

Conflicts & Disturbance – A reason to change:

*Lessons from Community based
Natural Resource Management Institutions in Orissa, India.*

(Sub-theme : Globalisation, Governance and the Commons)

Paper to be presented in
The 9th Biennial Conference of The International Association for the Study of Common Property
Victoria Falls, Zimbabwe – 17-21 June 2002.

by

Subrata Kr. Singh

At: Spear Head Team,
Foundation for Ecological Security
6th Lane, Amalapada,
Angul – 759122
Orissa, India

Ph: [06764-30610\(0\)](tel:06764-30610), [32915\(R\)](tel:32915)

email : shtangul_fes@yahoo.com, subratasingh@yahoo.com

Conflicts & Disturbance – A reason to change: *Lessons from Community based Natural Resource Management Institutions in Orissa, India.*¹

*Subrata Kr. Singh*²

abstract

The paper tries to relate Ostrom's principle of "Graduated Sanctions" to the principles of rule making in the village institutions mainly associated with the management of natural resources, mainly forests and water. This paper is based on the case studies from Orissa, India to examine the conditions of change in village institutions due to conflicts and disturbances.

The paper analyses the conflicts in two broad levels to build up issues to discuss on sustainability of institutions as well as the commons that are threatened because of conflicts between thoughts, expectations and practice. The commons in India are mainly the "*assumed commons*" and not commons in reality, the tenurial arrangements over such lands often lie with the Government meant / controlled for various purposes. These lands are used by the communities as commons with their set of rules and regulations, till the lands remain unattended to by the departments concerned. Such insecurity of tenure brings in conflict between the managers (government departments) and the communities and doubts over the sustainability of the resources and the institutions managing the same.

The idea of decentralisation of governance is being planned through the programmes such as the Joint Forest Management, the watershed programmes etc. but there is still no consensus among the policy makers and the practitioners on the rights that requires to be bestowed on the communities. There is a strong difference between the groups advocating for complete ownership and that of stewardship/trusteeship. Stewardship/trusteeship is a mode where the responsibilities lie with the communities and the right to decision making somewhere else. The conflict in the concept itself leaves lots of uncertainties at the level of implementation.

It is being observed that the functioning of the state governance mechanisms and that of the village level are poles apart with no or very little support extended to the village institutions in terms of laws and policies. The conflict rises when the state retains the powers of sanctions and expects the communities to protect the resources. The officials responsible for implementing are nowhere to resolve conflicts immediately. Therefore, often in a conflicting situation the powers of the village institution is limited to sheer negotiations, any sanctions by such institutions is beyond law. However, in practice all village institutions impose sanctions negating the state laws. The State itself has been instrumental in the politics of control using funding and partial tenure for the cooption of self initiated community initiatives especially in the case of Joint

¹ This is a discussion paper, which has tried to put together the various views in a certain perspective concerning how Conflicts & Disturbances bring about negotiations for defining the community, management of institutions and changes in policy. The desire is to bring to discussion the issues that are there in the management of commons so that the stakeholder community can address them without getting carried away by prejudices. It is in the larger interest of the commons that we should face the issues. Hence, we earnestly request the readers to share their views, comments, suggestions, remarks and experiences, which will bring completeness to the issues and does justice to all the stakeholders. By no means, the discussion is either exhaustive or complete.

² The author works for Foundation for Ecological Security in the Orissa Project and the paper is based on Learning from Community based Natural Resource Management Institutions in Orissa, India with which the author is associated with for the past six years. The views expressed are that of the author and not necessarily that of the organization.

Forest Management in many states. This is a move more towards centralisation of control than actual decentralisation. This initiates conflicts between the state and the communities.

The second level of conflicts lie at the intra-institutional dynamics between various users and user boundaries, heterogeneous structure and user interests, conflicts within groups and sub-groups etc. which creates disturbances within communities, lack of foresight to deal with such situations, politics by divide and rule are responsible to disintegration and degradation of institution and resource respectively. The aspects of big village politics - domination over smaller villages and nearer to the town/trade centre politics - prohibition of remote villages of accessibility to use their boundaries add to another level of conflicts and disturbances.

It has also been observed that the conflicts and disturbances are integral part of the institution building process and such events bring about change. The change may include fine tuning the rules and regulations, amendments or even change in custodians (Executive Committee/ President/ Secretary etc). This paper tries to examine why there is a need for institutions to anticipate situations that it could face and build in rules and regulations accordingly. Such interventions would ensure the sustainability of the institutions.

The paper concludes with a series of policy discussions, a framework for building up mechanisms that reduce conflicts and institutional constructs to involve stakeholders at various levels to reduce threats to the commons.

Introduction:

Conflicts and disturbances arise when there are varied interests of people in a particular resource. Conflicts are not only unavoidable but are also natural, the intensity and frequency increasing with the demand on the resource. All the stakeholders tend to appropriate resources in proportion to the power (social, economic or political) they command and many are indifferent to the effort that goes into the maintenance of the same. Conflicts are also desirable as they have the ability to bring in positive changes that have long-term impact. They have the potential to be converted for everyone's benefit. However, in a conflict situation, the concerned parties undergo stress and strain. There is also the influence of the external agencies/ individuals that would either abet or mitigate a conflict situation. In other words, for conflicts to serve as beneficial events, the parties need to be mature, open to reason and learning. The critical requirement is a right attitude.

