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Making of the Tribal Bill, 2006-

Whose interest?

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ACRONYM

AKRSP	Aga khan Rural Support Programme
AIGF	Assistant Inspector General of Forest
ANT	Actor Network Theory
BCCI	Bharat Coking Coal Limited
BJA	Bharat Jan Andolan
BJP	Bhartiya Janta Party
CCA	Community Conserve areas
CPI	Communist Party of India
CPM	Communist party of India (Marxist)
CSD	Compaign For Survival and Dignity
DGF	Director General of Forests
GOM	Group of Ministers
FAO	Food and Agriculture organisation
FD	Forest Department
FCA	Forest Conservation Act
FDC	Forest development corporation
FDS	Forest Dwellers
ICFRE,	Indian council of forestry Education and Research
IFA	Indian Forest Act
IIPA	Indian Institute of Public Administraion
ILO	Indian Labour Organisation
ISI	Indian Social Institute
IUCN	International Union for Conservation of Naure
JFM	Joint Forest Management
JPC	Joint Parliamentary committee
MOEF	Ministry of Environment and Forest
MOPR	Ministry of Panchyati Raj
MOTA	Ministry of Tribal Affairs
M P	Member of Parliament
NAC	National Advisory Council
NCA	National commission for agriculture
NCMP	National Common Minimum Programme
NFC	National Forest commission
NGO	Non governmental Organisation
NTFP	Non timber Forest Produce
NAPM	National Alliance of People's Movement
NCAS	National council for Advocacy Studies
NDA	National Democratic Alliance
PESA	Panchyat (extension in Scheduled Area) Act
PMO	Prime Minister office

SC	Schedule Caste
S.C.	Supreme Court
SECL	South eastern Coalfield limited
SFD	State Forest Department
SPWD	Society for promotion of Wasteland Development
ST	Scheduled Tribe
TISCO	Tata Iron and Steel Company
TSG	Technical Support Group
WCL	Western coal field limited
WII	Wildlife Institute of India
WPA	Wildlife protection Act
UPA	United people's Alliance
UT	Union Territory

Chapter -1

1. Introduction --- Research issue

For social ecologists and activist, the statutory recognition of forest dweller's individual/communal ownership over forest land and resources in India is an historical moment in reversal of marginalization of Forest Dwellers (FDS), opening up new horizons for them. The enactment of "The Scheduled Tribes and other traditional Forest Dweller (Recognition of Forest Rights) Bill" in Dec, 2006 herein referred to as the "Tribal Bill" has been considered as a remedy to undo historical injustice meted out to the forest dwellers regarding title, access, management and use of forest land and forest resources taken away during consolidation of the state forests during medieval period, colonial period as well as in independent India. That is why, this policy is supposed to provide an institutional framework for recording and subsequent recognition of forests rights (Ministry of Tribal Affairs, Government of India 2005).

The passing of tribal bill has led to vicious debate on issues of forest rights of forest dwellers including ownership of land, forest and wildlife conservation and management including earlier traditional management with the perspective of equity and justice, by different interest groups like, rural social activist, environmentalist, wildlife conservationist and forestry professionals (Gadgil and Guha 1995). The tone and tenor of different groups has changed at different point of time during the agenda setting and passing of the bill by the Indian Parliament.

1.1 History-ing ownership interest of different groups on forest land

The narrative of the forest dwellers and local communities being destructive user and an impediment to scientific management of forest had led to state control of these common resources either by expelling people from the forested area or by restricting their access. This view based on the Tragedy of commons (Hardin 1968) led to alienation of the local community. This has happened mainly in three periods, firstly in 2nd half of nineteenth century during the consolidation of forests by the British, secondly at the time of independence during the abolition of the Zamindari and princely states and lastly the continuing phase of modernity and industrialization in the post independence period (Mayers and Morrison 2000: 43). However the interest behind these phases were similar like supply of timber and raw material to industry by restricting the access of locals but focus were different like colonial revenue in first phase, national development and modernization paradigm in second and third phase. Since the mid-nineteenth century, more than 23% of India's land area were brought under

state management, displacing an estimated 300 million rural resource users including forest dwellers (Poffenberger, 1993). With the erosion of forest rights of forest dwellers, conflict between state and forest dweller increased tremendously and even led to violent reactions basically based on two reasons, firstly, alleged illegitimate state control and secondly, commercial exploitation undermining local subsistence economy (Guha and Gadgil, 1995; Corbridge and Jewitt, 1997; Khare 1998 in Kothari 1998).

1.1.1 Scenario after independence

Since independence, the forest policy and management have undergone substantial changes towards neglect of the local's need and commercialization as per the modernization paradigm of 1960s (Hobley, 1996). The corporatisation of forest harvesting for timber and other forest produce in 1970s, conversion of low timber value mix forest into high value pure monoculture commercial forest on the suggestion and assistance of international institutions and National commission for agriculture (NCA) to increase the productivity of forest areas (Mayers, and Morrison, 2000:46) also led to the alienation of the local community. This period witnessed intense struggle over forest resources between local community and other interests like industrial lobby, miners, urban elites, conservationists in the form of mass movements like Chipko and Jharkhand to protect their livelihood interests. However the nature of protest varied from the grassroot social resistance within its cultural context of 'tree huggers' i.e. chipko (embracing) the tree in Uttarakhand (Guha 2000; Rangan: 2000) to mass felling of Teak and sal trees in Jharkhand (Corbridge and Jewitt 1997). In late 1970s, Social Forestry in most states started on degraded land as a government project with help of foreign agency to meet local needs'. It has been argued that the intense focus of funds and energy on private and common lands in India with start of Social Forestry redirected attention away from investment and management of natural resource (Arnold et.al., 1987a & b; Chambers et.el. in Hobley, 1996). The failure of developmental efforts accentuated the welfare of the local communities and they remained below the national average in Human development index (Munda 2002). This further alienated the local community. At the same time, community involvement in forestry was successfully started in 1970's at Arabari in Midanapore district of West Bengal by the Forest Department (Gadgil and Guha, 1995: 169).

However, with the emergence of the environment particularly conservation of forests as focal issues in international relation in late 1970s due to interest of environmentalist lobby, the Forest Conservation Act was enacted to check diversion of forest land for non-forestry purposes. According to forest survey of India, between 1951 and 1981, a total of 4.238 million ha of forest land was diverted for purposes like river valley projects, highways and industries. This act made the cheaply available forest land scarce and costly. Though the rate of diversion came down from 0.15 million hectare per annum to 0.036

million hec/annum, the process antagonized the powerful political class, bureaucratic class and industrial lobby of mining, industrial and hydro power sectors due to non-availability of forest land for land distribution (called Patta), developmental work, industrial and mining projects and hydro project and its rehabilitation project respectively. At the same time it accentuated the insecurity of forest dwellers. Since most of forest dwellers have no written records regarding their rights, their position became ambiguous to the extent of being termed encroacher on their own ancestral land. It resulted in three situations, firstly people in possession of the land but not in government records, secondly, disputed claim over forest land due to earlier settlement process and lastly, ambiguous status of forest village. To settle above issue of insecurity of the local community, the ministry issued three circulars/regulations in 1990. However, due to Supreme Court's intervention and non initiation of process by state governments, these issues could not be solved completely.

1.1.2 Changing Paradigm Shift in late 1980

By the late 1980's the inadequacy of this top down approach excluding local community (Pimbert and Pretty 1998 in Kothari 1998) led to rethinking on policy intervention for conservation of natural resources by involving the local community. The structural adjustment programs advocated by developed nations and international institutions to overcome their fiscal crisis and the collapse of socialism in late 1980's (Reed 1996:11) led to the subsequent dominance of neo liberal policies. The emphasis on social process oriented development strategy of international NGOs and international institutions also strengthened the role of civil society and local institutions. These factors resulted in diminishing the role of the state in major sectors, push for privatization of major sectors of economy and subsequent withdrawal of state from most of the sectors and delivery system (Reed 1996 :13). These factors led to the 1988 forest policy accepting the key role of local communities, called participatory forestry (Hobley, 1996) but focus remained on conservation. An innovative approach of participation of local communities in protection and regeneration of the forest was tried in lieu of free usufruct of NTFP and sharing of timber. This policy of Joint forest management was partially successful and now is being tried for all afforestation and reforestation works. In most of the states, the extraction of non timber forest produce was made free. It has resulted in networks of local communities having voice in the forest management though the issue of equity and justice remains unresolved. In the late 1990's this issue in community participation was tried to be understood in terms of nature of power relation in rural societies so that elites do not dominate (Agarwal and Gibson 1999: 20; Leach, Mearns and Scones 1999, in Kerr 2001). The exclusion of women, poor and powerless from organization and benefits became clear and need was felt to protect them (Zwarteveen and Meinzen-dick, 2001; Kerr, 2001; Buchy, and Subba, 2003). Jeffery and Sunder(1999:46) calls these communities as constructed communities with harmonious structure. But in reality, they are

hierarchical and conflict ridden having individuals with multiple of different relationships resulting in "little Traditions" of Indian villages (Jeffery and Sunder 1999 : 35). Agarwal and Gibson 2001 argue that instead of considering communities as homogeneous social structure and a small spatial unit with shared understanding and identities, focus should be on divergent interests of multiple actors within communities, the process through which these interests emerge and through which various actors interact with each other, and the institutions that influence the outcome of political process (Agarwal and Gibson 2001: 14). It has also been argued that these issues tend to manifest themselves where state 'withdrawal' or redefinition of government roles in relation to resource management leave new empty spaces that may be occupied by other powerful actors. Thus community management as a strategy has definite limitations and calls for reconsideration of the strategy (Doornbos, Saith and White 2000:8). The viability of participation of community in small scale sectoral units it self has been questioned within major structural problems of lack of real participation in influencing the entire direction of the political process (Sunder and Jeffery, 1999:50).

1.1.3 Status of community management

Though community management regimes have been tried in natural resource management in more than fifty countries (Agarwal and Gibson 2001: 1) and studies have also shown their potential (Ostrom 1990 and McKean 2000 in Agarwal, 2005: 207), the studies have not shown their sustainability within the political economy of the modern states and the ongoing political and economic process resulting in social changes. Only recently political ecologists have tried to locate involvement of local community in natural resource management policies in overall framework of modernity and global capitalism. Most studies have shown the subsistence based natural resource management based on communal forms is mostly out of step with modernization vision of state. Contemporary patterns of economic growth, modernization and nation building, all have strong anti-participatory traits. The integration of rural communities and local communities into larger, more complex, urban centered and global system often stifles the capacity for decision making the local community might have had (Pimbert and Pretty 1998 in Kothari 1998). However, Jeffrey Sayer (2005 :73) argues that growing recognition of rights for indigenous and other local communities are not only an issue of justice but also convergence of economic development and environmental protection agendas with more secure rights, long term financial incentives for converting their forest resources into economically productive assets for their own development. The dominance of market has led to refocusing on environmental services as property rights for marketing. However the experience of privatizing forest lands in Costa Rica (Pearce 2004) has not been very promising as sustainable forestry pays less than unsustainable forms of land use.

Then question arises why did the Government chose the community/individual ownership based management? I argue that participatory forestry mainly lies in the battle for ownership of forest lands to correct the skewness towards state ownership (Hobley, 1996). The present policy of recognition of rights of forest dwellers over forest land has the stated reason of correcting this imbalance. I argue that this policy change is due to result of coalition of different interests of actors, affected by the previous forest conservation centered policy and its strict implementation. I further argue that this alliance, in tandem with biomass based local communities and different political parties succeeded in center staging the issue leading to loosening of state control on forest land.

1.1.4 Other factors

The other factors like eviction orders of 2002 for eviction of encroachers and various Supreme Court's order provided the trigger (crisis by Grindle and Thomas :73-75) for agenda setting (Theodoulou, and Cahn, 1995: 98-109). The rise of leftwing militancy in most of the forests of central, east and south India and emergence of tribal as strong electoral lobby, united the right, centrist and left parties on the issue and provided the priority in parliamentary matters. Finally the general devolution of power to Panchyat under PESA, 1996 in all sectors except forestry also contributed to the bill. The emergence of strong NGOs supported by international NGOs also made the policy viable through their inputs regarding capacity of local communities in managing forests.

1.2 The contemporary Scenario

India is a 'mega-diversity' country, with juxtaposed situation of forest, tribal and forest dwellers and poverty, highlighting, interlink among FWS, forests and poverty (Mayers and Morrison 2000: 24). Gupta et.al. (1981: 9 in Fernandez 1983) consider forest as the foremost factor in tribal economy, culture and religion (Fernandez 1983:9). The relationship between the diverse communities of India and its biological resources are key to the conservation strategy in India. However the current forest scenario is quite contrary. The people supposed to protect the resource are themselves threatened, displaced and harassed.

