

Impacts of Wildlife Policy on the Lives and Livelihood of Poor Tribal and Other Marginalised Communities living in and near the Protected Areas

A brief background on creation of protected areas in Orissa:

Almost 8111.55 sq. km. (5%) of Orissa have been or are being declared as protected areas (Sanctuaries and National Parks). Most of these protected areas are in the Scheduled V areas or in areas where tribal population is high¹. Apparently another 18 protected areas are in the pipeline (please see annexure I). A recent report in TOI (dated 3rd September 2004, see annexure 2) had Chief Wildlife Warden saying that the GOO is in the process of constituting two more new protected areas, South Orissa Elephant Sanctuary and Bramhani-Baitrani Elephant Reserve spreading over a total 18,273.06 sq km and that almost 10% of the State's area will then be notified as Protected Areas. Almost all these protected areas have large settlements, mostly of tribal people, in and around them.

The Wildlife Protection Act, 1972 is a strong regulatory statute which restricts almost all activities inside Protected Areas. These include restrictions on entry to sanctuary (Section 27), removal of forest products including NTFPs (except for bonafide self consumption), regulation or prohibition of grazing or movement of livestock etc. This effectively exiles people living inside the Protected area from civilization, with restrictions on movement of goods and services.

As per the Act, once the Government decides to create a sanctuary in an area, it issues a notification of intention of the same (section 18), appoints a Collector to determine rights and carry out inquiry with the power to exclude rights bearing land from sanctuary boundary/ acquire the land under Land Acquisition Act, 1894/ allow continuation of rights in consultation with Chief Wildlife Warden (section 24). A process of time bound serving of notice, submission of claim by affected persons, inquiry into the submissions and acquisition of rights have been laid out in the Act. Same provisions (section 19-26A) apply for declaration of National Parks.

Thus the law provides power for acquisition or commutation of rights within the area intended to be declared as sanctuary or National parks. Certain assumptions lie beneath the process of acquisition of rights. One of the important one is that the rights in the area to be declared are already formally recognized i.e. legal instruments and records exist of the rights of people in the area, both over land and other natural resources. These formal rights include ownership over land (provided by Survey and Settlements), Nistar Rights over forest products, right of way etc. It is assumed that the state of formal rights represents justly the up to date situation of rights over natural resources in the area.

However, given the ground level situation in tribal areas of Orissa, this assumption turns out to be deficient and problematic in many ways. These deficiencies lead to a perversion of the principles of natural justice and equity, drastically affect the weakest sections of society i.e. Tribal communities including PTGs having constitutional protection, and in many cases contravention of the rights to life. Some of these deficiencies are as follows:

Lack of up to date and proper settlements of land rights: Most of the sanctuaries are in the remote tribal areas. In most of these areas, only one round of Settlements have taken place. The current situation in terms of land tenure in these areas is highly confused, with a major discrepancy between formal tenure and informal land use. This includes extension of cultivation in pre 1980s periods which haven't been regularized and are therefore treated as encroachments, existence of unsurveyed areas etc. For example, in the Sunabeda Sanctuary area, there are 30

¹ Please see annexure I for a list of protected areas.

Revenue Villages but there are 34 villages which are shown as unsurveyed village. Forest Department treats these villages as encroachers, whereas records exist which show that most of these tribal settlements are very old and were never surveyed. As per WPA, 1972, these villagers are not entitled to any compensation, and neither are those people who have been cultivating land not regularized in their names (and which should have been recorded in their name as per existing law).

Non-recognition of rights over land in Survey and Settlement: This applies mainly to the practice of shifting cultivation, traditionally practiced by large number of tribal communities in Orissa. Even though many princely states condoned and even legalized shifting cultivation, the post independence statutes on land totally delegitimised it, and therefore in all shifting cultivation areas, the land on hill slopes was designated as Government land, even though these areas were being used for shifting cultivation. The estimates of shifting cultivation in Orissa range from 5000 sq. km. to 37,000 sq. km, a substantial part of the forested parts of Orissa. As the shifting cultivation land have been settled as Government land, declaration of sanctuaries means that the large number of tribals who depend on shifting cultivation in sanctuary areas are summarily evicted, creating major conflicts and misery. (Kotgarh, Karlapat, Sunabeda, Lakhari sanctuaries)

Non-recognition of customary use : Most of the customary uses of the local inhabitants on forests (including other natural resources like water) have not been codified or recorded in any record of rights. Nistar rights are a legacy of colonial period wherein limited rights were given over forest produce, mainly to landowning families. Post independence there has been no effort to redefine or formalize customary uses as per actual practice. Thus the existing rights systems don't even start to cover the customary or actual use of natural resources in any area. However, as shown later in the paper, these uses or dependence are a major source of livelihood and subsistence for a large number of poorest people, including Primitive Tribal groups. Declaration of protected areas with restrictions on entry and forest produce collection,, means that the livelihoods are taken away without compensation or alternatives.