The paper analyses the conflicts in two broad levels to build up issues to discuss on sustainability of institutions as well as the commons that are threatened because of conflicts between thoughts, expectations and practice. The broad conflicts are due to policies relating to tenure and policies on devolution which according to Ostrom's designed principles are the major factors behind the sustainability of common property institutions. The absence of proper policies for governing the common property resources has set the government against the communities, when in fact, successful resource management requires the opposite.

The first and foremost conflict that arises relate to the ownership of the forest land. It is argued that the communities have been living with the forest land in a symbiotic relationship for centuries. They have also been protecting the forest cover with a sense of ownership. However, after independence, the "commercialization" of forests has contributed to the lessening of the carrying capacity of the forests and heightening the demands from the available resource from time to time. The competition to grab whatever is available and make hay while the sun shines attitude has led to both the departments and the dependent communities trade accusations. The argument that, the dependent communities have been responsible for the illegal felling and destruction of the forests continued to be put forward as an excuse across the country; the communities instead of refuting the claim with a counter argument, put the department at shame with instances of Chipko Andolan in Kumaon & Gharwal, the Community Forest Management in Orissa (see Box-1), Jharkhand, the sacred groves in Karnataka and Maharashtra etc. The communities took the protection of the forests into their own hands where the department had exploited the resource or wanted to do the same.

As is true in any such conflict, the recourse is to use legality, and that is what the forest department has done; that the attitude that has increasingly been traded is that the forest department is the owner and has the authority to make decisions on the forest resource, which rightly belongs to them. This attitude has been aggravating the conflict between the government and communities.

Box-1: Community Forest Management in Orissa

Historically, the forests in Orissa have been destroyed by outsiders, to meet the demands of the urban sector. It is to be noted that the harvesting of the *Sal (Shorea robusta)*, Orissa's most dominant species is and has been done mostly by the FD to cater to the need of the massive expansion of railways. Bamboo too has been harvested or leased out to meet the ever-growing needs of the paper industry. A major part of the wood that the head loaders and the bicycle loaders carry is meant to feed the urban markets. The loss of the thick forests through such "coupe" operations created a sense of crisis in the rural life that primarily depended on these forests for their livelihood. However, these head-loaders and bicycle-loaders and their incessant felling is continued to be often blamed for the reason for the destruction of the forests by the Forest Department in all their documents.

Community Forest Management is the spontaneous response of the people, to a perceived crisis, caused by indiscriminate destruction of the forests surrounding their habitats, which left them acutely short of not only fuel, fodder and timber, *but the basic sources of survival* (hundreds of varieties of tubers, roots, fruits, berries and leaves supplement the diet of people living in and around forests). In Orissa, there are cases of forest protection initiatives by the communities dating back to the 1930s and 1940s, but these need-based protections began mostly in the late 1970s. Now thousands of villages across Orissa have taken the initiative to protect and regenerate their forests with the apprehension that unless they acted immediately, the crisis would accentuate in the future. Sometimes, the initiation of protection activities in one village has led to other villages in the area taking up protection.

The response of these self initiated groups consisted of protection and regeneration, the protection being achieved through various means, independent of the forest department, with an underlying philosophy *to conserve, so that the local needs can be met, not only today but tomorrow too*. The management strategy too had one common element -- *do not prohibit access totally (may be seen for temporary period in some cases), but rather control it, regulate it*. These village institutions over the period of years have developed their own rules and regulations regarding protection and use and it varies from village to village corresponding to the social and environmental conditions.

The villagers, who are protecting their forests, have validated a fundamental theory: *conservation is not possible unless the needs of the local people are met*. Very often this has been used by the community leaders to unite the people into protecting. The logic used has been very simple: "Unless you protect and allow the forest to regenerate, how will your needs be met tomorrow?"

Evolution of Community Forest Management

A review of the forest history of Orissa suggests that only 2.7% of the total forests in Bihar & Orissa were under the control of the government in the year 1926 and all other forests were under Private Forests - under the Garjat Rulers (Princely states). All the Princely States had their rules and regulations for the management of the forests. The rules of each Princely State provided concessions to the people residing within their kingdom. The people in return had to conduct certain duties like stop forest thefts, extinguishing fire, etc.

In some of the Princely states like, Hindol there were provisions of village forests while in others the open forests or *Khesra* were used as village forests. The villagers had the right to decide on the use of the resource. only in cases where big timber and restricted trees were to be harvested they were required to take permission from the Sarvarakar (Agents appointed by the Kings).

Such provisions in the rules had given a sense of ownership over the resource. In many places today the villages stick to their traditional boundaries for forest protection, the rules of the CFM groups are similar to those that of the rules during the princely states.

These remnants of the rules definitely have their roots from the Princely States Regime. The declaration of Gramya Jungles (village forests) within revenue boundaries of villages are an extension of the earlier arrangements. The forest department however did not implement the provision of the Village Forest in the Indian Forest Act 1927.

