implementation of the Act and other supportive measures taken by the government towards achieving the goals of carbon sequestration, biodiversity conservation and increase in livelihood opportunities of the dwellers. This paper argues that if the dwellers services are fully available as guardians of forests, they can generate many external benefits, some are at local level, some at regional level, and a few at global level. Hence, this paper suggests a few additional supportive measures for empowering and incentivizing STs and OTFDs to invest in forest ecosystem assets to achieve these multiple goals.

Keywords: *biodiversity, community forestry, eco restoration, forest rights, sustainable development*

JEL Codes: *Q01, Q23, Q56, Q58*

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INTRODUCTION

There is a growing awareness of the role of indigenous tribes and other traditional forest dwellers in increasing forest cover, biodiversity conservation, carbon sequestration and provision of livelihood opportunities. There is recognition that policies pursued by colonial governments such as conversion of private/ collective ownership to state ownership and exclusion of indigenous and other dwellers in access to certain forest resources and forest management, resulted in widespread degradation of forests and exacerbated poverty of indigenous and local forest dwelling people. The UN Declaration on the Rights of Indigenous Peoples, UNDRIP (2007) Article 26 says, 'indigenous peoples have the right to own, use, develop and control the lands, territories, and resources, that they possess by reason of traditional ownership or other traditional occupations or use as well as those which they have otherwise acquired. States shall give legal recognition and protection to these lands, territories, and resources. Such recognition shall be conducted with due respect to the customary tradition and land tenure system of the indigenous peoples concerned.' In India, Pradeep (2010) says 'the colonial forest act appropriated the forests, converted them to 'exclusionary' state properties, excluded the forest people from their homelands and overnight turned them into encroachers in their own homeland, left at the mercy of the tyranny of forest officials, created by the same colonial enterprise', p 127. Since 1985 many countries in Africa, Asia, and Latin America, which were under colonial rule, initiated forest reforms. See Larson, A et al (2010). The reforms related to forest tenurial rights of indigenous forest dwellers.

In India, Forest Policy ,1988, attributes serious depletion of forests to 'relentless pressures arising from ever-increasing demand for fuel-wood, fodder and timber; inadequacy of protection measures; diversion of forest lands to non-forest uses without ensuring compensatory afforestation and essential environmental safeguards; and the tendency to look upon forests as revenue earning source', MoEF (1988). It says that the major objective which should govern forest policy is 'maintenance of environmental

stability through preservation and, where necessary, restoration of the ecological balance.’ It says that the national goal should be to have a minimum one-third of the total land area of the country under forest or tree cover¹. Regarding diversion of forest lands for non-forest purposes, it should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits and the new projects should at least provide in their investment budget, for regeneration/compensatory afforestation. Regarding in the rights and concessions enjoyed by tribals and other locals, it says ‘it should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.

Government of India took the following initiatives toward the implementation of the forest policy:

- Joint forest management involving state forest departments’ support for local forest dwelling and forest fringe communities to protect and manage forests and share the costs and benefits. The locals can derive benefits from non-timber forest products (NTFPs) and get a small share of timber revenue. As of 1 ,1, 2020, there were about 10.24 million hectare of forest lands through 36,075 committees.
- Eco restoration of forests to meet the Bonn pledge of 12 million hectare of degraded and deforested lands by 2020, now revised to 26 million hectare by 2030.
- Creating protected areas of about 1,736,239 square km, accounting for 5.3 percent of India’s land areas for preservation and conservation.
- India Eco-Development project, funded by the World Bank and Global Environment Facility.

¹ According to Forest Survey 2021 the area under forest and tree cover was 24.62 percent of the geographic area of India.

- Green India Mission, one of the eight missions under climate change. Compensation for forest lands diverted for non-forest forest uses, based on net present value basis, and the funds being used by state forest authorities involving local forest people for afforestation, nursery raising and other approved activities. A committee appointed by Supreme Court of India-Kanchan Chopra Committee-recommended net present value compensation for forest land diverted for non-forest uses in 2006.

Reducing emission from deforestation and forest degradation in developing countries (REDD+).

The Finance Commissions also gave incentives to state governments for increasing forest cover. The 12th Finance Commission provided Rs.1,000 crore; the 13th Finance Commission increased the amount to Rs.5,000 crore. The 14th Finance Commission included forest cover as one of the criteria for determining the shares of the states in the divisible pool.