As on September 2003, around 13.43 lakh hectare of encroached forest land (2% of recorded forest), 2690 forest villages and many forest land settlement disputes in various State and UTs could not be regularized as per guidelines of MOEF issued in 1990 due to non-clarity in criteria for identification of claimants. However there may be many more unrecorded instances to be added to records (MOEF 2004:72)

Research shows that the number of displaced tribal till 1990 is about 8.54 million (55.16% of total displaced), an alarming figure in correlation with 8.34 % tribal population, of whom 64.23% are yet to be rehabilitated (Fernandes, W 1994; MOTA 2007). Out of this, only 0.6 million is displaced due to park and wildlife operations. The tribal lost their land and economic opportunities to non-tribal. In major public and private sector projects like TISCO, Jamshedpur; BCCL, Dhanbad, tribal employed were less than 5% (Saxena 2001). This situation is quite contrary to FD's vision for the forest sector (India's Forests 2007: 02).

In view of this background and context, this paper will map out the role of different actors and their network in the policy making process of this bill.

Chapter—2

Theoretical Framework and methodology

2. CONCEPTUAL FRAMEWORK

The present research tries to understand the ideological and methodological struggles in and of the process of making of tribal bill. How various groups and actors having varying interest and power struggle over the forest land and resources and make alliances and collaboration during different stages of policy making. This will bring out the dominant interest group behind the bill.

2.1 Policy Process

Policy process shows how a political system goes about transforming public demands for government actions arising from the socio-economic environment into a public policy (Miyakawa, 2000:1). Anderson, Brady and Bullock (ibid: 12) defines the public process as six sequential stages i.e. problem definition, policy agenda setting, policy formulation, policy adoption, policy implementation and policy evaluation. Miyakawa (2000:1) considers the problem identification highly political in nature, reflecting the various interests and commitments of different parties and interacting dynamically with other activities in the policy process such as formulation and implementation. Peter argues that agenda setting is an intensely political activity where rational policy plays a minor role (Peter 1993 in Miyakawa 2000: 469).

2.1.1 Approaches to Policy

Grindle and Thomas (1991:19-29) identifies two approach to explain policy changes, firstly society centered and secondly, the state centered. Society centered approach emphasize the centrality of social class and interest group formations to policy choice and places less emphasis on values, perceptions, behavior and institutional contexts of public official. State centered approach focuses first on the perceptions and interactions of decision makers and others in particular organizational contexts in government.

In most studies, the role of most disadvantaged group with least or no power has not been given sufficient attention due to adoption of state centered approach instead of society centered, with policy elites as main actor in third world. It is argued that due to lack of strong interest group and civil society, mostly policy elites shape the policy making (ibid: 32). However, I argue that in case of India in case of forest policy having mostly poor stakeholders and having strong interest groups, civil societies and democratic institutions, the policy making can be considered as power struggle between competing interest groups

at different level. Still better will be to understand the role of different actors in different stages of policy making. Thus application of actor oriented approach and actor network theory to traditional stages of policy making under society centered approach will be particularly relevant and will throw light on struggle between most powerful and least powerful interest through their collaboration and alliance resulting in different networks. This research paper analyzes this process at initial four stages by locating different views and their actors and their interaction through society centered approach.

The lessons learnt from here will be very useful in future policy process affecting so many actors. It will also help in proper adoption of caution in the implementation of the bill by thwarting hidden interests of different actors.

2.1.2 Concepts of Participation, Forest dwellers and interest group.

Participation

There is wide diversity in interpretation of participation and empowerment. Here, 'instrumental participation' defined as a means to end (Oakly 1991; Nelson and Wright 1995 in Mahanty 2000) and typology developed by Pretty based on local control and involvement has been used (Pretty, 1995: 173 in Mahanty 2000). It tries to differentiate the participation on the basis of external and internal actors. However, the issue of equity, gender and justice is very critical in the participation.

Forest dwellers —

The concept of forest dwellers in the bill includes both scheduled tribes and non scheduled tribes (settled there for last three generation or 75 years). In fact, scheduled tribes under Indian constitution are like indigenous population. ILO has defined indigenous population as having pre colonial distinct social, economic, cultural and political institutions (ILO Convention 169 Concerning Indigenous and tribal people in indigenous countries, article 1 in Mahanty 2000). However, the forest dwellers includes not only all tribal and non tribal but also pastoralist, peasants, fisherman and industrial wage workers, living there for more than three generation or seventy five year.

Interest group

Any group having specific claim on resources under contention, and lobbies actively to defend and promote their interest works are called interest group. These groups promote their interest through sophisticated theory of resource use so that their interest looks like congruent with general interest of the society as a whole (Gadgil and Guha, 1995: 99) e.g Scientific (Ibid: 153).

2.1.3 Actor oriented approach and Actor network theory

The actor oriented approach considers the central role played by human action and consciousness (Long 2001:17) and explores how social actors are

locked into a series of intertwined battles (interactions, negotiations and social struggles) over resources, meanings and institutional legitimacy and control (Long 2001:1).

Herein the term 'actor' is used explicitly to denote individuals or social groups (called social actors) with the capacity for agency, for decision making and action (Hindess 1988: 45; Long 1992:22-3; Ramirez 1999:110 in Mohanty 2000). Only stakeholders empowered with knowledge and capacity are considered as social actors. For instance poor tribal can be a stakeholder but are not actors as a individual.

Lastly, the concept of agency in this approach is quite different from self interested individual, homo-economicus, leading to the tragedy of commons concept (Hardin 1968). It considers the behavior and interaction of actors, and between actors and society, in process oriented terms to investigate process contextually.

The actor oriented approach is valuable as a framework for analyzing policy making as an arena for negotiation and knowledge creation, and the interface between actors and societal process and the ways in which actors are able to gain dominance.

Actor network

Actor Network is basically a network of ideas, interpreted and brought by various researchers rather than a coherent set of ideas or practices (Latour 1999: 20 in Mahanty 2000). Latour argues that agency is embodied in social relations and can only be effective through them. It is not simply the result of possessing certain persuasive powers or forms of charisma. It depends crucially upon the emergence of network of actors who partially enrolled in the project of others. It then entails generation and use or manipulation of networks of social relations and of channeling of specific items such as claims, orders, goods, instruments and information (Long 2001: 17). Thus the ability to create networks and enlist other actors is very crucial. Thus I argue that the individual and social actors are capable of agency beyond their institutions and in the process often forms discourse coalitions (Giddens 1984 in Mahanty 2000: 57). It also helps in understanding the transformation of ideas as it pass through different actors. The symmetry in efforts of initiators to enroll and control human and non human resources is remarkable. When the policy making is seen as a process of network building, initiators needs not only to engage with enrolled but also with those who are not enrolled (Latour 1987: 144, 176).

Lastly this kind of policy formulation cannot be explained only as local issue/event. In fact, the local interactions are only part of wider socio-politico and economic context and are supported by different national and international actors. These alliances can be analyzed by using Actor network Theory (ANT).

ANT approach emphasizes overall system rather than the particulars of individual and social actors that comprise the nodes in the network; particular actors have significance only in relation to broader network of which they are part (Latour 1999; Law 1999 in Mahanty 2000: 52). Both approach is required for analyzing the policy process as the actor foci is essential for understanding the internal processes and heterogeneity at local level having impact on their role with other organization and at same time overall system approach helps in understanding the role of various actors in whole process (Mahanty 2000: 52). In case of multiple social actors and multiple realities, implying potentially conflicting social and normative interests, it is looked at the issue of just whose interpretations or models (e.g. agricultural scientists, politicians, farmers or extensionists) prevail over those of others and in what circumstances.

2.2 ANALYTICAL FRAMEWORK AND METHODOLOGY

2.2.1 Concept of Forest right and conservation

In the present paper also, there are various views on the forest land and resources and their management resulting in heated debates and disputes over meaning, interpretation and alternatives for policy. The main focus will be on four main elements of policy change i.e. forest rights including land ownership of forest dwellers; forest conservation and management, state ownership and community participation; capability (traditional vs. technical knowledge) of forest dwellers; equity and justice issues.

Here forest rights means recognition of occupation of forestland and their habitat, right of access to, use or dispose of minor forest produce, right to conserve community forest, other rights of uses or entitlements such as grazing, right of habitat and habitation for primitive tribal groups and other traditional and customary rights. The maximum four acre of land can be considered for individual or community, who has occupied land before 13th December, 2005. However these rights are heritable but not alienable or transferable (Ministry of Tribal Affairs 2006). The forest conservation includes state ownership over forest land and government controlled conservation, various forms of community based management and related exclusion of poor and women. These conservation measures are based on technical knowledge. In a highly heterogeneous society, the issue of gender, equity and justice is very relevant for local community especially for poorer and less powerful sections like landless, women etc.

2.2.2 Actor and their Network

The views of actors and their network are bound up with political power. The identification of different views will help in identifying the actors but not exactly the powers behind them and how much they can influence public policy.

The research will try to locate different views and their actors, through the analysis of documents and literature with focus on who said what, when and why and to what effect through historical narrative of the process of policy reform/change since 1980, particularly after 2001. The focus in this analysis will be on their assumptions, interpretation and views on four element of the bill.

Actors and social actors

The perspectives, practices and strategies of actors in the policy making will help in their identification. The focus of analysis will be on definition of actors and social actors, documenting their practices (like subsistence and shifting cultivation), their interpretation (as sustainable by tribals) and meaning (forest right as ownership of forest land and resources) of main themes, process of knowledge/power construction (strength of traditional knowledge and skill), critical events (like colonial actions of state control) as defined by actors as limitation on existing institutions (command and control system of forest management), location of actor (local, national or international) and outcome perceived by them. These criteria will map out different actors and their interactions. It may be group, alliance and organization like government agencies, tribal and right based non-government organization, professional bodies and charismatic and vocal individuals. Though caste, class or gender are not considered as factors for defining actors but in the peculiar Indian context, it may be considered as tribal right and conservation are deeply related to these factors.

Actors and Institutions—

The role of institutions, both formal and informal in analysis of actor's relationship with each other will be examined and implication of policy change on present institutions will also be assessed where ever necessary.

Actor network—

The analytical task will be here to analyze and map this network, and study the differing strategies of actors, the condition under which they arise, their viability or effectiveness for solving specific problems, and the implication for broader outcome (Long 1992b:27 in Mohanty 2000). Main focus will be on mapping actor network, their strategies and examination of process of transformation of ideas in networking process.

2.2.3 Sources for Data—

The research is based on review and analysis of different texts, historical as well as contemporary from different sources like books, journals, newspaper, and websites of different organizations. To understand the views of different actors, I have mostly analyzed their comments to Ministry of Tribal Affairs (MOTA) on draft tribal bill, memos to Joint Parliamentary Committee (JPC) and websites of different organization. Mostly Government orders,

correspondence between ministries, policies of different organization through their websites, newspaper items from 2004 to 2006 have also been used extensively for analysis. These texts and records have also been used for identifying different interest group and their actors. The parliamentary proceedings, recommendations of JPC, proceedings of different committees and proceedings of National Advisory Council (NAC), Forest survey of India's report, publications of MOEF has also been used.

2.2.4 Limitation of research

The research topic has large number of interest groups having various actors from different strata of society; I could not consider all actors in a comprehensive ways. Thus the present effort can be reflective only and in no way a demonstrative or prescriptive.

Though lot of literature and case study using this methodology is available for implementation and monitoring, it cannot be exactly used for earlier stages of policy making.

Lastly, though I have tried to approach this research topic without prejudices and pre conception about forest rights of tribal, the methodology applied has helped me a lot in controlling these factors.

2.2.5 Organization of Chapters

These actors, their network and their views at different stages have been analyzed in Anderson et. el. framework of sequential stages to assess their differences, struggle over views and inherent power relation and conflict in relation to the bill in different chapters as given below--

TABLE --A
Stages in the Policy Process in different chapters

Chapter /stage in policy making	Actions	Work done in the chapter
Chapter—2 Conceptual and analytical framework	Different def and concepts to be used	Concept of policy process, society centered approach, participation, forest dwellers, participation, actor oriented approach and their network has been discussed.
Chapter- 3 Identification of interest group and actors	Identification of interest groups and their actors and their evolution	Identification and historical evolution of interest group and their identification
Chapter—4 1st stage- problem formation	Getting the government to see the problem	NCA report of 1976, FCA, 1980, draft forest bill of 1980s, National forest policy, 1988 and the new draft bill of 1994 led

		to identification of forest rights as main problem.
Chapter—5 2 nd stage—agenda setting	Getting the government to begin to act on the problem (2002- 2004)	Eviction order provided the trigger for agenda setting and 2004 general election made it Political agenda of most political Parties. Part of national common minimum Programme (NCMP) of UPA in 2004.
Chapter- 5 3 rd stage – policy formulation	The Government's proposed solution to the problem (2004- 2005)	Discussion at NAC, PMO, MOTA and MOEF for alternative solutions like Maharashtra model, finally opting for new legislation
Chapter- 5 4 th stage— Policy adoption	Getting the government to accept a particular solution to the problem	Formulation of new draft legislation by MOTA with the help of TSG and heated debate by different interest group on draft and final bill introduced in the Parliament.
Chapter- 6		Discussion on Networking in view of ANT theory, its impact on the policy formulation, role of international actors and finally conclusion of reseach issue.