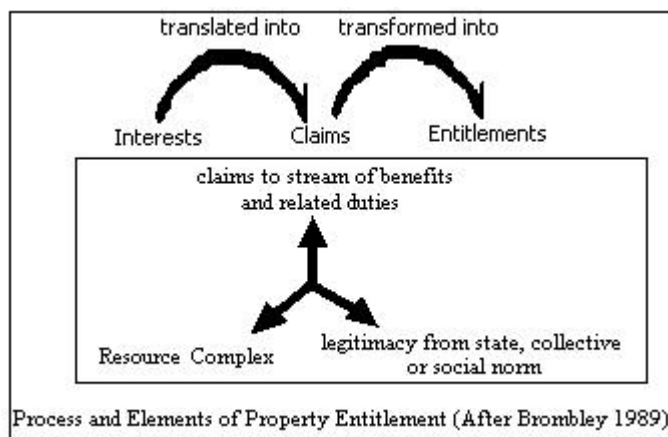
The next portion of the paper would explore into a set of nagging concerns: the type of resource entitlements/ tenorial security over commons; ensure that the mindsets, which guide consideration of options, in the process of policy making; practical institutions which would take care of the stakeholders requirements such as the livelihood needs of the dependent communities; the ecological concerns of protection of biodiversity, including flora and fauna etc.

The second level of conflict lies in the acceptance of the community level institutions and the question of devolution of power to such institutions. The idea of decentralisation of governance has been planned through the Panchayati Raj Institutions (through the 73rd Amendment of the Constitution) and programmes such as the Joint Forest Management, watershed programmes etc. but there is still no consensus among the policy makers and the practitioners on: defining the problematic nature of the concept of community; the problem of defining an insider; devolving powers to the communities; the type of social institutions, etc.

CONFLICTS DUE TO POLICIES RELATING TO TENURE

Conceptual understanding of "*assumed commons*"

Property is a three way relationship between the holder of the property entitlements, the particular resource complex and the collective, state or social norm which gives legitimacy to the entitlements (Attwater, 1997). Generally, natural resources can be held under any one of three property regimes: Communal Property; Private property; and State Property. These, formally, should determine who the managers are, but of course what is formal and what is actual may well be different. The policy in India has assumed two options: Private property or State Property : where all the natural resources are held under state property.



The tragedy of this situation lies in the fact that most state property regimes are examples of state's reach exceeding its grasp. The state has taken on far more resource management authority than they can be expected to carry out effectively (Brombley & Cernea, 1988). In such a vacuum the local communities in Orissa took control of the depleting resource, to regenerate and manage the resources to their advantage. The interests of meeting the basic needs from the natural resources has resulted in the protection of forests by the communities; the protection over the

years has been translated into claims forcing the government to think of alternatives in the form of Joint Forest Management. The half-hearted alternative has led to the strengthening of their claims which are getting transformed into the demand for the recognition of Community Forest Management and thereby entitlements over the resource.

The commons, therefore, in such policy environment are "*assumed commons*" and not commons in reality as the tenurial arrangements over such lands lie with the Government meant for various purposes. The forest lands are supposedly managed by the forest department and the revenue wastelands by the revenue department. Due to the lack of effective management by these state departments and the resources had become open access. As the people started facing problems the communities by a variety of social arrangements designed ways to insure village members against a subsistence crisis. For these communities, collective action has been a very practical matter, a way to get things done and provide for the public good. The communities in the area provide us a rich diversity of such collective action in managing the natural resources as commons.

Irrespective of tenurial rights the communities, more often without the support of the government officials, have done well over the years to protect and regenerate forests. They have evolved a set of rules and regulations for managing these resources. The visible resource; their confidence to manage the resource; and their historical associations with the forests have become the basis for the claims by the communities on the resource. This has set the government against the communities and is a threat to the sustainability of resources and the institutions managing the same.

The set of example (box-2) examines how the natural resources are "assumed commons" and not commons in reality; and by debasing the fact that the resources are being used as commons and the government trying to re-establish their claim over the resources only lead to degradation of the resource. The confusion over the tenure leads to fulfillment of immediate and short term needs of the community, whereas the long term benefits are foregone because of the uncertainty that the resource would continue to belong to them. Though the communities understand the need of the resource for their future generations the need of the hour and the uncertainty prevails the mind while decision making.

Box-2: Examples

The people of many villages across the Angul district have been facing the threat due to development; high powered electric lines passing through their forests leading to felling of trees (35feet wide) across their forests to reduce the loss of power due to earthing. The forests in both revenue as well as the forest lands in most villages are being protected and regenerated by the communities for the last 20-30 years but the permissions are sought from the district administration and the forest department; the compensation goes to the government exchequer; the amount for compensatory afforestation and the trees harvested are grabbed by the forest department. The communities protecting the forests are neither asked permission for nor are compensated for the efforts they have put in. The result has been further degradation of the forests.