The landmark legislation was the passage of the Forest Rights Act, 2006, to correct the historic injustice and empower the tribals and other local peoples. Section 2 begins with a summary of main features of the Act. Then it considers the nature and extent of rights granted by the Act, using Schlager and Ostrom (1992) schema, and assess the status of implementation. Section 3 deals with community forest rights and assesses government's supportive policy measures. Section 4 considers a few additional policy measures which could help in achieving the goals. Section 5 contains concluding remarks.

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

The rights of Scheduled Tribes (ST) and other Traditional Forest Dwellers (OTFD) are:

- (a) Right to hold and live in the forest land under individual or common occupation for habitation or for self-cultivation for livelihood by a member or members,
- (b) Community rights,
- (c) Right of ownership, access to collect, use, and dispose of minor forest produce (MFP),
- (d) Other community rights of uses or entitlements such as fish and other products of water bodies, grazing,
- (e) Rights for conversion of pattas or leases or grants issued by any local authority or any State Government on forest lands to titles,
- (f) Rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
- (g) Rights which are recognized under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights.
- (h) Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity, or trapping or extracting a part of the body of any species of wild animal,
- (i) Right to in situ rehabilitation including alternative land in cases where these people 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.

Schlager and Ostrom (1992) consider the following rights: access, withdrawal, management, exclusion, and alienation. The STs and OTFDs are given the rights to enter forests. Some social scientists give a broader meaning to access. Ribot and Peluse (2009) define access as “the ability to derive benefit from things ...including material objects, persons and to titles, and symbols”. They consider the following access mechanisms: rights, structural and relational, technology, markets, knowledge, and social capital. At present the STs and OTFDs access to markets and technology is limited in India. As for withdrawal right, they are given the

right to use NTFPs and some rights to grazing and fishing. Regarding the management rights, some rights are subject to government rules and regulations and approval by government authorities. As for exclusion right it is only partial-forest officers can exclude STs and OTFDs from use of timber. Regarding alienation, the individual and community owners have no right to sell or lease their lands. According to a press note, the rights given by the Act are usufruct rights and not property rights.

Chapter 4 of the Act deals with the authorities responsible for implementation of the Act. The Gram Sabha is to initiate the action. A Sub Divisional Committee constituted by state government will examine Gram Sabha's recommendations. A district level committee, consisting of officials of revenue, forest and tribal departments make a final decision.

Table 1 gives data on the dwellers claims, titles received and the land distributed till end of February 2024.

Table 1: Claims received, Titles distributed and extent of Forest Land for which Titles distributed up to end of 2024

Item	Individual	Community forestry
Claims received	4,836,013	5,026,801
Titles distributed	2,370,011	2,485,191
Extent of forest land for which titles distributed (in acres)	5,175,112	19,013,824
Average land area (in acres)	2.18	7.65

Source: Monthly Progress Report, FRA, February 2024. Ministry of Tribal Affairs, Government of India.

The distribution of titles to the tribals and OTFDs has been slow. The percentage of titles given to the claims varied from 1.51 in Bihar to 79.16 in Andhra Pradesh, the national average is 49.44. Sahoo and Sahu (2019) give reasons for the slow implementation as lack of documentary evidence, unhelpful attitudes of the authorities, and infrequent meetings of the decision -making authorities. Even the reasons for rejection of the

claims were not given to the claimants. Tyagi (2019) reports that many dwellers lived in the forests without written records of their land rights. The local authorities were not helpful to the claimants.

About 300 million forest dwellers (tribals and local people) depend on MFP for food, shelter, medicines, and cash income. They are legally empowered through the Panchayat Extension to Scheduled Tribes Act of 1996 and the Forest Rights Act of 2006. Scheduled tribes were 10.43 crore, 8.6 percent of the population in 2011.

Assignment and enforcement of property rights is necessary for efficient functioning of the markets. Other problems are: creation of markets for some forest products for which markets do not exist, high transactions costs which affect the efficiency of market outcomes, and information asymmetry between buyers and sellers, which affect the fairness of market outcomes.

There are costs involved in some market transactions. Coase (1960, 2001) says, "In order to carry out a market transaction it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up the contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on. These operations are often extremely costly, sufficiently costly at any rate to prevent many transactions that would be carried out in a world in which the pricing system worked without cost" [2001, p.30].

The Ministry of Tribal Affairs conceived of minimum support prices (MSPs) for MFPs as a social safety measure from 1 August 2013. The scheme covered 23 MFPs in 2013 and now covers more than 100 MFPs. The prices are recommended by the Commission on Agricultural Costs and Prices on cost plus basis. MSPs serve as floor prices. MFPs include all non-timber forest products of plant origin such as bamboo, brush wood,

medicinal plants and herbs, stumps, cane, cocoon, honey, wax lac, tendu leaves, roots, tubes and the like. The government provided Rs.85.61 crore for infrastructure development and Rs.319.65 crore toward working capital and revolving fund for infrastructure development by state procurement agencies.