Lack of final settlement of claims: In most PAs in Orissa, the settlement of claims and rights as laid down in Sections 19-26A of WL Act, 1972 hasn't taken place. Only one PA has been finally notified. All the other PAs are at different stages of notifications. However, the Wildlife Administration, taking the plea of the provision on intention of declaration of protected area leading to suspension of rights even in case of non-completion of proceedings of determination and acquisition of rights [Section 25 A of Wildlife (Amendment) Act, 2002], has clamped down on the people living inside the boundaries of the PAs. This perversion of natural justice is against the spirit of law as well as constitution, as many of these processes of settlement have been pending for more than a decade.

These deficiencies need to be investigated and used to challenge the State's promotion of an exclusionary conservation model. One of the most serious livelihood issues have emerged from the ban on NTFP collection in PAs as per the Supreme Court order dated 14th February 2000(WP No. 202/95).

Impact of Supreme Court order on NTFP on livelihoods of people:

As mentioned earlier the protected areas are located in the regions, which constitute large population of tribal communities. Data collected through multifarious studies in many parts of Orissa show that a major part of livelihood and subsistence of forest dwellers and tribal people comes from NTFP economy. (please refer annexure 3) The extent of dependence of people on NTFPs around the protected areas has been illustrated in the following table:

Livelihood sources of Tribal and other Marginalised Communities residing in the protected areas (Simlipal Tiger Reserve, Bhitarkanika National Park and Sunabeda Wildlife Sanctuary)

Location	Caste Groups	NTFPs	% to total HH annual income
Simlipal Tiger Reserve	Khadia (ST)	Honey, Sal resin, Arrowroot, chera(root), malika	60-70
	Makdia (ST)	Siali fibre	100
	Khadia, (ST) Bathudi(ST)	Sal and Siali leafplate stitching	More than 50
Bhitarkanika National Park	Dalei (ST)	Honey and wax	50
	Harijan (SC)	Nalia grass, bahumruga creepers and Keuti grass(collection & processing)	60-70
Sunabeda Wildlife Sanctuary	ST	KL, Mahua flower, Char, Myrobalans	60-70

(Source: Vasundhara, 2004)

From the above table it can be concluded that the NTFPs has immense significance in the livelihood of people. The contribution of NTFPs in the total annual household income ranges between 50-60%.. In case of nomadic tribe (for e.g. Makdia community predominantly found in Simlipal area of Mayurbhanj district), their livelihood is 100% based on NTFP.

The Order of Supreme Court (dated 14th February 2000) restricting NTFP collection in Protected areas followed by the enactment of Wildlife (Amendment) Act 2002 (see section 29) has extremely serious implications for the tribal and forest dwellers living in and around the 18 Protected areas. More communities are likely to face the adverse consequences once the 18 proposed protected areas (which are in the pipelines) in the state get finally approved. As reported in a local Daily (*Prajatantra*, dated 17th July 2002) NTFPs worth Rupees 35 lakh used to be traded annually from Sunabeda Sanctuary which has come to a halt with the imposition of restriction. Considering that income from sale of NTFPs can contribute more than 50% in case of the poorest tribals, these policy decisions contravene the fundamental rights life and livelihood.

For example, in the Simlipal Tiger Reserve area, the villagers residing inside the sanctuary are restricted from collecting and carrying NTFPs such as seeds of Karanj, Tamarind, Kusum, leaves of Date Palm, Sal resin, Siali fibre, Honey, Arrowroot etc. through the gate of the Simlipal Tiger Reserve despite the fact that some of these NTFP items are collected by the people from their private lands. Similarly, collection of NTFPs like Nalia grass, Honey, Bahumruga creeper etc. has been banned in Bhitarkanika National Park creating immense difficulties for the ST and SC people of Dangamal, Khamarasahi, Hariharpur, Okilapal and several other villages. Closure of Kendu leaf Phadis in the Sunabeda and Satakosia Sanctuary has deprived thousands of poor pluckers from

their one of the most significant income source. As a result of legal restrictions on collection of forest products people are getting increasingly dependent on wage labour for eking out their sustenance. However, wage labor inside sanctuary areas is becoming scarce, and this has made their situation very vulnerable. In many cases these restrictions have compelled the forest dwellers to resort to illegal collection of such forest products, which makes them easy victims to rent seeking by petty officials. In certain areas, it is alleged that people are also restricted from carrying agricultural produce for marketing outside the sanctuary area thus, reducing their livelihood options.