The state has a variety of land classifications even in case of revenue wastelands and many of the categories don't even have the rules and regulations regarding the use of such lands. The "gramya jungles"⁰ have some rules relating to its use by the communities but still the tenurial rights belong to the government. It is a case of convenience on the part of the government to call it devolution of powers to the community through administrative orders and then change them with another when the government needs the land.

More critically, the government has even denied the compensation to the communities for the loss of plantations due to the construction of canals, where the district administration had given permission to the village institution to take up plantation and process of leasing the land to the community was in progress.

Proprietorship Rights vs. Stewardship Rights

There has been a considerable discussion on "right" and the form of "rights" on the natural resources by many scholars and practitioners. There is also a considerable divergence of opinion on this issue amongst them. While some talk about ethical rights to use forests and forest products; some propose management rights over the resource. To be able to discuss the issue of "rights", Proprietorship Rights vs. Stewardship Rights; it would be useful to first discuss the nature of the "resource"; what it entails for different people; and why they manage the resource.

In the instance of forests, it is useful to have clearer perception on what forests signify for various people, and different stakeholders vision of forests before embarking on the debate relating to management of forests, objectives of management and roles, responsibility and rights of different stakeholders.

Forests have for the past century been managed by the Forest Department with the objectives of revenue maximization; the department was mandated to focus on production function of forests. In the process, they overlooked the dependence of local communities on forest and the role of forests as provider of benefits and services to the vast majority of rural population. The department, pursuing its mandate of revenue maximization, sought to protect forests from local population. With the forests getting degraded and the compounding problems because of such degradation being felt, the last decade has witnessed change in perceptions about forests and the policy laying importance on *the ecological function of forests and the symbiotic relationship between local people and forests.*

Local Communities primarily view forests as a repository to meet local forestry needs. Forests are looked upon as: a provider of fuel wood, Small Timber, Constructions materials for housing, Wood for agricultural implements; a source for recharging local streams; a means for holding on to soil, checking soil erosion and for increasing soil fertility for fields at foothills of forests; a provider of ecological benefits - fresh air, rainfall etc.; and land for expansion of agriculture. And

therefore people seek to manage the environment for two reasons: first, because the management of natural resources improves the conditions of their livelihood. Second, because environmental degradation is perceived to be threatening, either to life sustaining processes (e.g. through pollution or erosion) or through aesthetic values.

With such a resource at hand, there was divergence of opinion: one stream of thought strongly feels that local community / village committees should have complete proprietorship (ownership) rights over forests. The claims are based on the proximity to the resource, their role in the protection and conservation of the resource. The stream also believes that the permanent tenure is an essential element for the proper management of the resource.

While the other stream feels that complete ownership rights could be a serious problem, especially given the nature of resource and inequities at the village level and in the society at large. Further, it is being argued that the forests are national property, of late being considered as global commons, cannot be devolved to the local communities as the stakeholders are many and diverse. It requires to remain a state property and only the stewardship rights can be devolved to the local communities with certain concessions.

The conflicting schools of thought and interests within the policy making fraternity has resulted in the half hearted instrument in the form of Joint Forest Management. It may be argued that this is a first step towards devolution of powers to the communities; but in Orissa where the Community Forest Management Institutions are strong there is a rejection of JFM and a demand for entitlements coming up. It requires for the state to come up with alternatives like that of Van Panchayats in Uttaranchal or the Forest User groups of Nepal. With a set of directives governing the management of the resource especially making the ecological function of the forests mandatory, the stewardship role including the management function should entirely be left to the local communities. Not many would agree; but this is how it should be for proper management of natural resources, not only forests.

CONFLICTS DUE TO POLICIES ON DEVOLUTION

The Process of Policy Making :

The process of policy making is influenced by particular cultural, political, and economic environment in which the issue emerges and the range of policy choices too. The policy space is also used by the external environment (especially the funding agencies) to influence policy. The interest of the bureaucracy also plays a major role in the formulation of the policy.

In the instance of legislations in relation to forestry in the recent times, it is observed that there has been a move towards protection of the forests jointly by the forest department and the communities. The idea of decentralisation of governance has been planned through the Joint Forest Management but there is still no consensus among the policy makers and the practitioners on the rights that requires to be bestowed on the communities.

The forest department, in no way wanted to part away with the powers it had garnered over the years; especially that the forest department is the owner of the forests and therefore staked the claims over the resource. The attitude is visible from the fact that the Orissa Village Forest Rules, 1985 was formulated to implement the provision of Village Forests in the Orissa Forest Act 1972 but was not implemented; and the government passed a similar resolution in 1996 but the forest department declared the resolution unimplementable. The forest bureaucracy has always tried to keep provisions where there is room for manoeuvre (box-3). In the implementation of the JFM programme, the department has been coopting the community forest management institutions with a recognition as their bait.

In Orissa, there are existence of thousands of communities protecting forests mainly to meet their basic needs irrespective of tenure through a set of socially acceptable rules. The policy on forests has been influenced by the civil society i.e. non-governmental organisations, federations etc. and the external agencies (Sida, Oxfam, DFID etc) in the last two decades mainly towards recognition of community rights over the forests.

