

## **FRAMEWORK FOR PRO-PEOPLE STATE FOREST POLICY**

### **BACKGROUND**

In Orissa, a large number of villages have evolved their own mechanisms to deal with the forest degradation situation and to bring open-access, supposedly State Managed Forests under Community Management regimes. These indicate the viability of Community based Forest Management systems. Local Communities involved in protection and management of forests, have been finding Joint Forest Management arrangements unacceptable, as this does not put the management powers and decision-making in the hands of local communities. In our State we need to evolve Community based Forest Management systems that build on the widespread community forestry initiatives in the State.

A consultation process was hence initiated in Orissa, through several district Workshops and field workshops, to come up with principles and contours of policy framework for Community Forest management. 19 district level Workshops and several block level and field level Workshops were organized all over Orissa to discuss forestry problems and possible policy solutions. This discussion was consolidated and discussed further to work on the contours for a State Forest Policy, specially focussed on CFM. A State Level Workshop was organised on 26-27<sup>th</sup> July 1999 to discuss this further. At this State Level Workshop many issues relating to Community Rights over forests and forest products were discussed and a small drafting group was formed to further consolidate the contours of Pro-People Forest Policy. This drafting group met from 7-9<sup>th</sup> August 1999. This framework for a Pro-People State Forest Policy is an outcome of this process.

### **PROBLEMS IN THE EXISTING LEGAL FRAMEWORK:**

The legal framework for forest management and administration in India continues to be colonial. The Indian Forest Act was enacted in 1927 to consolidate laws relating to forests, transit of forest produce and the duty leviable on timber and other forest produce. The Indian Forest Act, and the Orissa Forest Act on the lines of Indian Forest Act reflected the Colonial interests in forests and forest products. The Forest policies of 1894 and 1954 laid emphasis on revenue maximization. Rapid degradation of forests has been changing the context of forest management and has led to increasing concern for environmental function of forests and recognition of role of local people in conservation of forests. These changes were reflected in the 1988 National Forest Policy.

The 1988 National Forest Policy lays emphasis on local needs fulfillment and on environmental services. The 1988 National Forest Policy also emphasis is the need to involve local people in protection and management of forests. One of the main tools for operationalizing the intents of the National Forest Policy of 1988, has been Joint Forest Management. However, there have been no accompanying changes in the legal framework for JFM. JFM is operational through administrative orders in all States. Forests continue to be looked upon as State owned and managed, responsibilities delegated to local communities merely as an administrative arrangement. JFM thus falls short of any real devolution of power to local communities. Reserved Forests still continue to remain 'Reserved', though the concept of being reserved for National forestry needs is obsolete in current context. There is a need to have changes in the current legal framework to reflect the current priorities and context.

### **Objectives of State Forest Policy**

The basic objectives of the State Forest Policy shall be:

1. To ensure that around 40% of the total geographical area of the state is under forest cover; while in a given habitation area a minimum of 33% should be under forest cover.
2. To safeguard forest based livelihood and subsistence system of the forest dwellers and forest dependent communities.

In view of these broad objectives the following become important:

- Without compromising the above two aims, other needs (industrial etc.) should be fulfilled.
- Concrete steps need to be taken in the direction of exploring wood-alternatives and reducing demand for fuelwood and timber.

### **PRINCIPLES OF STATE FOREST POLICY**

The State Forest Policy should thus embody the following Principles:

1. Give *primacy to local needs over national needs*; and seek to take steps in the direction of establishing *forests as a local resource*. It should seek to protect the customary and ethical rights of local population over forests. More specifically the emphasis should be on *community needs*. It should seek to manage forests in a manner, which gives primacy to meeting local requirements of fuelwood, fodder, minor forest produces and timber.
2. *Environmental stability and services and local needs fulfillment should be the primary objectives of forest management* and revenue objectives for the State should take a back seat.
3. *Local communities should be the basic unit for management of forests*. Forest Management needs to be Community / Village based. Village / hamlet / group of villages (depending on natural emerging user/management groups) should be the management unit for managing most of the forests, only with a few exceptions of ecologically fragile regions. *Most forest areas should be brought under community based management*, including Wildlife Sanctuaries and National Parks.
4. Conceptually, local communities that take up protection and management responsibility should be viewed upon as Trustees for managing the forests on behalf of larger human community. *Local Communities should however have clear management rights over the forests* they are entrusted to manage. Local Communities need to have complete rights to forest produces obtained from forests. There needs to be emphasis on managing forests in an ecologically sustainable fashion.
5. Local rural population depends critically on forests for subsistence and livelihood needs. This dependence becomes especially critical in case of NTFP. NTFP policies in the State should be guided by welfare considerations and should seek to maximize gains to primary gatherers instead of being guided by revenue considerations. The State should play a facilitative role in NTFP trade seeking to protect the interests of primary gatherers, instead of being a 'trader'. Revenue interests of the State should be secondary and should not come in the way of fair value and livelihood to primary gatherers.
6. While pursuing the goals of social justice and equity, mechanisms to safeguard the interests of weaker sections, including women, in forest management have to developed. Community institutions that take up management of forests should have representation of all sections and should have institutional mechanisms to ensure that interests of all section are reflected in forest management.

Some of the other components/ emphasis points in the State Forest Policy need to be:

**Wildlife Management/ Protected Areas Management:** Community involvement should be sought for management of Protected Areas i.e. Wildlife Sanctuaries and National Parks as well. Instead of

evicting people from Wildlife areas, local people should be an integral part of the management and conservation strategies for Wildlife Areas.

**Plantation Policy:** In Orissa, large parts of the degraded forest areas can regenerate if protected. The major thrust of forestry activities in the State should be on natural forest regeneration through Community Forestry. Plantations should only be taken up in very degraded landscapes having no rootstock. Wherever plantations are taken up, emphasis should be on planting indigenous species of local preference. Monoculture should be discouraged.

**Raw Materials of Industries:** In accordance with the National Forest Policy of 1988, forest based industries should make their own arrangements for raw materials. Industries should be encouraged to generate their requirement through farm-forestry. Forestlands should not be given to private industries for captive plantations.

**Bio-diversity:** Local communities should have rights on the local bio-diversity. The means of operationalising these rights need to be worked out.

**Diversion of forests for non-forestry purposes and displacement:** Diversion of forests for non-forests for non-forestry / industrial purposes should be discouraged. In no case, can such a diversion take place without the consent and approval of local communities. In case of any such diversion, the consent of atleast 50% of women and men from the neighboring / local communities (*needs definition*) should be taken.

There should be emphasis on

- Protection of Hill systems.
- Indigenous knowledge and rights over Biodiversity.
- Forest Survey and Settlement.

## COMMUNITY FOREST MANAGEMENT

During the consultation process, there was a strong demand for devolving powers to protect and manage forests to local communities. Community based management of forest came forth as a much-needed strategy to protect and conserve forests. The following were the recommendations of the State Workshop:

- 1) **Clear Community rights over Forests:** Communities need to have complete rights over the forests they are protecting and managing. The local communities should have complete rights to protect and manage forests and utilize its products. However, the communities should not have the rights to sell / transfer the land or lease out forests for management by private companies. Forests should be managed by communities primarily for their own use and should not manage forests for large-scale commercial use. While exercising rights for management of forests, the ecological health of the forests as well as sustainability of forests should be taken into account.
  - a) The village should have the right to use the forests to meet the forestry needs of the village as well as have the right to sell the surplus to outsiders. However all extractions need to be guided by sustainability concerns relating to forests.
  - b) The village should have complete management rights which would include:
    - Rights to extract forest products, following a need based management system (under the permissible silvicultural limits)
    - Rights to frame rule for managing forests and for specifying what can be extracted, when and how and under what limits.
    - Rights to impose penalty on those who do not adhere to these rules.

The village should have clear legal backing to restrict access of outsiders to forest areas being managed by them.