The distress caused by loss of income from both stoppage of collection of NTFPs and loss of ²land has compelled the Makdias and Khadias (nomadic tribe) of Simlipal area to resort to wage labour, migrate to industrial places and at times mortgaged their scarce assets to avail emergency loans. Similar migration is being observed within other protected areas. For instance, in Satkosia Sanctuary people are compelled to leave their homes because they cannot collect and sell NTFPs nor they are getting any wage earning opportunity (see annexure 4). It has to be noted that in none of these protected areas the final rights of the people have been settled.

Restrictions on mobility and access to basic services

Another major implication of wildlife policy is the increasing restriction on the mobility of people residing in the protected areas. The control of the authorities is further strengthened through the Wildlife (Amendment) Act 2002, according to which restrictions on the entry will immediately come into effect with the declaration of intention to create a protected area (Section 27). People living inside the Sanctuary have to face lot of difficulties due to poor access to health facilities because of the distant location of Primary Health Centers. There has been hardly any effort from the government side to provide alternative health services in these areas. We have got reports from different protected areas that people carrying patients are stopped at the gate leading to medical complications, and the reason cited is that going outside the sanctuary in night is not permissible. Effectively all access to services from outside world is restricted, and the people are cut off from basic human needs of health, education etc.

Further, restrictions over the mobility of outside traders and local people (especially while carrying commodities to sell outside), on implementation of social security programmes like Indira Awas Yojana, Jawahar Gram Samridhi Yojana, ICDS etc. deprive the people from basic services which is a violation of fundamental rights of people within the protected areas. Such incidents are being reported from almost all protected areas in the State.

Conserving Wildlife, destroying lives

Wildlife conservation seems to be emerging as one of the greatest threats to tribal livelihoods and wellbeing in the State. 10% of the area of the State is being converted into wildlife areas, even though hundreds of thousands of tribal people live inside these areas. The declaration of any area as Protected under Wildlife Act, 1972, is effectively leading to displacement, both physical and that of livelihoods. The problem lies in the design of Wildlife Laws which are highly exclusionary of local people, and seek to break the relationship between the local tribal communities and the forested ecosystems in name of wildlife conservation. This is an issue which needs to be addressed urgently, especially since more areas are proposed to be declared as wildlife protected areas.

² Makdias and Khadias referred in this note are the nomadic tribes who preferred to live inside the forest. Following the declaration of Simlipal Tiger Reserve special efforts were initiated by the state to rehabilitate these communities outside the forest. Rehabilitation colonies particularly for these people were constituted and during the process of rehabilitation they were promised with fertile lands and permission to collect NTFPs. However, today the situation has changed a lot. In absence of land resource (which was never given to them) and non-recognition of their rights over forest, struggle of the tribals for survival has become acute.

Suggested Plan of Action

In spite of the great threat that is being posed to the people from indiscriminate conversion of forested areas to Wildlife Protected Areas, there has been little discussion about this issue in the civil society.

- Ascertaining the new areas to be declared as Protected Area and contacting local organisations and political groups on the implications of protected area declaration. This is very urgent because once the areas are declared as protected areas, it will be impossible to get them back.
- Collection of all available secondary information for building a status report of these areas from the perspectives of livelihoods and well being of people living in and around the protected areas.
- Initiate studies and visits to the protected areas to ascertain situation regarding the following issues:
 - NTFP based livelihood
 - Mobility restriction
 - Lack of health, education and other services
 - Status of settlement of rights
 - Impact on livelihoods
- Based on existing information, set up Fact Finding teams and Public Hearings to get focus on these issues
- Filing of an intervention in Supreme Court in the Rights to Food PIL

To do these activities, a core group of individuals interested in the issue needs to be set up, who can sit regularly to guide work on this issue. The research work needs to be taken up by established institutions including Vasundhara, RCDC and others. We must also try to rope in progressive academics and local researchers into this issue. Collaborations with universities and Academic institutions must be sought.

The first step should be a meeting to discuss these issues. This note can serve as a background material for this meeting.