The policy environment is therefore that of concession legislation: where the marketing of non-timber forest produce has been devolved to the panchayats with price fixing agency being the district administration; the use for forest resources only if registered under JFM; the distribution of the resources after final harvest in the ratio 50:50; and the supremacy of decision making by the forest department. Such mode of legislation is not only harmful to the communities but is a factor responsible for the degradation of the resource.

Even in the case of watershed development programme being implemented, the entire landscape is treated irrespective of the category of lands; resources are regenerated in all categories of waste lands; the communities are expected to protect the resource; but there is no question regarding tenurial rights to the communities.

Box-3: 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 emphasises 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.

Legal Provisions - A bundle of contradictions

The Indian Forest Act, 1927 has a section on village forests. The section 28 states :

"1. The state government may assign to any village community the rights of government to or over any land which has been constituted as reserved forests and may cancel such assignments. All forests so assigned may be called village forest.

2. The state government may make rules for regulating the management of village forests prescribing conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or pasture and then duties for protection of and improvement of such forests.

3. All the provisions of this act relating to reserved forests (so far they are not inconsistent with the rules so made) apply to village forests."

Also the state recognised the existence of village forests when it framed the Orissa Forest Act, 1972. The Provisions in the section 30 of the Orissa Forest Act 1972 provides details on the constitution of village forests. Section 30 : Constitution of Village Forests states :

1. The state Govt. may, by notification constitute any land at their disposal to be a village forest for the benefit of any village community or group of village communities and in like manner vary or cancel any such notification.

2. Every such notification shall specify the limit of such village forests.

Except for the declaration of the Van Panchayats in Kumaon and Gharwal, the provision of village forests have not been used anywhere else in the country. The Community Forest Management Institutions provided a strong case for declaration of village forests and forced the Government of Orissa to come up with a resolution to this effect. The state forest department perceiving a loss of power and revenue by this move declared the resolution unimplementable. The Village Forest Rules, 1985 framed to this effect to facilitate the management of the resources was shelved.

Instead, the governments came up with the Indian Forest Policy 1988 and paved the way for Joint Forest Management; a much inferior arrangement than the village forests as mentioned in the Indian Forest Act 1927 & Orissa Forest Act 1972. The forest department, through JFM is trying to regain its lost ground: control over community protected forest areas by coopting the CFM institutions into Joint Forest Management in the state. The communities have been resisting the move and thereby becoming a reason for conflicts between the two parties: the forest department and the communities.

The construct of Common Property Management Institutions

The villages are key institutions characterized by a variety of social arrangements designed to insure village members against a subsistence crisis. For these villages, collective action is a very practical matter, a way to get things done and provide for the public good. The villages in the area provide us a rich diversity of such collective action in the form of building infrastructures like community halls, roads, ponds etc. to banking of paddy to the protection of their forests around through the thengapali system. The institutions have evolved over the years and their principles of management are similar to those of the designed principles for CPR institutions (Ostrom:1990, Governing the Commons).

It is being observed that the functioning of the state governance mechanisms and that of the village level are poles apart with no or very little support extended to the village institutions in terms of laws and policies. Only the institutions registered under certain procedures or created through the constitution are acceptable by law. The association of people drawn by the revenue boundaries or villages or hamlets are not accepted as a legitimate institution. The rules and regulations framed by the institutions do not have any legitimacy or recognition from the government officials. However, for all other practical purposes the villages remain the smallest unit in development paradigm in the state. This contradiction in policy and in reality poses threat to the informal institutions and thereby the commons.

The devolution of power to the decentralised units is not complete and often confusing. The state retains the powers of sanction and determine the use of the resource (through working plans); the support from the officials responsible for resolving the conflicts and imposing sanctions is lacking even in JFM (Box-4). The communities are expected to protect the resources. The arrangement of depending on the outsiders for day to day activities is an impediment to the sustainability of the institution. This is a grey area in the long drawn discussion in policy circles regarding devolution of such powers to community institutions.

Despite the lack of proper support from the state and tenurial rights over the resource, the communities have effectively used the grey area and evolved rules and regulations for managing the resources including appropriation, conflict resolution and sanctions. In practice, all village institutions impose sanctions negating the state laws. Therefore, often in a conflicting situation where the resolution of the conflict goes beyond community institutions, the institutions are held at fault for not having any powers to any form of sanction. The powers of the village institution is limited to sheer negotiations, any sanctions by such institutions is beyond law.

For example, In Papasara the village executive committee had fined a member of the village for illegal harvest of trees from the forest protected by them. The member not abiding by the decision of the village complained the same to the police. The police arrested the executive committee members and kept them in custody on the basis that the committee had no legal right to impose fines. They were however released later with warning.

It is therefore necessary for the policy makers to look into building a support legislation for such institutions which would help them evolve into strong robust organisations. What is required now is the establishment of communal property regimes by defined groups in defined areas with rights of inclusion and exclusion. Such groups should have proprietorship of the natural resources concerned.

Box-4: Policy Issues in Joint Forest Management:

Legal validity of JFM :

JFM is based on government resolutions puts the whole concept of participatory forest management in a disadvantageous position especially because JFM remains as an experimentation tool in the hands of the forest department. This adds a temporary character to JFM.