Source: Anderson, Brady and Bullock in Tadao Miyakawa, 2000:14).

The qualitative analysis will be done with the help of documents available. This will give the dominant role played by different social actors and causal relationship for their dominancy in policy making at different stages.

Chapter III

Identifying interest group, actors and their network

3. Identification of Interest group and their actors

Having varying tangible and intangible benefits to a such a culturally stratified society from forest resources including land has created varied and multiple interest groups at local, regional, national and international levels having diverse actors located in different strata of the society. The group may vary from naturalist and wildlife conservationist having the interest in keeping forest isolated for wildlife from forest dwellers under state control at one extreme to deep sociologist having interest in giving back forest to tribal as it has been snatched away from them. Some interest group like social activist may have subsistence and development objective through the functions of forest based on biomass and non biomass production as in case of forest dwellers. Lastly some group like scientific forester may have developmental objectives through commercial interest like woody biomass, mining, hydro power generation for the national consumption. By using theory of human and natural good to legitimize their claim on forest and its resources, these groups present their interest in such a way that it looks like congruent with general social interest. However, the slow response of forest administration and policy makers to competing demands of varied interest group based on imperatives of ecology, equity and efficiency specifying specific roles for state, market and local community (Gadgil and Guha, 1995: 149) led to crisis and conflict during last two centuries.

I have tried to identify different interest groups and their actors, their interests, assumptions and interpretation of usages using the classification of Gadgil and Guha (1995:98- 107) and different environmental discourses of Dryzek (1995), mainly focusing on the literature review and review of the views and opinion expressed during the process of tribal bill making. I have concentrated on tribal's practices, their interpretation, meaning, knowledge/power relations, critical events and existing institutions and their location. I have tried to analyze around 5634 individuals/organizations comments on Draft tribal bill, 2005 and 109 individual/ organization's comment to JPC.

Table ---B
(Identification of Interest groups)

Sources (1)	Interest Group (2)	Actors (3)	Assumptions/Views/Opi nion/discourse (4)	Interpretation/ views on four elements (5)
Elwin (1960), Nehru's panchsheel , Fernandez (1996), Gadgil and Guha (1995) Vandini Sunder (1999) Buchy (1996), Sivaramakrishn an (1999), Rangarajan (2004), Comments to MOTA and JPC	Rural social activists. (Work among people dependent on forest for a variety of economic needs, both subsistence and commercial i.e their livelihood)	In initial phases and since 1990's, National Government and MOTA, civil society groups representing hunter gatherer, shifting cultivators, Pastoralists, artisans, landless labors, and farmers. Human Right groups, political parties especially left parties Academician, Sociologists, Indigenous groups Semi Religious Organizations , Different unions linked to left parties. International organization like ILO, World Bank, Local community and local institutions.	Collective consciousness regarding their inhabitants due to location of villages on the sites for centuries. Tribal are integral to survival of forest and wildlife. They have a symbiotic relation with forest. Recent phenomenon of state usurpation of the forest strongly opposed by them and considered as illegitimate and responsible for deforestation. Undermined their local subsistence economy and allowed other interest groups to exploit it. High reliance on traditional knowledge and skill in conservation	Forest rights over land and access are basi rights to be given to forest dweller for their livelihood and commercial interest. It must be heritable and alienable, however this has been contested by others on ground of alienation of land in favor of dominant section of society. Forest rights free of all encumbrances Sustainable forest conservation is in the tribal ethos since time immemorial using local knowledge and traditional customary laws. Joint forest management as equal partner otherwise community individual ownership.
Forest Act of 1927 and British	Scientific forester (Actual	Central and State Government particularly Forest	State ownership as a prerequisite for forest conservation for	Resources to be managed for national goals of modernization.

<p>Settlement records</p> <p>NFP, 1952, Reports of NCA, 1976</p> <p>Different working plans of different forest division</p> <p>Judicial intervention/orders</p> <p>Buchy (1996), Sivaramakrishnan (1999), Rangarajan (2004)</p> <p>Representation to MOTA and IPC</p>	<p>territorial control, Adjudication of interest of all competing interested parties on Forest in scientific and objective manner)</p>	<p>Departments. Scientific and Research institutions like ICFRE, WII etc</p>	<p>rational planning at national level to maximize revenue and timber production.</p> <p>Tribals not integral to forest but beneficiary for their survival.</p> <p>Biotic interference is detrimental to forest</p> <p>State control due to increasing population and limited carrying capacity, state</p> <p>Efficient Conservation with scientific expertise</p> <p>JFM in implementation of rational planning</p> <p>Administrative rationalist and follows colonial and neo colonial views.</p>	<p>Only user's right to tribal.</p> <p>Traditional knowledge cannot sustain the conservation measures in light of increasing human and cattle population</p> <p>More investment and institutional reforms at a lower level can lead to equitable and judicious availability of forest good and services to different sections of Society.</p> <p>State controlled or state owned community management</p>
<p>Trade reports, government records, import and export data journals, Mayers and Morrison, 2000</p> <p>Representation to MOTA and IPC</p>	<p>Urban middle and upper class consumers, Big medium and small farmers.</p>	<p>Environmental NGOs, Vigilant citizen.</p> <p>Conscious Urban population but not very active and coordinated action, however most of the wild life conservationists comes from this strata.</p> <p>Beneficiary of intangible benefits of ecological services</p>	<p>No clear opinion but mostly want forest in state ownership.</p> <p>Forest as a national resources</p> <p>Concerned with cheap material, ecological security and water problem.</p> <p>Modernity and development narrative</p>	<p>Limited forest right to use it</p> <p>No ownership transfer</p> <p>Forest conservation is essential for development</p>

		provided by the forest		
Government records, MOEF, MOTA and committees's reports, Representation to MOTA and IPC	Commercial users (Modernization through industrialization)	Post- independence Indian government, Industrialist, mining firms, hydro electric power generator companies Eco-tour operators, Developed industrialized countries, Neo-liberal politicians	<p>Promethean view of nature, forest as a source of raw material for modernization through industrialization of the nation</p> <p>Cheap forest land and forest produce for the modernization and wellbeing ness of the country.</p> <p>The new version is sustainable development which claims to harmonize ecology and industrial development through judicious use of natural resources.</p> <p>Development narrative/modernity</p>	Forest right including ownership if it did not jeopardize the health of forestland and resources

<p>The writings of of the English wildlife conservationist ; ex-hunters, ex kings and princes Mild life research organizations, Representation to MOTA and IPC</p>	<p>Wildlife* conservationist (to maintain the nature in its original condition so that wild life can survive either by excluding local or including in management.</p>	<p>Naturalist, concerned citizens, wildlife NGOs, Ex- hunters, Ex- Kings and princes, Environmentalist , National Government and State Forest Departments, local conservationists, Animal rights group Strong support from recent biological and philosophical 'biocentricism' debate Small in number but influential due to to their similar educational and cultural background with the officials. However some grass root environmental and Wildlife NGOs consider community participation important</p>	<p>Preservation of unspoilt nature and biodiversity, aesthetic values of wild species All assumptions of scientific forester with emphasis on wildlife particularly large animal as placed at higher rank in food web chain. Emphasis upon the intrinsic rights of non human species Deep ecologist</p>	<p>Same as in scientifi forester except emphasi on carrying capacit leading to animal huma conflict</p>
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Source: Gadgil and Guha 1995, and Kumar,S 2006

I have not separately mentioned International institutions and organizations as a interest group in a separate category but it has been located in different categories as influential actors. Since most of these actors work as actor for other interest groups, its separate recognition would have hidden the interlink ages of different domestic groups with international network. The institutional context also plays an important role in policy making. It may be codified legislation and policy or informal norms for interaction (Mahanti 2000: 101).

Thus Saxena et.el (2000:46) argue that in any apparently homogenous group, there are goodies and baddies, intransigent conservatives and flexible

radicals, and people may play all of these roles, or move between groups, at different time.

3.1 Pre independence forest rights --- Phase of Eminent domain

Prior to scientific management of forests by Britishers, little trade in forest produce due to low demand, easy availability of forest land for cultivation, settlement of forest land for cultivation as in Bengal and Punjab, vesting of proprietary rights in the kings and only acquired usufruct right to cultivators were the main characteristics.

The first recommendation of Dr. Helfer, permanent policy for forest administration by Lord Dalhousie and Mr Dietrich Brandis in 1860s led to intensive survey and judicious application of forest law to constitute state forest property. For the first time the rights of people to use these forest was restricted by legislation (Ribbentrop. B, 1900)). It shows the lack of understanding among the then policy makers, of social and economic ethos of the local community. Gadgil and Guha see this neglect of community management as their greed for revenue and timber harvest with the help of upper strata of the society. However, the resultant tribal rebellions like the kol rebellion, 1832 and the santhal rebellion, 1855-56 (Munda, 2002) led to isolationist and non-interference policy of British in later periods. It resulted in concept of private ownership of natural resources and land along with the traditional tribal system of Governance. It led to the principle of "Eminent Domain" giving state supreme authority to own and control all the property within any territory. Though later on tenancy protection laws were enacted to restrict alienation of land from tribal to non tribal but the unquestioned rights of state to acquire land for public purposes remained (Patwardhan, 2003).

3.2 Post independence forest rights ---Continuity of policy with new elites

The Pre-Independence Constituent assembly debates reveal the contrasting position taken on the issue of the tribals, one wanted to let the tribal develop on their own genius (Verrier Elwin and Furer Haimendorf) assuming ties with outsiders as exploitative and others wanted to assimilate the tribals in the national mainstream (Munda, R. 2002 ; Patwardhan, A. 2003).

After independence the policy stressed the first position but in reality, modernity agenda with tribal development paradigm based on assumptions of non participation of tribal in process of planning and development and as an opportunity for backward, ignorant and stagnated tribal, led to development induced displacement from their traditional habitat (Patwardhan 2003 and Savyasachi, 1998). This pattern of development was particularly pronounced in 1960s after abandonment of Pandit Jawherlal Nehru's Panchsheel based on tribe's own genius (Kulkarni, 1999). Prabhu consider the continuation of this policy due to continuation of old ruling class (Prabhu in Fernandez and Kulkarni 1983: 135).

Despite emphasis on national needs and the ecological and social aspects in 1952 Forest Policy and constitutional provisions of 5th and 6th scheduled areas, protective discriminatory and reservations, operationalization of tribal sub plan, the tribal and other forest dweller community continued to lag behind after independence (Kulkarni 1999; Munda, 2002 ; Patwardhan 2003, Dreeze 2005). Saxena et.al blames irregular and incomplete settlement process for Forest dwellers's marginalization between 1947 -1950. It resulted in increase in forestland from 40 m hec. to 75.18 m hec. despite diversion of 4.23 m hec, through abolition of Zamindari and private forests (Khare, Sarin, Saxena, Palit, in Mayers and Morrison, 2000: 12 18; Dreeze 2005).

Two competing interest group, rural social activists group mainly following the indigeneity discourse and secondly commercial users following the modernity discourse emerged with scientific forester as arbitrator (Table B). The commercial user having metropolitan- secular view of nature and its economic use for the nation building relying mainly on extraction of natural resources (Kumar 2006: 21) became dominant with support from upper strata of society and planned development strategy. By sustained critique of shifting cultivation, private forest management, scientific foresters established the productionists agenda as developmental state policies (Sivaramkrishna in Doornbos 2000). Fernandez (1991) finds pace of industrialization and subsequent dislocation more pronounced in 1970s due to location of comparatively larger proportion of dams in tribal areas after exhaustion of resource in more accessible areas (Fernandez 1991 in Patwardhan 2003).

The 1960s also saw the rise of nature preservation particularly wildlife conservation and research resulting in The Wildlife (protection) Act, 1976 (WPA). The wildlife policy as per expert committee established by Indian board of wildlife opined "If this situation (colossal growth of industry and agriculture) is allowed to continue, without regard to the needs of wildlife the day is not far, when our wildlife will be extinct" (Ghorpade, 1970) in wildlife policy in India, MOEF 1983).

In 1970s, instrumentalist approach of National commission on Agriculture, 1976 recommended for commercialization of forests with complete disregard for the sustenance of adivasi and other forest dwelling communities. It completely reversed the accepted norm for use of forests (Fernandez and Kulkarni 1996; Mayer and Morrison 2000) through conversion of natural forest into a uniform industrial cropping system, social forestry on private and public lands. Its recommendation for enactment of a revised all India forest act to reverse the destructive use of right and privileges by forest dwellers (Kulkarni, 2000: 1; Kannan 1982 in Fernandez and Kulkarni 1983: 1). The centralization trend is also reflected in the transfer of subject "forest" from state subject to central by 42nd amendment in 1976 (Saxena, et.al. in Mayer and Morrison 1995 ; 43-46).