Annexure I

List of Existing and Proposed Protected Areas in Orissa

A. Existing Protected Areas:

Sl. No	Name of National Park/Sanctuary	Notification No. & Date	Area (Sq. Km)	Location (District)
	National Park			
1	Simlipal (Proposed)	18703/dt 06.08.1980 & 19525/dt 11.06.1986	845.70	Mayurbhanj
2	Bhitarkanika	22904/dt 30.10.1988 & 19686/dt 16.09.1998(Final)	145.00	Kendrapada, Bhadrak
	Sanctuary			
1.	Bhitarkanika	6958/dt 22.04.1975	672.00	Kendrapada
2.	Balukhand- Konark	9013/dt 23.04.1984 & 15216/dt 01.09.1987	71.72	Puri
3.	Baisipalli	25335/dt 6/7.11.81	168.35	Nayagarh,
4.	Badarama	23393/dt 17.12.1987	304.03	Sambalpur
5.	Chilika (Nalabana)	23403/dt 17.12.1987	15.58	Puri
6.	Chandaka-Dampara (excluding mining area of 17.6 Sq.km.)	35500/dt 21.12.1982 & 13482/dt 10.06.1988	175.79	Khurda, Cuttack
7.	Debrigarh	2409/dt 08.02.1985	346.91	Baragarh
8.	Gahirmatha (Marine)	18805/dt 27.09.1997	1435.00	Kendrapada, Bhadrak
9.	Hadgarh	34113/dt 06.12.1978	191.06	Keonjhar
10.	Karlapat	24498/dt 15.10.1992	147.66	Kalahandi
11.	Khalasuni	584/07.01.1982	116.00	Sambalpur
12.	Kotagarh	30253/03.12.1981	399.05	Phulbani
13.	Kuldiha	243/04.01.1984	272.75	Balasore
14.	Lakheri Valley	2333/dt 08.02.1985	185.87	Ganjam (Gajapati)
15.	Nandankanan	20672/03.08.1979	14.26	Khurda
16.	Simlipal	30467/03.12.1979	2200.00	Mayurbhanj
17.	Satkosia Gorge	22727/19.05.1976	795.52	Angul
18.	Sunabeda	10772/10.05.1988	600.00	Nuapada

B. Proposed Protected Areas:

Sl. No.	Name of the Sanctuary	Situated in the district
1.	Chandrapur	Koraput
2.	Gandhamardan	Bolangir
3.	Konda Kamberu	Koraput
4.	Narayanpatna	Koraput
5.	Balimela	Koraput
6.	Harishankar	Bolangir
7.	Mahendragiri Singaraj	Gajapati
8.	Rushikulya Magarmukh	Puri, Ganjam
9.	Laxmidunguri	Sambalpur
10.	Masabira	Sundergarh
11.	Pradhanpath	Deogarh
12.	Malyagiri	Deogarh
13.	Kukudadhara	Angul
14.	Kapilash	Dhenkanal
15.	Anantpur	Dhenkanal
16.	Samal	Angul
17.	Ansupa	Cuttack
18.	Subarnarekha	Mayurbhanj, Balasore

Annexure 3

Importance of NTFP collection and sale in the livelihoods of the people in forested areas of Orissa

Location	Livelihood dependence data	Source
Bhainsadadar, Balangir	Average Sale income of Rs. 1334 (landless labor) to Rs.2517 (marginal farmers) per annum at 1998 prices. For marginal farmers, the income from NTFPs was 153% of the income from agriculture.	Source: Non-Timber Forest Products and Rural Livelihoods (with special focus on Existing Policy and Market Constraints): A study in Bolangir and Nuapada districts, Vasundhara, 1998
Kharlikani, Balangir	Rs. 936 to Rs. 1343 annual income @ 1998 prices.	-do-
Kandrabhata, Nuapada District	Rs. 1015 to Rs. 2287 annual income @ 1998 prices.	-do-
Maharajore, Nuapada district	Rs. 360 to Rs. 420 per annum at 1998 prices	-do-
Khuripani, Balangir	Average annual income of Rs.2267/HH. This was at an average 76% of income earned from agriculture	NTFP Based Economy in Bolangir District: State, Big Business or Rural Livelihoods for the Poor ! , Vasundhara, 1998
Saintala Village, Balangir	Rs. 4905 average annual income from NTFP collection, processing and sale	Jonsson Stefan and Rai Ajay, 1994; Forests, People and Protection: Case studies of voluntary forest protection by communities in Orissa