Operational Problems in JFM at present

JFM resolutions of various states suffer from several operational shortcomings like resolving issues pertaining to boundary demarcation, type of forest area to be included, registration of the forest protection committees, benefit sharing, role of various agencies including FD and panchayats etc.

Tenurial Security: Rights of people over forests

Even though JFM speaks about right of local community in the management and use of forest resources, all go without a secured tenure. For sustainable forest management, forests are to be looked in perpetuity and arrangement of local rights should be done on a long term basis accordingly.

Flexibility in policy framework in order to accommodate the existing forest management patterns

The attempt to bring all existing management arrangements under an uniform structure should be curbed. There should be policy providing space for accommodating the existing community efforts in conservation. The idea is not to unnecessarily disturb the already evolved systems of community forest management.

Panchayati Raj Institutions (73rd Amendments) and JFM

Panchayats have assumed an important role in the management of natural resources, especially in the context of 73rd constitutional amendment. Under the new act, Gram Sabha has been given the ownership rights over MFP in the Schedule Areas. There is possibility of a major confusions and fights between the villages institutions and the Panchayats (which have the ownership rights over the forests and MFP). Moreover, it is necessary to search for institutional alternatives for participatory forest management within the panchayat structure in order to avoid the problems occurring from registration of JFM committees under one Act or the other.

Concept of benefit sharing and final felling

The present programme of JFM is ridden with many misleading terms like benefit sharing, final felling etc.. The policy should imbibe the fact that forests are local resources and should be managed for the benefit of locals but not at the cost of national requirements as of ecological security. There is need for building in ecological principles which should regulate the use of the forest resources looking into national needs.

Emphasis on institution building and strengthening: Legal recognition of the community institutions

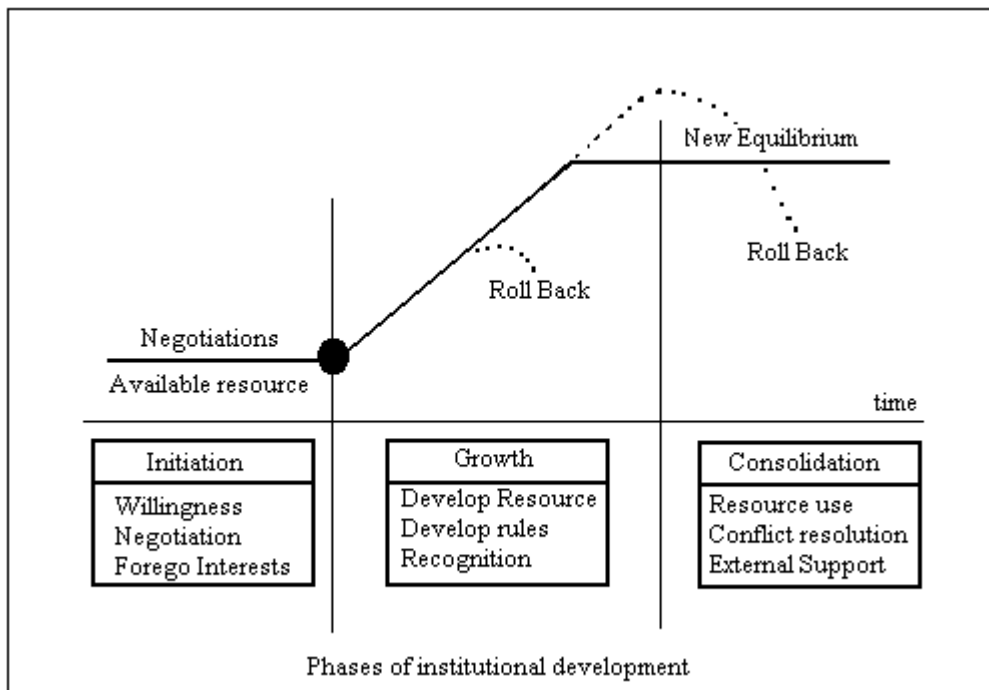
JFM has lacked focus on proper institution building to further the ecological processes. There is need for a focus on creating community institutions with the responsibility of the state to create adequate space for the community institutions to function independently. Building new institutions, because the traditional institutions lack women participation, equity etc. would create conflict and destroy the rules and regulations evolved by the communities over the years. There is a need for the recognition the role of super structures or Federations.

Need for integrating all policies relating to land use

Broadly, all Acts concerning institutions and resource management need to be brought into the ambit of discussion for providing institutional and ecological basis to Joint Forest Management. There is a need to rework on the land use policy and determine the principles for the use of forests, water, agriculture etc.

CONFLICTS DUE TO SOCIAL DYNAMICS AND SUSTAINABILITY OF COMMUNITY INSTITUTIONS:

The initiation of forest protection by the communities leads to changes in resource access and control contours; being embedded in a dynamic social context where both latent and overt conflicts are very much a part of the process of social change, Community Forest Management systems are also subjected to conflict situations (Prateep Nayak & Neera Singh, 2002). The willingness to initiate protection involves negotiations at various levels; dynamics between various users and user boundaries; the social structure and individual interests; conflicts within groups and sub-groups. The “early-starter” villages that take up forest protection face resistance in their efforts to protect forests within the village and also from the neighbouring villages as the user regimes get redefined from open access to commons with rules on inclusion and exclusion.