The absence of legitimate claims over public forest domains, the limited outreach of social forestry programs meant to meet their basic demand for NTFPs, and creation of FDCs led to the inability of resident tribal groupings to utilize forest resources for their survival and subsistence. The failure of government delivery system in providing basic amenities due to its own deficiency also accentuated the welfare of the local communities and they remained below the national average in Human development index (AIGF 2005). This set the stage for mass mobilization to confront state (Kumar 2002; Saxena, et.al. in Mayer and Morrision 2000: 46; Fernandez 1983: 17). The Chipko movement and Jharkhand movement were the manifestation of opposition to these measures negating the customary rights of the tribal over forest land. Though politically and economically weak minority, these were signs of their desperation and frustration.

This period can be considered as a period wherein the forest resources were taken away from forest dwellers and placed for commercial users in the name of national interest, a phase of subsidizing the rich at the cost of the poor (Gadgil 1983 in Fernandez 1983).

Chapter--4

Social Activists --- Gathering Momentum in problem identification

4.0 Review

In the preceding chapter, I had identified different interest groups and their actors. The dominance of different interest groups at different point of time due to intra and inter group networking has been traced since start of the scientific forestry in 1850s. In this chapter struggle between different interest groups after the report of NCA 1976 has been discussed and how it led to identification of the non recognition of the forest dweller's forest rights as main problem. During this identification how different groups particularly Social activists succeeded in networking with other interest group and emerged as a major voice.

The NCA recommendations stirred the conscience of sociologist, anthropologist, historians, tribal and other forest dweller social activists. The enactment of Forest (Conservation) Act, 1980 (FCA) and WPA, 1976 with emphasis on wildlife conservation accentuated the access problem of local communities. The international concern and finance for environmental conservation also led to lot of work in social forestry and community management outside traditional forest. This period (1980--1997) saw lot of intra and inter 'interest group' interaction among actors resulting in state level and national level networks through JFM. At the same time new forest policy 1988, recognized the major role of local community in forest management but subordinate to forest conservation. By 2002, the lack of recognition of forest rights had emerged as main problem in conservation and forest dweller's well being. Thus the problem identification stage in policy making has been completed till 2002.

4.1 Centralization and Social activists

The recommendations of NCA, 1976 led to drafting of Indian Forest bill, 1980 to strengthen the forest machinery to augment the enforcement capacity to check forest destruction. Though the aim was laudable, it gave greater importance to protecting forest from tribals and forest dwellers but never tried to understand the basic cause and factors for the destruction of forest, tribe's life support system (Kulkarni in Fernandez and Kulkarni 1983: 1). This was opposed by the Social Activist group as it would have cut at economic, cultural and social life of tribal and forest dwellers (Abero, D. 1982 in *ibid*: 1). These watershed years witnessed hectic activity and networking among social activists. For the first time, social activist of different hues tried to to examine the assumptions underlying the policy. During a workshop for the discussion on the draft bill at the Indian Social Institute (ISI), New Delhi, different activists converged on the need for involvement of people's participation and adapting the policy to the economic and cultural needs of the local inhabitants to create vested interest of

FDS in forest conservation (Gadgil 1982 in *ibid*:2). Tracing breakdown of community ownership, introduction of individual rights and precedence of commercial interest over conservation before and independence, they viewed concentration on revenue as well as alienation of FDS due to industrialization and development, as main cause of unrest among them (*ibid*: 16). Fernandez and Prabhu concluded the non involvement of FDS due to perception of Forest department as a outsider (middleman of traders) and to some extent as exploiter (*ibid*: 5, 142) for their treatment as predators and thieves and non recognition of their symbiotic relationship with forest (Prabhu in Fernandez and Kulkarni 1983: 136). They were of opinion that instead of preservation, vested interest of all industrialists, government, and other enlightened citizen has to be created so that all interest group can work for the conservation of forests instead of subsidized raw material to industrialists and public sector(*ibid* : 16-22). Baxi and Joshi were of opinion that the proposed legislation gives extraordinary powers to the bureaucracy but does not take the affected people in confidence. In fact, the limited power under the present legislation itself leads to exploitation of tribal and other forest dwellers because of the control of the industrial commercial interests (*ibid*: 06). Instead of emphasis on fast growing species and monoculture in production forestry and social forestry, they advocated greater attention to the needs of the forest dwellers without neglecting the industrial and commercial needs. Their whole propositions were based on the assumption of vesting permanent interest of forest dwellers in forest conservation (*ibid*: 11). Thus social activist proposed new forest policy balancing the industrial, environmental and forest dwellers's need instead of the present approach giving little importance to the local economy (*ibid*: 16). Kannan further insists on protection of local people instead of protection of forest from local people by meeting fundamental needs of FDS for agricultural land, fuelwood, and the NTFP (*ibid*: 19). Gadgil also supported it on the basis of experience afforestation work Gujarat (*ibid*: 20 ; Gadgil and Guha 1995: 166). Thus they questioned the development paradigm itself in tackling poverty without changing the ownership pattern of forest land.

Prabhu wanted forestry for grass root level instead of working for the concerns of environmentalist, wildlife lobbies and affluent nature lovers to fulfill the needs of forest dwellers for food, fuel and fiber (*ibid*: 143). These efforts resulted in non enactment of the draft forest bill 1980. It was a big boost for the social activist.

4.2 Community as encroacher

However during a meeting with Governors and Chief Ministers of different States on 20-04-1980, Late Mrs Gandhi the then Prime Minister of India raised her concern with regarding dismal state of country's natural wealth and with the collective political wisdom of the country, Forest (Conservation) Act, 1980, a 'regulatory act' was enacted for regulation of diversion/de-reservation of forest land for non-forestry purposes (Lok Sabha proceedings 2005). Though it

resulted in sharp decline in diversion of forest land to non forest purpose but the concerns of tribal people were not taken care regarding their forest rights and it resulted in non recognition of forest rights of forest dwellers over land and resources and their treatment as encroachers completing the ongoing historical injustice to them as recognized by Dr. B D Sharma, in 29th Report of The Commissioner of SC & ST 1990 (Dreeze 2005). The status of forest land under shifting cultivation, formation of forest villages and planting of horticultural species became ambiguous under this act (Saxena 1995).

4.3 Pradigm Shift—from revenue to ecology

In 1987 the Central Board of Forestry (the then highest policy making body at central level) , in a meeting chaired by Prime Minister and all state chief Ministers accepted that the economic benefit as secondary then preserving soil and water systems finally resulting in the 1988 forest policy (Saxena 1995). It also recognized the symbiotic relationship between the tribal people and forests and called for their participation in forest conservation making their domestic requirement first charge on the forest. However, the emphasis on to ensure environmental stability and maintenance of ecological balance led to the concept of carrying capacity of the forest (MOEF 1988). This was the start of the phase of people's participation in forestry as envisioned by the West Bengal foresters in a conference in 1970s leading to successful experiment at Arabari in Midanapore, West Bengal.

This major paradigm shift in policy resulted in issuance of guidelines for adoption of Joint Forest Management by the state forest department in 1990 and 2002 (India's Forests 2007:48-50). In response to ownership and encroachment issue, 'Guidelines on Tribal- Forest Interface' were issued to deal with regularization of encroachments, review of disputed claims over forest land, regularization of pattas and lease and conversion of forest village into revenue village (MOEF 2004: 50- 59) in follow up to consensus in the state Forest Ministers Conference, Committee of Secretaries, Group of Ministers and the Cabinet in 1989. These guidelines being called 'pivot' by Jaykrishnan provided the basic principles for present tribal bill (Jaykrishnan 2005).

4.4 Joint Forest Management, PESA and people's rights

Joint Forest Management (JFM) proposition, considered as culmination of a long struggle to gain control over natural resources by and for local communities (Chattre 1996 : 113 in Fernandez et.al. 1996) has resulted in three different responses. As per Jeffery and Sunder (1999) firstly, professional NGOs like SPWD and Aga Khan Rural Support Programme (AKRSP) considered it as a resurgence of civil society and were called as new bankers and social capitalists. National Support Group for JFM by SPWD led to massive studies and identification of 'community' protection of Forest in states of Orissa, Bihar, Jharkhand, Gujarat and elsewhere. Some critics see it as a form of co-optation by the State, as a legitimate brokers with villagers. They found common cause

with donors in reducing the powers of a centralized state. Jeffery and Sunder considers loss of legitimacy of SFD, financial stringencies, and the ability to appear flexible and participatory while retaining deciding vote as favorable condition for JFM. Sunder and Jeffery calls it desert mirages– a false images of an oasis of civil society, quickly covered by the shifting sand of state (Jeffery and Sunder 1999 : 35) wherein state has control without actually managing it.

Secondly, loose coalition of activists group involved in struggle at different level by different networks came together to challenge the state's ownership of water, forests and land and the system of centralized Governance and argue for total community control by coining the slogan Jal, Jungle, Jameen hamara Hai (the water, forest and Land belong to us) and Hamare Gaon Mein Hamara Raj (Our Government in our village) The Umbrella Groups like National Alliance of People's Movement (NAPM), Bharat Jan Andolan (BJA) and Lobbying groups like SPS in Dharwad and ISI supported this view (Sunder in Doornbos, et.el 2000: 255).

The draft bill named "The Conservation of Forests and Natural ecosystems Act" to implement the radical changes in forest policy 1988, was thoroughly discussed by the coalition of social activists from different NGOs of 15 states between mid 1994 to mid 1995 in a series of meetings and presented a "People's bill" as a people's alternative in 1995. The main proponents of these discussions were Activist, academician, ecologist, historin, anthropologist, sociologist wildlifers, social activists and researcher. This showed the networking of diverse actors for tribe's forest rights in opposing the bill. They viewed it as SFD oriented conservation instead of people oriented as most restrictions were put on their rights and concession were given to industry for commercial exploitation. The tendency of centralization continued (Fernandez et.el. 1996: 17). They proposed alternative based on two prime principles, firstly safeguarding twin objective of forests, people's livelihood and conservation and secondly, to recognize JFM as the obvious way of managing forests with SFD and people communities as equal partners. They opposed the centralization trend in forest management by conferring more power on bureaucrats, opening the forest for raw material to industry, non provision for returning land to people after dereserving the reserve forests. This opposition resulted in shelving of the bill. Thus the experience gained during 1980s in advocacy of environmental issues resulted in the subsequent networking of actors of social activist group and community based wildlife conservation group.

These groups emphasized on self organization and empowerment among marginalized people then on the implementation of the 'development'. The mobilization helped in the enactment of PESA allowing for community management of resources under the Fifth Schedule on recommendations of the the Bhuria committee having B.D Sharma of BJA as a member (Fernandez et.el. 1996 : 28, Jeffery and Sunder 1999: 33). The PESA, enacted in 1996 intended to empower people through political participation, convergent community action and auto generated emancipation.

Saxena (2002) finds JFM encouraging small community based informal groups while PESA recognizing formal panchyat and Gram Sabha. Conceptually also JFM is based on the concept of care and share with people as co managers while in PESA entire Gram Sabha/ Panchyat has the ownership right without any condition to protect forest. But most of the NTFPs were state owned. At same time, PESA has lot of ambiguity leading to contradictory interpretations.

But it never become part of mainstream political or policy discourses due to minimalistic interpretation of the law as happened in case of ownership rights of tribe over NTFP in case of reserved forest beyond village boundaries and types of NTFP. Kothari (2005) argues that this lack of decentralization of authority led to demand for greater rights over forests and the present tribal bill.

4.5 Green Extremist – Naxalites

Thirdly, there are other extreme left group of Marxists and Leninists (M-L) fighting for thorough overhaul in institutional and political terms including complete control over natural resources. While they accept that forests should be protected they feel that peasants are the best guarantor of these as against the forest department. (Jeffery and Sunder 1999 : 34).

The failure in identifying actors with multiple role and relationships through different process and institutions in this phase of community management led to assumption of homogenous, small territory based groups resulting in non understanding of power relation between different actors in the overall socio economic process of the village (Agrawal and Gibson 1999: 13; Jeffery and Sunder 1999: 37). The resultant partial success for poor, women and other disadvantaged section provided space for the social activist group to grow.

The guidelines regarding the settlement of land ownership issued in 1990 was stayed by the Supreme Court to avoid misuse of the provisions. In the meantime the Supreme Court's interpretation of forest land in the Godvarman case, a public interest litigation since 1995, increased the ambit of forest land (MOEF May, 2004:45). Though primarily concerned with destruction of forest by commercial interests and powerful lobbies, S.C.'s has resulted in restriction on access/rights of forest dwellers to forest lands with enormous collateral damage, looking like favouring the conservationist lobby (Dreeze 2005).

Through out this phase international institutions played important role in promotion of people's participation in forest conservation. World Bank, FAO, IUCN and different international agencies realized the differentiated impact of traditional approach. The recognition of indigenous people's right as basic human right in different international fora and rise of right groups also defined the forest conservation as a problem of recognition of forest rights and traditional indigenous skills of forest dwellers.