The difficulties in the implementation of MSPs are lack of standardization of some MFPs, delays in setting up procurement centers, distances to procurement centers, perishable nature and lack of adequate storage spaces for perishable MFPs, and exploitation by middlemen.

Many programmes were initiated to meet the requirements of targets under international commitments or one or two goals of India's programmes. For example, the goal of achieving one-third of the geographic area under forest cover resulted in establishment of plantations or cultivation of single tree. It is well known that a forest with many plant species and animal species can not only improve biodiversity but also forest productivity. Further higher biodiversity also insures against diseases from pest /insect attacks (Heal (2000)). Monocultivation may give higher yields in the short-run, but in the long-run it affects soil productivity. As noted by Dasgupta (2021), high biodiversity implies not only higher productivity but also greater resilience. He says "biodiversity is the diversity of life. The economics of biodiversity is the economics of the entire biosphere we are embedded in nature" (page 4).

NTFPs value of forests, at present, is around Rs.2 trillion. There is ample scope for value addition in case of NTFPs. The Van Dhan Yojana 2018 has been an important source of employment, especially for tribal women in activities such as preparation of fruit candy using amla, pineapple, wild apple ginger and tamarind; jam using pineapple, amla; and pickles etc. The dwellers can create value added products from bamboo, jute and fibre.

Table 2: Forest Ecosystem Services: their Nature and Co-benefits

Ecosystem service	Nature of good/service	Co-benefits
Carbon sequestration Biodiversity conservation ²	Global public good "	Bio diversity, livelihood support Carbon sequestration, resilience
<i>Provisioning services</i> Timber NTFPs Drinking water	Private good Merit good "	Employment Value added products Health benefits
<i>Regulating services</i> Pollination Water purification Flood moderation	Intermediate good Positive externality "	Higher productivity Health benefits Damage control
<i>Supporting services</i> Soil formation Nutrient cycling Primary production	Intermediate good " "	High productivity Ecological balance, productivity Comparative advantage to developing countries with elastic labour supply
<i>Cultural/spiritual</i> Eco tourism Aesthetic/spiritual	Private good "/ option value	Revenue to government Inner satisfaction

The government created Ministry of Ayush in 2014 for promoting traditional Indian medicines like Ayurveda, Unani, Yoga, Naturopathy and Sidha. The National Medicinal Plant Board was created to promote cultivation of medicinal plants. It reports that more than 90 percent of the

² CBD says 'the principal framework for expressing the "usefulness" of biodiversity is through the concept of ecosystems. They illustrate the link between, on one hand, the interaction of species with each other and with the physical environment; and on the other, the well-being of people, whether in terms of wealth, nutrition or security. Biodiversity is not an ecosystem itself, but rather a prerequisite, underpinning each of them. The precise link between biodiversity and the capacity of an ecosystem to provide services is a complex one, and an area which science is still developing'.

formulations of the Indian medicines are based on 1178 plant species. In 2014-15 the export demand for medicinal plants was at 1,34,500 MT with export value of Rs.3,211 crore. It signed MOU with herbal industries for promotion of Indian plant- based medicines.

The Government of India has taken important initiatives to prevent biopiracy. It created National Biodiversity Authority and an 'access and benefit sharing regime' to prevent biopiracy, See for example, U.Sankar (2023). The biodiversity registers record information about biological resources and associated traditional knowledge. The Council of Scientific and Industrial Research and the Ministry of AYUSH prepared the Traditional Knowledge Digital Library in 5 International languages and made it available to foreign patent offices to prevent misuse of patents based on Indian medicinal plants and associated traditional knowledge.

It must be recognized that benefits of some ecosystem services produced by forests are available not only to forest dwellers but also to others in the region and a few to people in the whole world. Table 2 gives information about the nature of service and co-benefits for selected ecosystem services³. The forest dwellers must be compensated for the external benefits they generate via their activities which accrue to non-forest people.

Additional Supportive Measures to Achieve the Goals

This Section suggests additional policy measures which would help achievement of multiple goals: poverty alleviation, environmental stability, and ecological balance

Forced eviction of STs and OTFDs must be avoided. Even in situations where forest land is needed for provision of infrastructural facilities, government must give choice to the affected dwellers regarding

³. For classification of ecosystem services, their characteristics, monetary valuation, and value realization, see U.Sankar (2024).

their preferences about new location and provide adequate compensation for resettlement.