It is at this stage that the "community" is defined which is usually with a narrow connotation on the basis of fixed in place socio-political unit having residential proximity to the resource or according to state recognised political units. The existing user regime and practices for collection of different forest produces is generally neglected. In the process of initiating protection the boundaries are defined and redefined according to various perceptions and different use regimes within a single socio-political unit where different user groups use the resource. The claims of the adjoining communities are either ignored or certain concessions are made like grazing rights, collection of NTFP, or collection of fuelwood etc.

But as the forest regenerates, the boundary of the resource sets in place; there is recognition from the adjoining villages; and a process of framing rules for the protection and use of the resource begins. As the flow of benefits from the resource is anticipated, there is an increase in tensions over resource sharing and a new sets of relationship vis-à-vis access and use of forests emerges. These relationships and emerging access arrangements could lead to tensions and conflicts.

Conflict situations provide an opportunity for change, but are also a threat to the existing management arrangements. There is always a tendency to roll back to open access regime.

It is observed that the conflicts and disturbances are integral part of the institution building process at this stage and such events bring about change. The change may include fine tuning the rules and regulations, amendments or even change in stewards (Executive Committee/ President/ Secretary etc) of the resource. Sustainability of community institutions and the resource management systems depend to a large extent on the resilience and capacities to deal with conflicts as well their ability to adapt to the post-conflict situation. It is at this stage that there is a need for institutions to anticipate situations that it could face and build in rules and regulations accordingly.

In the consolidation phase, the resource is ready; intimidating for anyone in need for such resource. There is a need for the institution to develop mechanisms for distribution and appropriation; though they already have initiated such move in the earlier phase. *The degree and nature of dependence on forest not only differ from communities to communities but also between groups within a community. A resource management arrangement needs to take into account these different needs and dependence on the resource and strike a balance between them. Such a process is invariably complex and conflict-ridden* (Prateep Nayak & Neera Singh, 2002).

At this stage the issue of boundary and user rights re-emerges where the claims and counter claims are made which requires to be addressed; the boundary remains fragile unless there is mechanisms to bring equilibrium in the demand and supply equation within and among the communities in a comparatively larger socio-political setting. The boundary remains shaky where the community does not have complete ownership and control over the resource.

The conflicts now due to the violation of rules are more frequent; the elite dominance begin to take control over the management of the resource; and the “weaker” or dis-empowered sections have a tendency to lose out. On a broader scale the politics by divide and rule tends to disintegration the institution and degrade the resource: the aspects of resource rich and the resource poor emerges; big village with no resource tend to dominate over smaller villages protecting resource etc begin to emerge. The latent conflicts emerging from such situation can over a period of time destabilise the resource management system and be instrumental in the roll back. The institution needs to strive towards resolving of conflicts through more equitable resource sharing and there is a need to address the conflicts on a day to day basis.

The rise in the value of the resources brings in new dynamics in resource appropriation within the village or between villages; tensions arise due to different sections trying to mould or break rules to derive greater share of benefits. At this point, there is a need for the stability in the policies of the government: the resources are to be protected not only as resources of the village, but as a national and global resource; the support structures providing law and order services e.g. the police and the forest department, need to play a constructive role and help the institutions in need. The roll back can occur at the slightest of intimidation.

While there is clearly a necessity of a village level governance mechanism to ensure that each person of the village is included, it is required to build spaces of communication with the neighboring villages as well. Islands of resources and institutions cannot exist, for these islands to be viable, there is a need to integrate institutionally with the neighbouring villages. While the greater responsibility of managing and safeguarding these resources vests with a particular community, the neighbors also need to honour such arrangements. There is a need to negotiate and arrive at support mechanisms that enhance collective regulation, reduce conflicts and avoid roll back.

Conclusions and Policy Recommendations

The tragedy of this situation lies in the fact that these forests are state owned and the management by the state has demonstrably been ineffective in protecting the resource³. With the depleting resource and apprehension of a negative effect on their life a large number of villages evolved their own mechanisms to deal with the forest degradation and to bring open-access, supposedly state managed forests under community management regimes and have thrived successfully for the last three decades, and some even more than 50-60 years. This indicates the viability of community based forest management systems as the potential for cost effective collective local management enforced by informal social pressure and drawing on the local knowledge of ecological dynamics.

The "assumed commons" without adequate legislation, cannot function on a long term unless policy on tenure and natural resource management seriously considers the option of community based resource management regimes with tenurial arrangements in favour of the community. Joint Forest Management, introduced to fulfill such a need falls short of desired framework (refer box-4). It was bureaucratic impulse to retain authority centrally and the establish of communal natural resource management regimes. There is need for rethinking; a need to review the Section 28 of the Indian Forest Act 1927 and Section 30 of the Orissa forest Act 1972 and declare these lands as village forests with management by the communities. That would mean a sanctioned use-right, including the right to decide whether to use the resources at all, the right to determine the mode and extent of their use, and the right to benefit fully from the resource. There is little reason, either from historical record or from an analysis of the factors and dynamics involved, to be optimistic about the future of forest protection through community institutions. What is therefore, required is the establishment of common property regimes by defined groups in defined areas and with rights of inclusion or exclusion.