By 2000, the lack of recognition of forest rights of the forest dwellers was identified as major problem through myriad initiatives and dynamic interaction of different actors of different interest groups involved in the policy process. Though these initiatives were political in nature, these were totally carried by non political party formations as called by Rajani Kothari (Gadgil and Guha 1995: 99-100). The absence of main political party across the political spectrum from right wing, Bhartiya Janata Party and left wing, Communist parties in these initiatives has been attributed to their higher leadership being integral part of the commercial interests of upper strata by turning blind eye to the continuing impoverishment of natural base and subsequent threat to the livelihood of forest dwellers (ibid:100).

Chapter—5

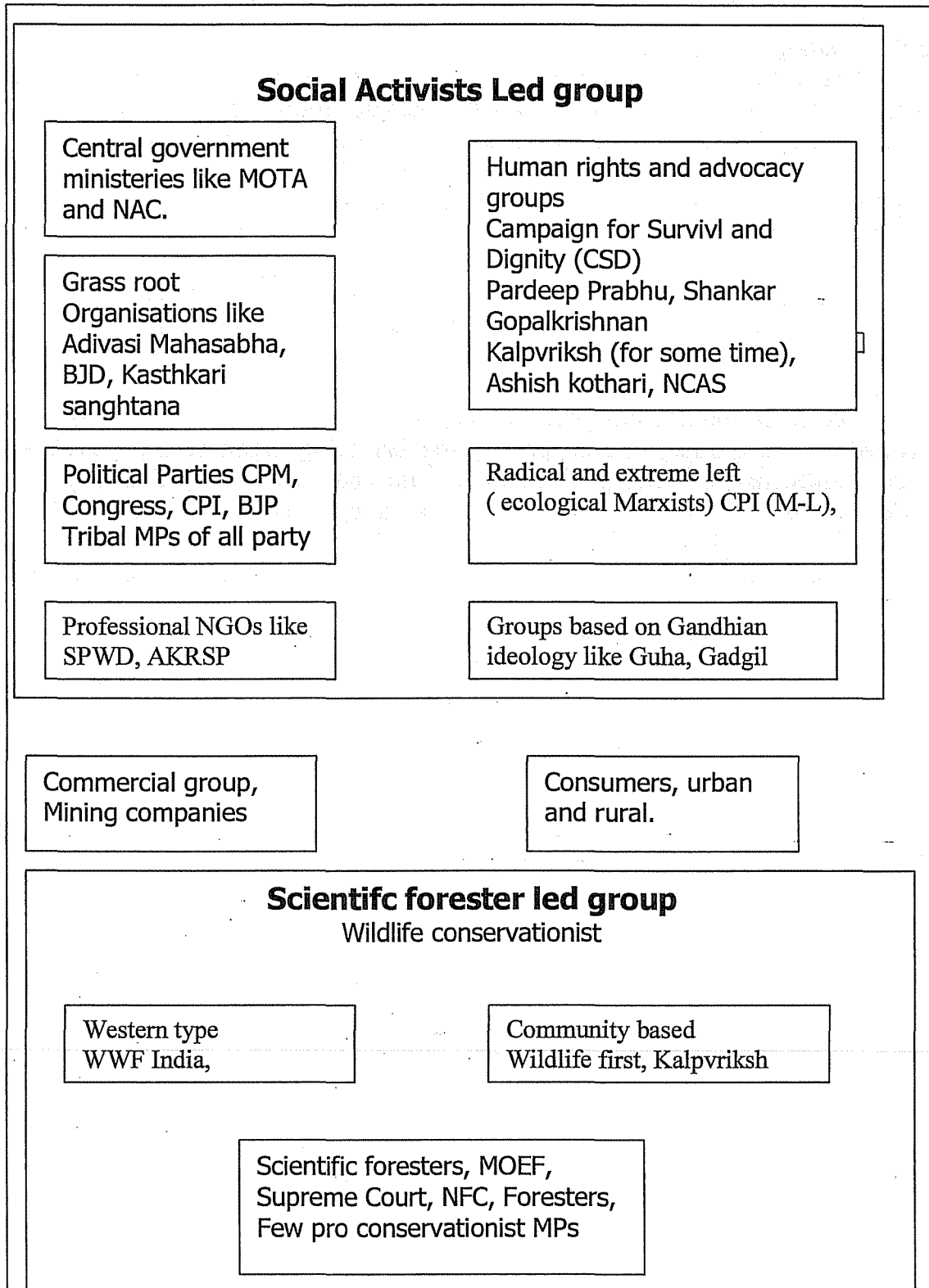
The Contested bill --- Social activist vs. conservationist

5.0 Setting the agenda

The last chapter has shown the struggle between different interest groups after the NCA report, 1976 and how social activist group, instead of professional NGOs highlighted the forest dweller's forest rights and networked with other interest groups in identifying it as basic problem. In this chapter I have tried to understand the process of policy making and role of different actors belonging to different interest groups and their dynamic and complex interaction with each other in agenda setting and policy formulation for tribal bill and How the social activist groups like academicians, anthropologists, sociologists, environmental NGO, Tribal NGOs, Human right groups, different advocacy groups for human rights and main political parties succeeded in converting eviction drive into a issue of legal recognition of traditional rights of tribal.

For actor oriented analysis, the interest groups and their actors has been divided in two groups, one supporting the bill being called social activist led group advocating ownership of individual and community and other opposing called scientific forester led group advocating state ownership with regularization of eligible encroachment. Some interest group like commercial has taken middle ground of community management with state as main facilitator. Though there is lot of heterogeneity in views of actors in inter and intra interest group, they agree on their support or opposition to the forest rights.

Box 1—Pro and Anti Interest groups and their actors



5.1 Trigger for policy shift -- Eviction order

The order of the Supreme Court in Godavarman case restrained the central Government from regularizing the encroachment without permission in 2002 on the request of Shri Harish Salve, Amicus Curiae, to check encroachment by powerful lobbies, provided the trigger for agenda setting in policy making. Earlier Supreme Court has passed many judgements like like Prabhu vs. Maharashtra case, Samatha case, and Banwasi Sewa Ashram case supporting tribal's right regarding forest land and resources vis-a vis conservation and commercialization and their restoration. However during hearing in Godvarman case it tried to rectify the forest management by strengthening institutions and legal framework through more professional approach. Its constitution of CEC consisting of professionals to assist it in forestry matters succeeded in better compensatory package for land and FDS (Dreeze 2005; Saxena 2005).

In view of this concern, MOEF advised state Governments to initiate a time bound programme for eviction of the ineligible encroachments under 1990 guidelines, by strengthening administrative machinery by involving revenue officials. It threatened to link clearance of forest land for non forestry purpose, approval of working plans and funding from Government of India to the eviction issue (MOEF 2004: 72-74; Dreeze 2005). The eviction drive perceived to be done under the Supreme Court's order led to eviction of tribal from 0.152 million hectares in most brutal manner (Dreeze:2005). It was highlighted by different right groups as violation of basic human rights i.e. right to live as propounded by B D Sharma (Sharma 1990) in 1990s.

Though 1990 notification was not comprehensive, it has resulted in regularization of tribal's ownership over .35 million hectares (around 30% of total diversion of forest land for non forestry purpose) in cases where state governments have implemented properly and made comprehensive criteria for identification of FDS as in Maharashtra, Gujarat, Kerala etc. But The first serious attempt to evict illegal encroachers without deciding implementable criteria for eligible encroachers and their identification, provided the rallying point for collaboration of different social activist group like environmental NGO, Tribal NGOs and Human right groups. While seeking judicial help, petitions to SFD and protest through local demonstrations, even jail bharo andolans (NCAS 2005) succeeded in placing the issue as a socio economic issue concerning the tribal life instead of professional forester's presentation as purely technical issues, the earlier use of political technology (Bene 2005) by scientific forester did not work this time.

5.1.1 Networking the action

In a co-ordinated move to thwart large scale evictions, the forest dwellers in various States of Orissa, Maharashtra, Gujarat, Rajasthan and Tamil Nadu, West Bengal, and Madhya Pradesh started filing thousands of claims towards ownership of their lands in the office of the respective District Collectors with the

help of many individuals and grass root organizations (Annexure---I). This process finally resulted in the formation of a federation/network, called Campaign for Survival and Dignity (CSD) in 2003. The historic occupation of the Muthanga wildlife sanctuary and subsequent brutal state action, successful use of a film on brutal eviction of tribal in Madhya Pradesh by CSD in collaboration with NCAS has also drawn attention of Government officials, policy makers, legislators and others (NCAS 2004).

Box 3-- Campaign for Survival and Dignity (CSD).

Being a network of more than 200 organizations from 11 states consisting of grass root organizations, advocacy groups and human rights groups, unions having leaning from left to right wing political aspirations it proposed a new conservation regime based on recognition of traditional rights of tribal over land and forest resources, through a democratic community based process. In fact, it considered the non-implementation of PESA even in tribal leadership dominated states as main cause for the bill.

It launched organized protests and legal cases against the eviction orders to highlight legal position and its violation. It successfully pressurized government to act on the tribal's forest right by interacting with NAC, MOTA and MOEF.

Source— Gopalakrishnan 2007 : CSD website

These mass actions resulted in different response from different State Governments. Maharashtra, Andhra Pradesh and Madhya Pradesh stayed the MOEF circular either under court's order or executive order. In October, 2002, Maharashtra's Centralist Congress Government initiated a innovative procedure for verification of the claim on the basis of Supreme Court's order in 1991 in case no 1778 Of 1986, "Pradip Prabhu vs. State of Maharashtra" and the criteria developed for identification of actual claimant, was tried successfully in Melaghat Taluka. This procedure was comprehensive, transparent and participatory based on involvement of Gram Sabha, local revenue and forest official with acceptance of circumstantial including oral evidences (Dreeze 2005, NCAS 2005). This action enhanced the space for action by social activists.

Box 4-- Pradeep Prabhu: social activist and academician

Being convener of CSD and strong supporter for forest right of tribal since 1980s, his views based on symbiotic relation between tribal and forests, Forest dwellers as integral to forest, irregular settlement process, SFD's attitude led to networking of diverse grass root organizations and human right organizations to oppose the eviction. His views convinced various policy making organizations and persons,

like NAC, PMO, MOTA and political parties's leaders for community based forest management regime based on democratic means. His efforts led to implementation of Maharashtra model as per S.C's orders.

Source: Fernandez 1996; Prabhu 2005

The initiation of these measures by Congress governments, rising tension in tribal areas of the country due to social activist's actions and coming general elections of 2004 led to issuance of two new circulars in 2004 by NDA Government dominated by rightist party BJP, prescribing regularization of lands cultivated by tribal since 1993 and conversion of all forest villages (plantation workers colonies on forest land) into revenue villages within 6 months (MOEF 2004: 89). However these were stayed by the Supreme Court of India on a petition calling the circulars as election gimmicks of NDA.

5.1.2 Political agenda

This helped the NDA to actually turn it into an issue during the 14th lok sabha elections in 2004 (The Economic Times 6th August,2005). The letter of February, 2004 by NDA government rescinding the earlier orders and accepting historical injustice done to tribal provided the first success and moral basis for the social activists. The coalition politics and elections of 2004 provided the opportunity to make it a major agenda in national politics. It was the result of increasing influence of tribal in vote bank politics of India and the decision of the then BJP government was basically to garner these votes (The Economic Times 6th August 2005).

In fact, later on it was the part of party manifesto of many political parties like Communist Party of India (Marxist) in 2004 general elections (CPM Manifesto 2004). It so much overwhelmed the electoral politics that there was no political opposition to it in the competitive politics of India. Baviskar traces it to the rise of dalit mobilization as an influential factor in state and national politics and dalit support become crucial for electoral success in tribal concentrated districts. This was reinforced by the success of backward class based politics in Uttar Pradesh and Bihar. Simultaneously inter-state movement of tribal assertion in states like Maharashtra, Gujarat, Rajasthan, Bihar emerged on two lines to remake adivasi's identity. First movement like Sangat movement, Jharkhand movement tried to link adivasis identity vis a vis to non tribes, to natural resources. It argued for political control over natural resources to gain self respect and dignity. Second movement having affiliates of BJP and other missionaries tried to remake adivasis identity by adopting upper caste Hindu or Christian practices to shed off their savage image. However they differed on the use of the power. While first line wanted the sustainable developmental model with local control, their relative weakness vis a vis the state power led to their

more politicization to get control over their resources (Baviskar in Kothari et.al 1997). BJP tried to provide a common platform to tribal and non-tribal on the basis of religion 'Hindutava' and succeed in electoral politics of 2003 and 2004 in different states like Madhya Pradesh, Gujarat, Jharkhand, Chatishgarh. Austin has called this politicization process as 'the third transfer of power' (Granville Austin 1993 in Corbridge and Harris 2006 : 200) to scheduled caste and tribes in the Indian polity.

After elections it became one of the most important component of National common minimum program (NCMP) 2004 of ruling United Progressive Alliance (UPA) consisting of Congress, regional parties, CPI (M) and others (PIB 7th June 2004). The social activist groups were able to convince or contest other actors of different interest groups supporting the tribal bill. The left parties were particularly impressed by the views of social activist group in view of increasing influence of militant left movement in eastern and central forest belt. The social activists group was strengthened by the presence of many favorable bureaucrats/eminent persons like Mr. Sanakaran, Ms. Aruna Roy, Mr. B.D. Sharma, Dr. Dreeze, Dr N. C. Saxena and others in NAC and other committees.