- 2) **Community Forest Management should get clear legal validity.** Changes in the existing Acts should be made and legal space should be created for CFM. CFM groups should be given legal recognition.
- 3) All Community Protected forest areas should be declared as ' Community Forests' irrespective of the legal status of the forests.
- 4) **Operationalising Community Forest Management:**
  - a) **Area Allocation:** Area allocation should be done with local consultation, on the basis of locally agreed upon boundaries. The existing norms relating to the maximum area that can be allocated to a village (i.e. around 200 ha) should not be there.
  - b) All decisions relating to forests and related issues should be taken at the community level. The community institutions should have the powers to take decisions relating to management of forests.
  - c) Within the CFM system, mechanisms need to be built in, for equitable distribution of benefits, while giving primacy to local needs and priorities of the poor/ forest dependent families.
- 5) **Management Unit for Forest Management:**
  - a) The existing forest protection and management mechanisms are either single village/ hamlet/ palli/ cluster of villages based. These should be recognised in their existing form. Thus the management unit for community forest management should be flexible, allowing the forest-users to determine their own management group formation. The management unit could thus be hamlet/ village/ group of villages.
- 6) **Community Forest management and Other Development Projects:**
  - a) Community protected and managed forests cannot be diverted neither for rehabilitation, mining and industries purpose nor can be declared as Reserve Forests.
- 7) **Management Committee:** The managing committee should have a fixed limited tenure (2 years). The management committee members should be elected/ selected through consensus.
  - a) The village group/ community institutions should draft their own rules, bye-laws for their institution as well as rules for managing the forests in consonance with the local situation.
  - b) The Community institution should have representation of all sections in the village esp. of the weaker sections and women. There should also be an active involvement of all sections in the village in the decision-making.
- 8) **Conflict Resolution:**
  - a) Region and District level Jungle Panchayats should be set up to help in Conflict resolution (and also to provide overall guidance and direction to CFM). Jungle Panchayats shall resolve the conflicts arising out of management of forests and shall ensure rights of communities over the forest. The recommendations of Jungle Panchayat should be made mandatory for the FD, Police department and the government to follow.
  - b) The Gram Sabha and the Gram Panchayat could play a role in conflict resolution.

9) **Rights of Other Villages:**

- a) In case of villages that do not have natural forests in their vicinity, the fallow lands and Wastelands should be utilized for raising plantation.
- b) The villages that are not involved in forest protection should be encouraged to protect forests and regenerate forests that can meet their requirements.

## **OPERATIONAL DETAILS OF COMMUNITY FOREST MANAGEMENT**

### **Legal Status of Forests**

**Areas entrusted for conservation and management to a village/community should be declared as Community Forests.** *If the process of declaration of R.F. as Community Forests is delayed, (due to legal constraints), Community Forest Management arrangement should be worked out for management of Reserved Forests for the time-being, till these forests can be declared as Community Forests.*

Community forests or forests under Community Forest Management arrangement, should be managed by a definite, clearly defined community/ user-group. Thus, clear management responsibility should vest with one village / hamlet/group of villages. A clear Memorandum of understanding should be signed between Government of Orissa and Village community through the Forest Department.

#### *Steps for declaring the forests as Community Forests*

All non-R.F. areas, which are as it is within the revenue boundaries of different villages, should be 'automatically' declared as Village Forests/ Community Forests. Modalities to operationalize this would need to be worked out. *But a time-frame needs to be put on this process and this should be completed all over the State within one (or two) year(s) of issuance of a Govt. resolution in this regard.*

### **Suggested Operational Framework for CFM:**

*Applicability of CFM:* It shall be the endeavor of the State to bring most of the forest areas under CFM. All forest areas can have CFM arrangement. Only ecologically fragile areas can be kept out of the purview of CFM. But even in such areas, if there is a possibility of CFM arrangement, then that should be preferred. *All forest areas, which are at present protected by villages, should be brought under CFM on a priority basis. Recognition should be accorded to local communities as conservators of forest with retrospective effect.*

*Fundamental Unit for Management of forests:* A village / hamlet / group of village would be the management unit for management of forests depending on the local situation and the existing forest protection initiatives. The management unit should be locally defined and there should be flexibility to allow for the local formations to emerge clearly before area-allocation.

## SUGGESTED PROCESS OF ALLOCATION OF FOREST AREAS FOR CFM:

### **Operational steps in initiating CFM:**

Step 1: As a first step, villages, which are involved in protection of forests/ villages having JFM arrangements, should be approached for CFM.