Understanding the nature and importance of the resource as not only communal property because of their proximity but also as a state property and global common, there is a need to evolve ecological principles for management of the resource. The principles may be co-terminus with the land use policy of the state and may include mandatory requirement of maintaining biodiversity of a particular eco-region, not permanently changing the ecosystem of the area, prohibition of clear felling etc.

³ The area classified as forest has reduced between the early 1960's, when it was 6.8 million ha, or 43 percent of the total geographical area of the state and 1991, when this had reduced to 30.3 percent (4.7 million ha) (FSI estimates).

There is a need for conducive policy for the establishment of sustainable resource management institutions and devolution of appropriate powers for proper functioning of the community institutions. There is a need for the state agencies to respect their bye-laws i.e. their rules and regulations and ensuring coordination and cooperation to these resource management institutions: there is a need for the state to be a continuous support to these institutions and not an interfering agency.

Conflicts occur between a variety of actors and at different levels, a number of factors influence and shape these conflicts. Power disparity between actors is a major constraint to genuine negotiations especially when the state itself is a party. Conflicts are desirable as they have the ability to bring in positive changes that have long-term impact. The critical requirement is a right attitude. The conflicts and disturbances within the socio-political system have the potential to be converted for everyone's benefit and has every reason to change for good.

⁰ **Gramya Jungles:** In the last fifties and sixties, Orissa had a dense forest cover of about 53% of the total geographical area, where people enjoyed their rights and concessions over forest produce to their full satisfaction. According to the provisions of the Orissa survey and settlement rules 1962, all forests outside reserve forest, nearly 60% of the total forestland, with several extensive valuable stands were included within the village boundary. The 1966 Govt. order laid down the procedures for reservation of land for various purposes within the village like *Gramya Jungle* and Gochars (pastures). The relevant portions of the survey and settlement rule (corrected upto 1966) are as follows -

PROVISIONS OF ORISSA SURVEY AND SETTLEMENT RULES :

Instruction for Reservation of Govt. Land for specific purposes in rural areas (corrected upto 31-01-1966)

Reservation to Precede Settlements:

1. It is necessary to provide land for the common development needs of the village before needs of individuals are considered. In every village not included in any urban area, specific plots of land suitable for the common use of villagers are to be used for development purposes including homestead for future.

3(a). In every surveyed village 5% of effect area of the village shall be reserved for pasturage (gochar). Another 10% of such effect area shall be reserved for purposes of village forest and for communal and developmental purposes including homestead for future.

10(3) Lands recorded in the Rakhit Khatian can be used only for public purposes with the prior sanction of competent authority except to the extent mentioned below :

(b) Lands recorded as Gramya Jungle will be available for use only as village forest.

Reference:

1. **Marshall W. Murphree** (1993) Communities as Resource Management Institutions, *IIED Gatekeeper Series No. 36*
2. **Brombley, D.W. and M.M.Cernea** (1988) The Management of Common Property Natural Resources and some Conceptual and Operational Fallacies. Washington: The World Bank. The World Bank Discussion Papers, No.57
3. **Berkes F. and M. Taghi Farvar** (1988) Common Property Resources. London, Belhaven Press.
4. **Roger Attwater** (1997) Process, Property and patrons: land reform in upland Thai catchments, *IIED Gatekeeper Series No. 69*
5. **G. Raju** (1997) Joint Forest Management: The Dilemma of Empowerment, *Working Paper 109*, Institute of Rural Management, Anand
6. **Prateep K. Nayak, Neera M. Singh and others** (2002) Managing Conflicts in Community Forestry -Experiences from Community Forest Management in Orissa, Ford Foundation Report.
7. **Elinor Ostrom** (1990) Governing the Commons – The Evolution of Institutions for Collective Action, Cambridge University Press.
8. **Saurabh Sinha** (1996) The Conditions for Collective Action: Land Tenure and Farmers' Groups in the Rajasthan Canal Project, *IIED Gatekeeper Series No. 57*
9. **James L. Garrett and Tassir Islam** (1998) Policy Research and the Policy Process: Do the twain ever meet? *IIED Gatekeeper Series No. 74*
10. **V. Ballabh, Shivani Dave and Kulbhushan Balooni** (1998) Why Local Resource Management Institutions Decline: A comparative Analysis of Van Panchayats and Forest Protection Committees, *Working Paper 122*, Institute of Rural Management, Anand.
11. **G. Raju** (1997) Evolving and Nurturing the People's Institutions in Forestry: The Whys and Hows, *Working Paper 112*, Institute of Rural Management, Anand
12. **R. Prabhakar and E. Somanathan** (1999) Property Regimes and Deforestation: A Quantitative study of the Central Himalayas, *Working Paper 124*, Institute of Rural Management, Anand