5.1.3 NAC's Pro-activist role in policy formulation

The creation of National Advisory Council (NAC) resulted in more space for civil society in policy making in general and specially for social activists and mechanism for participation of civil society in policy making.

Box 5—National Advisory Council

Set up as an interface with Civil Society through better access to a larger network of Research Organizations, NGOs and Social Action and Advocacy Groups with their expertise and experience. With Mrs Sonia Gandhi as chairman, their recommendations were effective.

Source—NAC 2004

The CSD's representation on the issue to NAC in September 2004 set the agenda for UPA government's action. It led to dialogue with MOEF in presence of NAC members Aruna Roy and Jean Dreeze and Pradeep Prabhu, Convener of CSD in November 2004. On 3rd December, 2004, NAC referred a fresh draft guidelines based on Maharashtra model submitted by CSD for examination, adoption and issuance by MOEF within a month (NAC Dec, 2004).

Box 6 --- Ministry of Environment and Forests

It took a strong posture against the proposed Bill on the ground that the approach adopted in the proposed Bill would lead to irreparable ecological damage of immense proportion due to de-notification of vast tract of forest land and elimination of all legal protection for the forest cover. Being a national natural resource, it would also be inappropriate to allocate disproportionately large areas to individual/nuclear family. It argued against new bill as enough provision exists in the FCA, 1980 and non implementability of new bill due to S.C.'s orders. It felt implementation of FCA as success so far by diverting one third of total diversion for this purpose only. It also accepted all suggestions of the NAC and PMO regarding procedure for regularization by its guidelines issued in December and January. It strongly felt against distribution of natural base of the country to compensate for failure of other ministries in their mandate of upliftment of the socioeconomic status of forest dwellers. Instead of this it proposed to have a forest and tribal focused development with conferment of ownership of forest produce on tribal with right to exploit and dispose. The vesting of power of land settlement in the hands of Gram Sabha will encourage fresh encroachments due to local vested interest.

Source: MOEF 2007; DGF 2005 ; AIGF 2005

However Kothari considers MOEF's opposition to the bill due to fear of losing power and authority to MoTA (Kothari 2005).

But helplessness of MOEF in implementation of guidelines in view of the Supreme Court's stay order can be seen in box below--

Box 7--- Excerpts from Letter written by Minister(MOEF) to PM in January, 2005

After a detailed discussion with the Solicitor General, I feel that we have essentially to deal with a particular mindset, rather than strictly legal provisions on various environmental and forestry issues pending before the apex court. This needs to be done in a careful manner by gaining the confidence of the court through unambiguous demonstration of our sincerity of purpose and political commitment behind such guidelines. Simultaneously, we have to be open to amend some of these guidelines to make them more specific and remove apprehensions, however unfounded.

Source: MOEF 12th January 2005

The Supreme Court's stay and MOEF's inability in getting it vacated tilted matter in favor of MOTA under pressure of competitive politics of coalition government.

5.2 Policy formulation and adoption

At the stage of policy formulation and adoption, bureaucracy, think tank, interest group and parliamentarian played important role in making creative policy due to low information and low knowledge about causation (Guy Peters, B 1993:41-66). In first week of January 2005, NAC expressed concern about continuing eviction of tribal and recommended to the government to draft a bill to restore traditional rights of tribal and forest dwellers.

5.2.1 Getting the ball rolling

Under political pressures from ruling alliance particularly left parties, tribal M.Ps and social activists the discussion of the issue at highest level in a meeting chaired by Prime Minister on 19th January 2005 set the ball rolling for the new comprehensive tribal bill. MOTA was authorized to draft the bill with the assistance of Technical support group with initiation of process for transfer of subject of tribal right on forest land from MOEF to MOTA at instance of activist PMO and MOTA (PMO January, 2005). The bureaucracy (except forest professional in MOEF) all toed the same line and draft legislation was prepared by MOTA.

Box 8 -- Ministry of Tribal Affairs (MOTA)

Having focused attention on integrated socio-economic development of the tribal, it proposed that secure tennurial rights and access to biological resources is required for integrated development resulting in better livelihood. It supported the contention of CSD regarding symbiotic relation and tribal being integral to forest. Negligence about their rights during colonial period was reinforced by their simplicity, ignorance of modern regulatory framework and modern conservation approaches. Thus MOTA argued for simple procedure in the form of a new bill to recognize their forest rights.

Source: MOTA 2007; MOTA 10th February, 2005,

The composition of Technical support group clearly demonstrates the dominance of social activist group so that the other interest group could not pursue their interest properly.

BOX No. 9 : Technical support Group (TSG)

The dominance of social activists and bureaucrats can be seen in the composition of the group, i.e. only one professional forester (DGF), 6 bureaucrats serving or retired, and 6 social activists. It prepared the draft in only 20 days with only one full meeting on 07.02.2005.

Source—MOTA 31st January, 2005

Ministry of Panchayati Raj stressed for implementation of PESA instead of proposed bill. Ministry of Legal Affairs opposed it on grounds of work allocation. However, MOTA proposed bill to implement 1990 guidelines by shifting burden of proof on Forest Department (MOTA 10th Feb, 2005). MOEF opposed the bill but most of the recommendations suggested by Director General of Forests, highest forestry expert in MOEF was not considered at all (DGF 2005).

BOX No 11 : Social activists of TSG

Social activists in the committee proposed simultaneous consideration of recognition of forest rights, regime of community ownership and management of forests, access to biodiversity, traditional rights and intellectual property rights and nomadic tribes' rights with special community ownership and shifting cultivation in north east.

Source—MOTA 10th February, 2005

In fact the drafting itself was done by the members of the social activist groups only and draft bill reflect their views. The entire process lacked transparency.

The other interest groups like wildlife conservationists, commercial groups, consumer groups were not directly involved in draft formulation. Only on the suggestion of PMO, the bill was made strictly applicable only to FDSTs. In mid March, the draft note along with draft bill was circulated among the concerned ministries. However, the law ministry vetted bill sent for cabinet approval in April was returned for wider consultation with stakeholders and fresh inter-ministerial consultations, under pressure from other groups.

5.2.2 Opposition and debate

The wildlife conservationist and scientific forester group vehemently opposed the draft tribal bill but the consumer or commercial group either remained passive or gave support to the bill to some extent. However, all groups agreed on the point of historical injustice done to tribal.

In case of commercial groups, their economic interest were better served by amendment in FCA,1980 and forest rights of tribal over forest land so that these can be used by them as per the revenue land. I did not find any concern from industrial lobbies over the bill. In fact, these interest group

was more concerned over loosening of state control on forest land and strong conditionality in case of diversion of forest land (MOEF 2004: 61- 64, 93,104).

Box 12 -- South Eastern Coalfields, Bilaspur and Western Coalfields Ltd, Nagpur
(Government Mining company)

Basically interested in availability of forest land and relaxation in conditionality under FCA 1980, they did not oppose but wanted the treatment of the land vested in tribal to be treated as revenue land, not requiring any approval from MOEF for non forestry purpose and payment of various compensatory charges.

Source: SECL 2005; WCL 2005

At the same time the consumer group talks about national interest to restrict the rights of local communities to have better ecological services. For them, the tribal bill is mere extension of 1970's slogan of Socialist Party's 'jhaad hamarey, zameen hamari' (The trees and the land belong to us) leading to complete destruction of forest in the Jhabua and Dhar district (Singh 2005; Buch 2005). Other consider it as a dilution of FCA 1980 leading to upper hand of forest encroachers in the name of tribal people to 'swallow' the entire forest areas for cultivation once for all. The same forest cannot be created by money as it is nature's creation (Manjula 2005). Another urban consumer finds clearance of forest land for agriculture neither good for forest nor for tribal and wants state ownership with user's right to them (Sukhdev 2005). Some actors have disputed the notion of protection of forest by tribal and their alienation due to scientific forestry and forest regulations (Anita 2005).

The analysis of the representation to draft bill clearly demonstrate that only few urban or rural individual or commercial group reacted to the bill but wild life conservationist, both western type (Gadgil and Guha 1995) and community based vehemently opposed the individual ownership in the bill. They considered the present development paradigm responsible for displacement, backwardness and settlement of immigrants in forest areas, resulting in injustice to tribal people. This resulted in "veritable mishmash" of people occupying the forest land clearly reflected in the Jharkhand movement and Assam agitation in 1980s. They disagreed with social activists on issue of the bill as the tribal bill will push same development strategies, the social activist use to criticize for exploitation of tribal. Valmiki Thapar opines that if tribal needs inviolate areas then wildlife and social group can unite (Sahgal et. al. 2005). However their logic of "saving tiger is saving forest and thus saving tribes" lack the actual mechanism for involvement of

tribes. Thus Ms. Sunita Narayan, chairperson, Tiger Task Force writes "We have to understand that land, per se, is not the answer. Livelihood is. And that economic security of poor people has to be enjoined to the forests, which in turn are the habitats of wild species and essential for ecological security." (Times of India 17th June 2005). But Professional experts of wildlife also opposed the bill on argument that very assumption behind the bill is unrealistic.

Box 14 — V B Savarkar, a wildlife expert

He challenge the basic assumption of symbiotic relation and Tribal as integral to survival of forest and wildlife. However forest conservation is essential for their survival. Supporting forest as natural heritage and life supporting system for all, he cautions against the tribal bill and role of Gram Sabha as it will lead to destruction of forest and wildlife and encouragement to land mafia to further encroach supported by very poor reveue land records, non consideration of previous forest settlement records and dominance of power wielding rural elite over the weaker sections. The vulnerability of tribal is not due to increasing conservation effort but failure of present development paradigm in initiating a forest resource focused for livelihood need of the tribal.

Source: Savarkar 2005.

However, Wildlife conservationist based on communities involvement in protected area management, supported the forest rights but not in this way and at the cost of wildlife.

Box 15 -- Wild life First and Centre for wildlife studies

They also disputes both premises of the bill; firstly, redressal of injustice by giving forest land rights on grounds of power structure of rural areas and piggybacking of commercial interest and, secondly harmonious relationship between tribal and forest on grounds of scientific evidences suggesting other way in response to the factors like expanding markets, new technologies and lifestyles.

Source: Wild life First 2005; Centre for wildlife studies 2005

Karant and Bhargav agrees with the social activist's argument regarding social security and economic gains to a large number of forest dwellers but they thoroughly disagree with the argument of no major negative ecological impact and they supported the view expressed in Box15. They argue that fragmentation

of habitat will certainly weaken the conservation efforts. Otherwise also the present high density of tribal population in the forest can not be sustained by forest alone. They argued that past injustices can not be met with the same old failed 'land give away' formulas, resulting in destruction of forests in Jharkhand and Madhya Pradesh (Karanth and Bhargava 2005). Sen (2005), Buch (2005) and many other professional also supported their contention as cultivation is more lucrative than sustainable forestry.

The scientific forester group also countered different assumptions of tribal bill and tried to put across their views on the implementation records in earlier tribal developmental policy.

Box 16 -- K D Singh,-International Forestry Expert

He opined that the bill missed the central question regarding production, collection, processing and marketing of timber and non timber product for better income with pride and power to local people. He suggested for enactment of Scheduled Tribes (people rights) Bill 2005 to empower community in case of all resources including forest for integrated resource management with improved governance and delivery system. It is better to have people managed forest than transferring the ownership of land itself with maximization of benefits to local people, using and improving local knowledge.

Source: Singh,K. D. 2005

The vehement opposition also came from the National Forest commission constituted during NDA regime to look into the whole gamut of forest management and conservation.

Box 17 -- National Forest Commission

The commission headed by Former chief Justice Of India and mostly bureaucrats, foresters as members with one social activist considers the present bill politically motivated and ecologically suicidal proposal, bad in law and in open conflict with the rulings of the Supreme Court, it wants government to facilitate tribal to come into the mainstream of economic activity and development through a new law for conferring user's right. It caution against fresh encroachments in the hope of future regularization.

Source-- The Indian Express June 19, 2006

Tandon, an forester and presently an expert in Winrock international finds present social, institutional, market/economic and political forces as an obstacle in the empowerment of the poor e.g timber distribution in Himachal Pradesh (as per settlement right) has seldom benefited the poor except grave misuse. He also laments blind faith on PRIs and revenue officials as their working is most

unsatisfactory in the past . Thus implementation by wrong delivery system can only result in fudged government records for regularization instead of securing justice (Tandon 2005).

Saxena and Ravi also finds the functioning of Panchyats inadequate under the present dispensation and only a source of commission for panchyat functionaries but still consider it as future of local development (Saxena and Ravi 2005).

Social activists argued for bill on the basis and assumption of symbiotic relation, integrality to forest , historical injustice, past experience in Community Conserved areas(CCA) of the tribal and international trend.