Step 2: A clear user group / management group should be identified. This user group should be clearly defined and should have clear management responsibility over forests.

Step 3: The process of identifying a clear user group should incorporate a scope for cluster level negotiation at the local level. This would mean that a group of villages in close proximity to a forest area should sit together and discuss the jurisdictions / boundaries for management control for the different villages in that cluster / area.

Step 4: After clear boundaries/jurisdictions of management control emerge, a specific community should be given clear management rights over the respective forest patches.

Step 5: In case, the process of boundary delineation leads to mere endorsement of areas which were protected by villages from before; then contractual agreements should be signed immediately between the FD and village institution. The contractual agreement should endorse complete management responsibility for managing forests to the village.

Step 6: In cases where forest protection and management arrangements are just beginning to appear, time should be given for these arrangements to gel and for clear management jurisdictions to stabilize before any contractual agreement is made. In such cases, atleast on year's time should be provided for these arrangements to stabilize.

Step 7: After the villages around / near a forest area, arrive at clear understanding of who could protect and manage which specific forest area, they should pass a joint resolution endorsed by the Gram Sabhas of these villages, and give this to the DFO (copy to the collector), urging the FD to initiate contractual agreements.

The DFO should complete CFM related formalities within six months.

### **In case of existing community forestry initiatives:**

The village involved in protection of forests / interested in protection of a forest shall convene a general body meeting the village in consultation with DFO / Range Officer / Forester. The village shall invite local Forester / Rang Officer / DFO to this meeting. At this meeting, the various provisions of CFM arrangement shall be discussed.

The village shall give a written resolution staking their claim to management rights over the forest patch they would like to protect. The village would also give a sketch of the proposed boundaries of the forest that they are protecting / proposing to protect and manage. In case, the village needs help in preparing such a sketch map from the FD, they would request the forester for help. The FD would examine the claims of this village and also that of other neighbouring villages over the forest areas proposed to be brought under CFM.

In case of any conflicting claims on forests to be given for CFM; the Range Officer shall convene a meeting of all the villages surrounding / close to that forest and initiate a process of discussion and negotiations on the possible boundaries for forest areas to be managed by different villages.

Wherever villages have already reached an agreement on boundaries / or have been protecting forests from before; the villages would give a joint resolution (signed by at least 60% of adult men and women respectively from these villages) indicating these boundaries.

After receiving a claim from a village for taking up management of a forest, the FD has to take a decision within six months of receiving such a claim. After six months period the village can approach Divisional level Working Group. If Divisional Level Working Group does not take a decision within 3 months, the village can approach State Level Tribunal/ Mediating body for resolving the conflict.

***Community Institution / Jungle Parichalana Samiti (JPS) :***

The current name, Vana Samrakhana Samiti lays emphasis on protection responsibilities only; while management responsibilities and rights of villagers should be emphasised. For this purpose, the community institution involved in management of forests should be treated as Forest Management Committee or Jungle Parichalana Samiti (JPS), however there should be flexibility allowing villages to evolve their own names for the forest protection and management group. Existing community institutions such as the Village Committee/ Watershed Committee etc. that comprise of the entire village as the General body can also be recognized as the Jungle Parichalana Samiti.

**General Body**

A JPS shall be formed for management of forests comprising of all adults residing in the village. In case the membership of all adults pose a problem, alternatively one man and one woman from each household (chulha/ kitchen) could be the members of the General body, in case of no woman/ man in the household the representatives could be two men/ two women.

**Executive Committee**

The JPS shall elect/ select an Executive Committee. This Executive Committee shall have a minimum of 4 women and shall have proportional representation from all Caste groups / hamlets in the villages.

In case the village decides to exclude a section of the village / some individuals from benefits from the forests; then such an exclusion should be backed by reasons and there should be mechanisms for the excluded section (s) to approach the Divisional Level Working Group for grievance redress.

The Executive Committee shall elect / select office bearers from within the Executive Committee. The Executive Committee can form an advisory group comprising of Sarpanch, Forester and local NFO representatives to advise the JPS with CFM matters.