Access to scientific knowledge and technology is important in case of patenting and commercialization of medicinal products. Access to scientific knowledge can be gained through scientific institutions and production of new goods through collaboration with pharmaceutical companies⁴. The forest dwellers possess traditional knowledge and the pharmaceutical firms possess scientific knowledge. Gadgil, Berkes and Folke (1993) observe that 'indigenous peoples with a historic continuity of resource-use practices often possess a broad knowledge base of the behaviour of complex ecosystems in their own localities. This knowledge has accumulated through a long series of observations transmitted from generation to generation. Such "diachronic" observations can be of great value and complement the "synchronic" observations on which western science is based... It is vital, however, that the value of the knowledge practice-belief complex of indigenous people relating to conservation of biodiversity is fully recognized if ecosystem and knowledge would be most appropriately accomplished through promoting the community-based resource management system of indigenous people' (p.1). India's large bio companies can associate with the indigenous communities in bioprospecting activities. As in the cases of INBio-Merec bioprospecting agreement of 1991 in Costa Rica and the Tropical Botanical Garden and Research Institute's agreement with Kanis tribes of Western Ghats of Kerala, both the indigenous communities and biocompanies / Institutes can be made better off. Such cooperative ventures not only reduce the transaction costs of patenting and commercialization of medicinal plants, and enhance the livelihoods of the indigenous communities, but also prevent bio piracy.

⁴. Assistance of bio-research institutions to forest communities is needed in identifying medicinal plants of commercial values, in compliance with NBA requirements of ABS regime, in patenting and commercialization, and in designing contractual agreements with pharmaceutical companies at commercialization stage

Some forest ecosystem services such as pollination, water purification, nutrient cycling and soil formation are intermediate goods and markets do not exist. Even for some provisioning services markets may not exist because of lack of property rights and high transaction costs of organizing the markets. Costa Rica initiated payment for ecosystem services (PES) programmes as early as 1990. Some of the programs are government sponsored and are for carbon sequestration, biodiversity conservation and reforestation. Some of them are private and contractual and for 5 years. Voluntary PES programmes for services such as pollination, drinking water supply, and flood control also exist in many countries.

There is ample scope for agroforestry especially in individual land holdings. Growing trees along with crops, crop rotation, crop diversification, rearing livestock etc., can provide multiple benefits, reduce risks and increase livelihood opportunities.

In India opportunities do exist for PES services between forest communities (service providers) and panchayats/municipalities (service users) in many places. PES between forest communities and users on voluntary contractual basis is feasible for water purification, pollination, flood control etc. Such agreements are beneficial to both parties. The society is also better off because of forest restoration, sustainable management and creation of employment and income earning opportunities for the forest dwellers.

The forest dwellers may be made eligible for participation in existing government programmes such as Mahatma Gandhi National Rural Employment Guarantee program, CAMPA assisted forest restoration program etc. These opportunities will help achieve the three goals faster.

The feasibility associating the forest dwellers as custodians of forests and enhancing their incomes via ecotourism has been attempted in a few protected areas. Their traditional knowledge and problems of coexisting with wild animal can be used in trekking and rides to provide

gainful employment and income earning opportunities for the dwellers and generate additional income via tourist charges to governments, and new employment and income earning opportunities for others⁵.

Lastly, the government may consider vesting property rights (including right of alienation) for the STs and OTFDs on an experimental basis. Private property rights on forest lands are allowed in some states in USA and a few countries in the European Union. The Government's concern that private forest ownership would result in forest degradation is historically not valid. Assignment of property rights to the dwellers provide incentives to them to invest their labour services and capital because the resulting benefits accrue to them fully. The forest dwellers may be given the right to sell or lease forest land to another forest dweller. If the government is apprehensive, they can sanction the right based on their past records and after review by Gram Sabha and other authorities, subject to certain conditions.

CONCLUDING REMARKS

The implementation of the Forest Rights Act has been very slow. In order to achieve SDGs 1 and 2, Paris Agreement NDCs, and biodiversity conservation targets, the central and state governments set up target dates, say 2030, for complete implementation of the forest rights. The supportive measures taken by the Tribal Ministry and other Ministries are not sufficient to achieve the multiple goals. Many commentators attribute the reason for slow implementation the unhelpful attitude of the forest officials. This paper recommends a few additional supportive measures to empower STs and OTFDs in management of forests to achieve the triple goals.

⁵ The STs and OTFDs can also use their traditional knowledge and experience in living in forests to find solutions to prevent forest fires and avoid human wild animal conflicts.

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