Box 18 -- Archana Prasad, an academician

She emphasizes settlement of forest rights in democratic way instead of empowering "customary and traditional institutions" with state role as protector of rights of tribal from neo- liberal globalization. Her proposal regarding cut off date of 2001 census, inclusion of non tribal, ceiling of 5 hectares over forest land with confiscation and distribution of surplus are radical. The people's right to manage forest and relocation and inviolate areas's notification with their consent show her left leanings.

Source – Prasad 2005; Prasad 2007.

However grass root organization and their leaders like Vijay Bhai, a Social activist leader of " Adivasi Van Adhikar Abhiyan argued for land ownership right for occupants and community participation in conservation effort with the help of Gram Sabha having clear power and mandate (Bhai 2005).

Some moderate activists have supported the bill but with certain reservation like Kalpvriksh and many right based organization.

Box No.20 -- Ashish Kothari --- Moderate social activist

He found it inadequate in absence of appropriate conservation framework and clear provision for the protection of forests and their biodiversity. He cautions regarding right to development and informed consent in protected areas leading to more conflict and fragmentation. He also foresee different interpretation of development by different state government under the influence of vested interest and more encroachment due to cut off date of Dec, 2005.

But he insists on improved conservation regime due to involvement of communities as experienced in large no of community conserved areas.

Source -- Kothari 2007.

Box No.21 R C Guha --Environmentalism and historian

He considers land ownership rights essential not only for conservation but also for livelihood of rural and tribal communities. He suggests protection with prominent role of the rural and tribal communities. He considers the lifestyle of urban consumers, interests of commercial and industrial lobbies responsible for wildlife destruction.

Source --- Guha 2006; Guha 2005

However in spite of differences, most of the representation converged on the community management of forest in one form or other in their representation to MOTA.

The intervening period between draft bill and introduction of tribal bill saw most vicious battle between pro tribal bill i.e MOTA and social activists and anti tribal bill i.e MOEF and wild life conservationists through different forums. This can be seen from the sequence of events from the media reports annexed as Annexure II. Finally PMO has to intervene through a workshop on 28th October.

The one day workshop's decisions were incorporated in the new draft bill and a Group of Ministers (GOM) was constituted to oversee the official amendments. Only wildlife conservationist group were successful in putting some pressure for relaxing the application of this act in case of wildlife parks and sanctuary.

5.2.3 Social Activist "JPC"

After introduction in the parliament, the bill (MOTA, 2005) was, in general, supported by all and was referred to the Joint Select Committee of both house of the Parliament for further detailed examination.

Box 22 -- Joint Parliamentary Committee

Constituted by both house of Parliament on the request of MOTA consisting of 20 members from Lok Sabha and 10 members from Rajya Sabha to report on the tribal bill.

Most of the member from ST, SC and other forest dwelling community

Received 109 memos from public, 52 amendments from the members of the committee and examined 44 organizations and individuals from diverse field but mostly from social activist group.

Thus the committee recommended an amended draft bill on the lines of social activist's view.

Source: JPC Report 2006

The composition of JPC also shows the dominance of MPs actively upporting the interest of social activists. In fact most of them were members of SC and ST Forum.

Table D: Analysis of Memoranda received from public by JPC, MOTA and witness before JPC

In support of the bill Social activists	Before JPC (memo)	Before JPC(witness)	Before MOTA*
NGO	22	14	13
Administrator, politician, thinkers and other individual	21	11	5
Politician(MPs, MLAs)	8 + (7 in one memo)	----	3
Grass root organization	25	15	6
Total	76 out of 109	40 out of 44	27 out of 65

considered only those 65 representative view out of more than 130 different views to MOTA.

Source: JPC Report 2006 : 29-39 (list of memo to JPC), 40-44(list of witness to JPC).

The above analysis shows that memo from non social activist has declined sharply. The analysis of witnesses before JPC also supports the same point. This shows that with introduction of bill in Parliament and with more and more involvement of left parties and tribal and Scheduled Caste MPs, more grass root organization were involved and anti groups were marginalized. This mobilization at ground level kept government under pressure to pass it. The pivotal role of left parties in running Government particularly Brinda Karat, MP from CPM, played the pushing force behind the bill.

Box 23– Brinda karat, MP CPI(M)

Being a polit bureau member of CPM and as member of JPC, she convinced JPC in accepting cut off date of Dec, 2005, inclusion of non tribal, authorization of Gram Sabha in claim determination, rights of previously displaced communities and right of community to manage resources.

\She considers it as a form of social justice to end Fatwa Raj of Forest Department. She firmly believes local communities as the best conservers of environment and the state agencies and timber mafias as the worst encroachers. She vehemently oppose the MOEF's argument and suggests for inclusion of local population in management as forest belongs to them in light of various S.C.'s judgments.

Source : Karat 2007

The support for the bill with amendments for inclusion of non tribal dwellers, cut off year, role of Gram Sabha was across the party line. Congress leaders like Digvijay Singh, Mrs Yamuna Devi, consider it as their natural right in absence of

alternative livelihood and place for relocation and caution against putting entire burden of environment protection on tribal (Singh 2005, Devi, Y 2005).

These proceedings resulted in many recommendation for changes in the original bill (JPC report 2006: V- XV, 96,) for accommodating the aspirations of social activist. It generated strong debate among pro tribal bill interest group and anti tribal bill with mild voices from others. The intense struggle between social activist group and scientific forester and wildlife conservationist group was through media (Annexure III). But mass based sustained campaign through network of mainly CSD was highly effective in putting pressure on the government. They succeeded in projecting the tribal problem as the human right problem, basic to their right to life. It was placed before the parliament on 23rd May, 2006. In fact the amended draft bill show the political consensus on welfare measure for tribal and hence it was highly inclusive in terms of def of forest dweller, date of cut off , inclusion of customary rights and amount of land so that sensitivities of all section can be taken into account. It seems it happened at the cost of forest and wildlife conservation issues resulting in disagreement of most environmentalist on these amendments.

The substantial changes recommended are giving rights to other traditional forest dwellers in addition to forest-dwelling STs, providing a cut-off date of December 13, 2005, for recognition and vesting of forest rights, empowering the gram sabha to take a final decision on the record of forest rights; and not prescribing any limit of forest land to be given to forest dwellers (no ceiling on land holdings), democratic process of identification, provisions for previously displaced persons (TOI 5th Sept, 2006) and right to community to manage their forest. Overall, the JPC's Bill considerably enhances the empowerment of forest-dependent communities and their gram sabhas, increases the potential of such communities to achieve conservation but also creates potential explosive situations of forest destruction through changing upper limit of cut off date, removal of ceiling over maximum land and removal of section dealing with the responsibilities and duties along with penalties (Kothari 2007)

These amendments were considered by Group of Ministers (GOM) on 20.07.2006. They disagreed on the point of inclusion of non tribals as other forest dwellers as it will put the original rights of tribal inhabitants existing prior to the enactment of the IFA, 1927, on the same footing as that of latecomers making them subservient to tribal. The spatial relationship between tribal and biological resources also does not exists in case of non tribal. They were of the view that it ould be wrong to equate the needs Of 70% tribals with 30% non tribal (TOI 5th September, 2006).

But Left parties insisted on the introduction of amendments as per JPC report through their three round meeting with GOM. But inspite of resistance of MOTA on inclusion of non-tribal, MOEF on cut off date and removal of ceiling,

the GOM, in its second meeting on 13 th November 2006, directed to MOTA to address concerns of MOPR only while preparing clause wise amendments. It accepted all major recommendations except on commercial exploitation of forest resources including role of forest dwellers in mining, power and industrial projects, a ceiling on forest land occupation, definition of NTFP by excluding firehood, sand etc, role of Gram Sabha and composition of different committees. Finally Ministers of MOTA, MOEF and MOPR finalized the final amendments and introduced it the Parliament on 14th December, 2006 and it was enacted by parliament on 18th December, 2006.

5.3 Heterogeneity and its implication

So far I have taken different interest group as homogeneous groups but actually these are composed of various actors giving it diversity and heterogeneity interms of views, composition and background. Though they agree on community's role in forest conservation and some kind of forest rights to tribal, the perception varies from passive participation to ownership.

Diversity in Social activist group

In social activist group itself, right group considers tribal's forest right as right to life, the basic need and basic point of contestation between tribal and forest officials (Sharma, 1990). CSD, NCAS and many right based organization basically belongs to this. Their action was basically advocacy, comaigning and petitioning (NCAS 2004) with more reliance on science and modernity.

The other group, ecological Marxist mainly drawn from left wing parties like CPM,CPI, different labour and farmers union, Naxāliŕes groups, radical Christian groupings and others like Pradeep Prabhu, Janu believe in organization of the poor for collective action for redistribution of economic and political power, basically here ownership over forest land (Gadgil and Guha 1995). At the same time, Gandhian groups/individuals like Sunderlal Bahuguna, Vandana Shiva believes in the traditional ethos of the eastern culture based on moral/religious values. Thus the Gandhian group believed in tradition and least confrontationist methods, the ecological Marxists and advocacy group believed in modernity and science. This difference can be well seen in the view of Vandana Shiva (Gandhian) and Arĉhana Prasad (ecological Marxist). Social activist group has also property right based groups having faith in free market and forest land as an asset/entitlement for forest dwellers to imcrease their capability in choice of opportunity for livelihood. However at grass root organization, the mass action was sustained by leadership from all three groups. This unity in diversity of views and coordinated mass action is unique. During the whole period of policy making they converged on one point that forest dwellers including tribal must be given forest right.

The differences of tribal and non tribal in tribal areas were overwhelmed by the scope of the bill and it was a unique achievement of social activists.

Diversity in Wildlife conservationists

The opposition to the tribal bill from different wild life conservationist falls under two categories, firstly, western type of conservationist drawn from urban elites, royalties and industrialists like Valmiki Thapar, Bittu Sehgal, Savarkar many MPs from royalties for conservation of forest from all including dwellers, and secondly, communities based organizations like Uhlal Karanth from WCS India, professional wildlifers advocating involvement of tribals in management as per the Nagarhole model using their traditional culture. But on the JPC amended tribal bill both group agreed on the opposition to the bill as it will lead to fragmentation and permanent interference of human population. They succeeded in insertion of special provisions with regard to relocation, rehabilitation and declaration of critical habitat. In case of WWF India, the opinion of P K Sen (Sen 2005; 2006) is in favour of state control then community management of Ravi Singh, CEO (Singh 2005).

Thus social activist were successful in making alliance with political, bureaucratic and commercial interest group, all affected due to strong conservation agenda, by agreeing on forest right of the forest dwellers though having diverse agenda of electoral politics, modernity paradigm and availability of resources including land. This networking of social organization from different ideological leanings and backgrounds indicate the emergence of a natural alliance against both state control and trans- national corporations (Bryant and Baily 1997:10 in Kumar: 2006). But this romantic coalition overlooks the more powerful agendas of different groups involved in the debate particularly over powerless tribal and tribe vs non tribe conflict.

Chapter—6

Summary Analysis and Conclusion

6.0 Network building and its role

Herein the Actor Network depended on the idea of historical injustice done to tribal due to non recognition of their rights and it was interpreted by different actors in their own way. Not being coherent these ideas itself get transformed into a comprehensive tribal bill after passing through different actors during policy formulation. The pro tribal bill network has to engage not only with their enrolled members but also with all other interest groups and other stakeholders like MOEF, other wildlife conservationists during the process.

CSD played the core role as facilitator through out the enactment of the tribal bill. The right groups, mostly urban and educated, advocated through different means of communication like newspapers, visual media, seminar, workshop and internet using their expertise gained in other campaigns. But the networks at grass root used different form of mass agitation.

Issues of power are also important in network building. The mass mobilization and advocacy capacities of CSD and other organizations were successful in pressurizing government in policy shift. The presence of powerful social activists in different committees also provided the impetus to the network formation. After elections of 2004, the grass root organizations affiliated to different political parties particularly left joined the network in big way and provided the base for mass action. This resulted in a spatially and temporally complex web of actors and linkages around forest right issues comprising of actors from diverse field. In the later phase, the ST and SC forum of MPs from different parties provided the support to the network in enactment of the bill. At the same time the MPs supporting the wilderness and Tiger cause provided the core for opposition of the bill. Though the issue of forest rights of tribal and historic injustice was known at the time of Independence, the networking provided the reality of political expediency (Kumar,V: 2002) to convert this into legal reality. The network provided the villagers enough agency to project their issues and work beyond their institutions.