In cases, where a hamlet/ group of villages is involved/ interested in forest protection; the hamlet/ group of villages should give a resolution by the general body of the hamlet and the corresponding revenue village; and the group of villages, respectively urging the FD to recognize CFM arrangement at these levels.

*Tenure of Executive Committee of JPS:* Three years. But a no confidence motion can be moved by more than ½ the members of the General body.

All major decisions such as changes in the rules for managing forests / penalty system would need to be approved in the General Body.

***Duties and Responsibilities of the Samiti:***

The Samiti shall ensure protection and sustainable management of the forest under CFM. The Samiti shall ensure that the condition of the forests under their care improves. A list of indicators to

participatory monitor the condition of forests shall be evolved by the Samiti and the FD staff. Detailed mechanisms and possible indicators need to be worked out and included in an operational Manual for CFM.

**Management Powers of the Committee:**

The village should have the right to use the forests to meet the forestry needs of the village as well as have the right to sell the surplus (extracted in silviculturally permissible fashion) to outsiders.

For all R.F., the areas specifically allocated to villages for protection and management should have clear management rights for the JPS. The village should have complete management rights that would include powers to take decisions relating to

- Management of forests and extraction of produce
- Distribution of produce within the village
- Utilization of income from the surplus for village development activities etc.

***Role of the Forest Department***

The Forest Department shall play the role of a facilitator and help in operationalising Community based Forest Management. They would also provide technical support to local communities involved in forest management. Efforts would also need to be intensified for farm forestry and private forestry on private lands; the FD needs to play an extension role for facilitating the same.

**CONFLICT RESOLUTION/MEDIATING INSTITUTIONS AT VARIOUS LEVELS:** There is a need for conflict resolution institutions at various levels. At block/ range level, district/ divisional level and at the State Level, federations of forest protecting villages has begun to emerge. These federations can play an important role in conflict resolution and in evolving indicators for sustainable management of forests and in evaluating CFM systems against these commonly agreed indicators. These federations, in addition to FD officers and also NGOs/ other stakeholders could come together in range level/ divisional level working groups etc. A similar body at the State Level could also play a role in setting directions for CFM in the State as well as in resolving conflicts/ issues that are not resolved at divisional levels.

**Divisional Level Working Groups:**

Divisional Level working Groups need to be formed to facilitate CFM in the Division and Range respectively. The role of divisional level Working Group would be

- To facilitate smooth implementation of CFM
- To identify operational problems relating to CFM and place them before policy making forums at higher levels.
- In specific any case where the claims of a village to take up management responsibility of a forest patch is rejected; the village can approach DLWG for reconsideration.

**Constitution of Divisional-Level Working Group: Divisional Level Working Group shall comprise of:**

1. DFO : Chairperson
2. Representatives from local federation of CFM groups / JPSs.
3. NGO representatives.
4. Academician / environmentalists / individuals of repute.

5. Representatives from forest protection groups.

The Divisional Level Working Group shall select a convenor from amongst the group. The convenor shall be provided Secretarial support by the DFO's office to help organise meetings, record the proceedings etc.

Frequency of Meetings: Quarterly Meetings.

**BENEFIT-SHARING**

JPS shall have 100% rights over all forest products. Only in case of commercial exploitation of forests/ sale outside the locality; the FD should have a share in the cash in-flow. What should be such sharing arrangements ?? Suggestions ?

**EQUITY CONSIDERATIONS:**

One of the indicators for assessing the performance of Community Forest Management can be equitable distribution of benefits from forests within the village/ distribution of benefits from forests within the village / and involvement of all sections / castes in CFM arrangement. The performance of CFM arrangement can be a basis for investments for forestry development in the State.

Efforts need to be made to develop mechanisms which can allow a marginalised section / community to approach DLWG if the system of forest management is perceived to be grossly iniquitous. The modalities of this can be detailed out in operational manual for CFM.

**MANAGEMENT OF FORESTS:** Forests should be managed on a sustainable basis. However instead of detailed management plan/ Micro-plan approved by the DFO etc.; there should be a flexible approach.

The operational plan / management plan should include some broad thumb rules for management of forests and extraction of forest produces. There should be broad indicators for assessing the effectiveness of community based management be fixed in a participatory manner and there should be participatory monitoring of community forest management system.