Dharitri (a leading regional Newspaper)

5th July 2004

People leaving homes to fill up their empty stomachs

The lives of people in around 50 villages namely Nuapada, Nuasahi, Dhauragotha, Baragotha, Bhagatpur, Asanbahal Badataila, Hinjagol, Hinjagoli Hinsrada, Jagannathapur, Kulangi and others have turned miserable with increased restrictions on forest produce collection following the declaration of the Satkosia Sanctuary. Agriculture and forest products such as Bamboo, KL, Mahua flower, Sal seed formed the major sources of income of the people. The importance of NTFPs in the household livelihood increased further as agriculture provided only one crop and that too, not adequately meeting the whole year need of the people. Restrictions on collection of forest products and entry to the forest area, abandonment of Food for Work Programme by the government this year forced the people to leave their homes in search of work. In Tuluka village Pramod Nayak, Sukru Guru, Rabi Nayak, Chabi Nayak and Kalia Pradhan finding no alternative option of income earning in the area moved outside with their family. During previous years some employment was created by Forest Department undertaking a range of activities like road repairing and forest development work under Food for Work Programme.

Besides, people face a couple of problems like not getting access to BPL rice (rice provided by the government particularly to BPL category people at cheaper price), poor educational facilities and medical services. There are only five High schools for more than 50 villages in six Panchayats. Due to distant location from the town and situated inside the forest in many schools there is no teacher. Only three PHCs exist at Purunakote, Tainsi and Jagannathpur and for their long distance from other villages many people fail to avail the service of these PHCs. Further, the area is malaria prone. Due to poor medical care system birth deaths and malaria deaths in these villages are beyond count.

Samaj (a leading regional Newspaper)

4th April 2001

Hundreds of People destroyed the Check Gates inside the Sunabeda Sanctuary

In response to the restrictions imposed by Wild Life Department over collection and selling of NTFPs inside the Sunabeda Sanctuary, on 2nd April 2001 hundreds of men and women destroyed the check gates installed by the department at Bharuamunda and Kermeli and carried their NTFPs to sell outside the Sanctuary. Before the occurrence of the event there was heated discussion between the assembled villagers and the authorities wherein, the villagers asked the wildlife officials to make arrangement for marketing of their forest products.

Since last 15 years people of the area have been advocating with the State for protecting their rights and interests under the banner of *Sunabeda Abhayaranya Sangharsh Bahini*. The major demands of the people's organisation included involvement of locals in protection and management of the Sanctuary, withdrawal of restrictions on NTFP collection and selling, regularization of lands under cultivation, removal of check gates, providing employment by implementing government programmes etc. On 17th March 2001 thousands of people from the sanctuary area marched out on a rally in Nuapada town and submitted a memorandum highlighting their demands directly to the Sub-Collector of the District. The memorandum addressed to the Chief Minister requested for taking decisions within 15 days. Seeing that no action was taken by the state on their demands the angered villagers broke up the check gates in two areas.

Two groups consisting of villagers from Haluapali, Kankerimanja, Tileimal, Pethiapali, Keimeli and Golabandha under the leadership of Jugalsay Majhi (Sarpanch), Sukanti Majhi (Samiti Sabhya), Duryodhan Majhi (Secy of *Sunabeda Abhayaranya Sangharsh Bahini*), A. V. Swamy (Social Worker) and Katingapani, Korrabeda, Lodra, Chotrodla, Jharlama, Deusil, Bhausil, Jilabela led by Rameshwar Majhi (President of *Sunabeda Abhayaranya Sangharsh Bahini*) participated in the incident that took place at Kermeli and Bharuamunda respectively. The gatherings shouted against the harassment of people by the wildlife authorities. Chamren Harijan an old women from Kermeli village faced a similar situation when her basket of NTFPs was thrown away by the department people while trying to move outside the checkgate to sell them in the market in order to purchase medicine for her ailing son. The people of Raitar were stopped by the department from catching fish from the village pond brought under auction from the Panchayat.

Meanwhile, the District Collector Mr. Bishnupada Sethi addressing a letter to the Government has expressed that till the processes of regularization of land under possession, property rights, livelihood settlement, rehabilitation, compensation etc. related to people living inside the sanctuary are all completed, declaration of Sunabeda as Wild Life Sanctuary goes against the law. On the other hand threatening given by the Wildlife DFO of initiating case against persons involved in the incidents of breaking down the check gates have created resentment within the locals.