6.1 International influence

Lastly, this kind of policy formulation cannot be explained only as local issue/event. In fact, the local interactions are only part of wider socio-politico and economic context at different national and international level. The spread of right based approach on different issues at national and international level led to emphasis on human resources and their capability then the resources itself in national planning since 1990s. The thesis of Amartya Sen on development as expansion of human freedom and resultant increase in capability to chose from a range of options/opportunities to lead better life provided the theoretical support to social activists (Sen and Dreeze 1998: 11 ; Sen. 1999:18). Most international organizations like world bank, FAO, UNDP, NGO's like Action Aid, OXFAM, bilateral relations adopted this approach leading to increased emphasis on indigenous people's right and involvement of community in resource

management. This suited the overall globalization with free market and clear right regimes. World Bank, biggest financier in forestry sector emphasized improving the protection of the environment and biodiversity while increasing the livelihoods of the poor as per international community's commitment at the Johannesburg Summit on Sustainable Development, leading to socially responsible and environmentally friendly economic growth. The bank accepted the failure of disengagement and creation of more protected areas and realized that community's livelihood concern has to be addressed through poverty reduction and good governance (World Bank 2003). Since 1990s, most international projects emphasized on involvement of community and pushed for institutional reform in this sector. The western conservation organization like WWF, World Conservation society and their Indian chapters also reviewed the policy critically and resulted in thorough discussion. The support of EU parliamentarians and western right based organization for the passage of the bill due to their emphasis on indigenous people's right played an overall moral influence on the Indian government (European Union 2006).

6.2 Conclusion

In this paper I have tried to elaborate policy shift at different stages of policy making from state ownership to community/ individual ownership by correcting imbalance and skewness towards state ownership through recognition of forest rights of forest dwellers especially after 1980s.

I have tried to establish that with increasing role of social activist with support from different actors and decreasing support of commercial group to scientific forester, the stage was ready for dominance of social activists. The JFM and PESA provided the background for further legislative measures highlighting the inevitability of recognizing and involving wider sections of society for making conservation successful (Vasan 2005). The Godavarman case and eviction orders provided the agenda for policy shift. But the networking of different social activists from different field and coordination of advocacy and mass mobilization galvanized the required political support for the formulation and adoption of the forest rights as legal rights.

I have shown that these shifts were within the changing international scenario of emphasis on role of civil society in governance, realization of failure of state led development and neglect of indigenous people, emphasis on empowerment and entitlement for poverty eradication and lastly emergence of right based approach to different problems and their solution.

At national level, the factors of dalit politics, coalition politics and competitive party politics in policy making have also been highlighted. After 2000, party formations were also involved due to importance of dalit vote and spread of naxalism due to different policies of Government in tribal and forest areas and the bill was shown as a measure to wrest initiative from naxalites (Gopalkrishnan 2007). Most parties particularly left became more vocal on tribal issues to save

their mass base in tribal areas though their own record is not so promising in implementing different tribal issues (Krishna Iyer 2006; Janu 2005).

I have tried to highlight intense debate on the bill through different mediums by actors from diverse field furthering their own interest. The role of NCA in bringing the issue on government agenda, role of PMO in accelerating the process and transfer of subject from MOEF to MOTA inspite of no such recommendation from NAC shows the interest of bureaucracy to further their modernity agenda through dilution of conditionalities under the FCA inspite of MOEF's contention regarding failure of development in tribal areas. The commercial lobby also succeeded in convincing the Group of Ministers in rejection of amendment introduced by JPC regarding enhanced and pivotal role of local communities in utilization of natural resources.

I would like to sum up that social activist successfully overpowered the technological position taken by wildlife conservationists and scientific forester and presented it as a socioeconomic problem of livelihood. Guha (2006) considers shift in policy due to pressures from both up and down –“grassroot pressure from below and voices that listen from the top”. The whole complex of issues, starting with grassroots mobilization, the international debate on deforestation and biodiversity, solid work by scholars and scientists, empirical research showing the consequences of promoting authoritarian forest laws combined with a sympathetic bureaucracy led to the tribal bill.

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ANNEXURES

ANNEXURE I-- List of Individual and Grass root organization participated in National Consultation on the Draft Forest Rights Bill, 2005.

ANNEXURE II-- Media reports before introduction of bill in 2005

ANNEXURE III-- Media reports on JPC report during 2006

ANNEXURE I-- List of Individual and Grass root organization participated in National Consultation on the Draft Forest Rights Bill, 2005.

1. Mongal Debbarma, Indigenous Tribal Peoples Development Centre, Tripura
2. Artax Shimray, Convenor, North East Peoples Initiative, Nagaland/Assam
3. N Krome, General Secretary, Naga Ho Ho, Nagaland
4. Tado Karlo, NEFA Human Rights Organisation, Arunachal Pradesh
5. NSN Lotha, General Secretary, North East Students Organisation
6. H Ngurdingliana, Centre for Peace and Development, Mizoram
7. Subimal Bikash Chakma, Committee for Citizenship Rights of the Chakma of Arunachal Pradesh
8. Dino D. G. Dympep, Meghalaya Peoples Human Rights Council, Meghalaya
9. Gam A. Shimray, All India Coordination Forum of the Adivasi/Indigenous Peoples
10. Ratnakar Bhengra, Jharkhandi Organisation for Human Rights, Jharkhand
11. M.S Selvaraj, Vivasiyagal Thozhilalazhagal Munnetrata Sangam, Tamilnadu
12. C R Bijoy, Campaign for Survival and Dignity, Tamilnadu
13. Bijaya Panda, Adivasi Mukti Sanghatan, Madhya Pradesh
14. Madhu Sarin, Environmentalist, Punjab
15. Pradeep Prabhu, Convenor of Campaign for Survival and Dignity
16. Bhanwar Singh, Jal Jameen Jungle Andolan, Rajashtan
17. Rajesh Rawat, Asian Centre for Human Rights, Delhi
18. Shankaran Gopal Krishnan, Kastakar Sangatna, Maharashtra
19. Swaswati Swetlena, Society for Rural Urban Tribal Initiative
20. Vikas Jha, Indian Social Institute, Delhi
21. Dr Ashok Kumar Ray, National Foundation of India, Delhi
22. K K Singh, Bharatiya Association for Rural Development,
23. Shubra De, Action Aid
24. Sukendu Debbarma, Asian Indigenous Peoples Pact
25. Suhas Chakma, Asian Centre for Human Rights, Delhi
26. Pragya Vats, The Other Media
27. Priya Sreenivasa, Kastakar Sangatna
28. Amal Chakma, Asian Indigenous and Tribal Peoples Network
29. Gladys D'Souza, Society for Education and Reality
30. Priti Darooka, Programmes for Women's Economic, Social and Cultural Rights
31. Avilash Roul, Bank Information Centre
32. Dr Jimmy Dabhi, Indian Social Institute
33. Ranjana, Samarthan, Rajasthan
34. Paritosh Chakma, Asian Indigenous and Tribal peoples Network

Source --- <http://www.achrweb.org/reports/india/NCDFRB05.pdf>.

Annexure II--Media reports before introduction of bill in 2005

23rd April, The Times of India- Forest officials fear tribal bill could create havoc --

Forest officials feared massive destruction of forests by inducing large-scale fresh encroachments on forest land in the garb of tribal and forest dwellers.

Argued the bill based on "misinformation" and "false alarm" and claims that the best forests are in tribal areas, while 60% of the forests under the environment and forest ministry's charge has been reduced to wastelands.

28th April, TNN, The Times of India.--- Tribals all set to gain rights over forests

Law ministry clears the bill. Hailed tribal bill as Magna Carta of Forest dwellers

6 th May TNN, The Times of India—Politics over forest Bill Reaches PMO

Withdrawal of bill from Cabinet agenda, Minister for Tribal affairs writes to PM echoing "FDST is the most effective conservationist as he lives in forests, by the forests and for the forests"

7th May, The Economic Times.---- Sonia Gandhi assures Tribal MPs Tribal MPs met Sonia Gandhi to pressurize introduction of the bill

7th May, The Tribune, Chandigarh --Tiger-loving' MPs to meet tomorrow

9th May, The pioneer --- Tribal Rights Bill gets Social Justice Ministry's backing.

However the bill has also divided the polity. Tribal members demanded that the bill be tabled before Parliament , while a group of MPs which formed the Tiger and wilderness Forum, led by Dr. Karan Singh former king of J&K opposed it calling for wider debate.

Ministry of Social Justice supported the bill as a welfare measure for tribals

25th May, The Times of India – Green lobby sees red over tribal Bill changes

29th May The Hindustan Times -- Forest Ministry raps tribal rights bill

1st July, The Hindustan Times---- Cabinet Committee to redress tribal woes--

Cabinet Committee on tribal affairs (CCTA) formed to examine different issues related to tribe and land

6 th August, The pioneer --- Left leaders met PM and insisted on the introduction of the bill.

6th August, The economic Times-- Babalog politicians mobilized by the tiger activists tried to scuttle the bill.

9th August, The Pioneer--- Tribal Activists gather under the agies of National consultation on draft tribal bill

Tribal activists like academician, social workers, grass root organizers gathered under the agies of National consultation on draft forest right bill to pressurises government for passage of the bill.

10th August, The Indian Express – Rival Bills Under Scanner

PMO Office asked to look at two bills the minor forest produce (ownership rights of forest dependent communities) bill of MOEF and tribal bill of MOTA.

12 th August, TNN, The Times of India -- Politics comes in way of tribal Bill

Former MP chief minister Digvijay Singh, demanded that SCs and OBCs be also given land rights in forest villages. On the other side of the spectrum, the Left parties are demanding that the Bill be introduced, while other parties have left it to their ST MPs to fend for the legislation.

13 th August, The Hindu -- Tribal threaten nationwide stir over bill on forest rights.

16th August, The Financial Express, the Economic Times --- Tribal rights Bill to be tabled soon

PM assures introduction of legislation in his address to Nation and NAC insists on only on STs. Tribals participated in nation wide March organized by CSD.

18th August, Jansatta --CPM leaders met sonia Gandhi for pressing introduction of bill in the coming session so that it can be send to parliamentary committee for detailed discussion.

---- SC and ST forum met PM with 75 SC and ST MPs. PM assured of early introduction.

.31 st August, The Times of India -- CCTA constitutes four committees o tribal issues. MOEF asked to come with alternative bill.

15th September, The Indian Express --- MOEF to consider alternative bill

As per CCTA's direction, the new bill of MOEF to deal with both land rights and rights over minor forest produce by MOEF with cap on total amount of land that would be given to the tribal, 1980 as cut off date and not include wildlife sanctuaries and parks. Presently there is no overall estimate but 1.3 m hec or 1.37% area is supposed to be under occupation.

22nd October, The Times of India – PMO calls meeting

The Prime Minister's Office calls warring groups to determine the final shape of the contentious tribal rights Bill through a long meeting (one day workshop) in the PM's office on October 28. PMO hopes to complete the work on this second UPA showpiece, waiting its turn since the rural employment guarantee law took shape.

ANNEXURE III-- Media reports on JPC report during 2006

24th May, 2006— A joint parliamentary committee has unanimously made seminal changes in the Scheduled Tribes (Recognition of Forest Rights) Bill. (JPC gives forest land rights Bill a pro-tribal tilt, TNT)

25th May, 2006 -- consternation in the environmental activist lobby and even the environment ministry over JPC report. (Green lobby sees red over Tribal Bill changes, TNN)

19 Jul 2006 --- Why are forest dwellers and tribals the poorest and most marginalised people in this country? (Forests on fire : Gopalakrishnan, TOI),

3 Aug 2006 ---- Subsequently, there were reports in the press suggesting that the Group of Ministers looking into the recommendations of the JPC was trying to dilute the contents of the Bill in order to please the corporate and tiger lobby. (Law for the jungle, ARCHANA PRASAD, TOI)

21 Aug 2006, --- "When will you bring the Bill? What is the government's stand on the JPC recommendations?" Shekhawat asked the minister, even as the opposition was on its feet accusing the government of sabotaging the bill. (Tribals' Bill forces govt on back foot, IANS, TOI)

26th August, 2006 -- Tribal call off strike at New Delhi to pressurize Government to amend Tribal Bill, 2005 with promise to start on first day of winter session on behest of senior Communist Party of India (CPI) leader A.B. Bardhan, activist Aruna Roy, and former scheduled caste/scheduled tribes commissioner B.D. Sharma addressed the tribals (INSA : <http://in.news.yahoo.com/060825/43/66z13.html>)

5 Sep 2006 -- GoM thinks equating STs with non-ST forest dwellers would be a negation of the distinction between the two and put the original rights of ST inhabitants existing prior to the enactment of the Indian Forest Act, 1927, on the same footing as that of latecomers. (GoM feels JPC draft on forest Bill may not help tribals, The Times of India)

7 Sep 2006 ---- Reacting to government's concerns on recommendations of the joint parliamentary committee on tribal rights Bill, CPM MP and JPC member Brinda Karat has written to PM Manmohan Singh, arguing that the panel was neither against tribals nor wildlife. (JPC neither against tribals nor wildlife TOI)

4 th Dec, 2006 -- Protest in kalimpong to push to forest bill, The Telegraph

5th December,2006--Nationwide Jail Bharo Andolan being carried out by the Campaign for Survival and Dignity to press for the passing of the Forest Bill, 2005. Adibashi Mahasabha , Gujatratt" organzjed in Gujarat (Forest Rights Bill: tribals take out rally, Express News Service)

9th December, 2006 --- The tribal ministry was opposed to letting non-tribals have any rights and had extensively briefed GoM against the JPC recommendation. (Cabinet accepts changes in tribal Bill, (TNT, TOI)