



**EXPERIENCES FROM
ODISHA**



PESA : MYTHS AND REALITIES

**SUPPORTED BY
CIFOR, INDONESIA**

vasundhara

April, 2002

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PESA: Myths and Realities

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Contents

	<i>Page</i>
Acknowledgement	
Map	
Abbreviations and Acronyms	
List of Scheduled Areas within Orissa	
Chapter I DEVOLUTION OF POWER: A Crisis of Perspective	1-10
Chapter II DEVOLUTION OF POWER: The Rationale, Objectives & Designs of Study	11-20
Chapter III Panchayats Extension to Scheduled Areas (PESA) Act, 1996	21- 44
Chapter IV Case Studies	45-96
<i>Case Study 1: Land Alienation in Schedule V Areas and the Functioning of Gram Sabha/Gram Panchayat: Suakathi & Kumundi Gram Panchayats in Keonjhar District</i>	46-59
<i>Case Study 2: Land Alienation and Role of Gram Panchayat in Schedule V Area: Jatra and Singhpur Gram Panchayats in Keonjhar district</i>	60-68
<i>Case Study 3: Functioning of Gram Sabha and Palli Sabha in the context of Women's Role and Participation: Kutrachuan and Kuleigada-Kudapada Gram Panchayats, Sambalpur District</i>	69-78
<i>Case Study 4: Functioning of Gram Sabha and Palli Sabha in the context of Women's Role and Participation: Lariapalli and Jarabaga Gram Panchayats of Sambalpur district</i>	79-86
<i>Case Study 5: Panchayati Raj Institution and Forest Resource Management in Schedule V Areas: Suruguda Village in Sundergarh District</i>	87-96
Chapter V Observations and Conclusions	97-103
Chapter VI Impacts	104-107
References	108-109
List of Photographs	110

Abbreviations and Acronyms

BDO	Block Development Officer
GP	Gram Panchayat
GS	Gram Sabha
HHs	Households
IRD P	Integrated Rural Development Programme
JFM	Joint Forest Management
JRY	Jawahar Rojgar Yojana
M.E. School	Middle English Medium School
MWS	Million Well Scheme
NGO	Non-Government Organisation
NTFP	Non-Timber Forest Produce
OMC	Orissa Mining Corporation
PDS	Public Distribution System
PESA	Extension of Panchayati Raj to Scheduled Areas Act
PMRY	Prime Minister Rojgar Yojana
PRI	Panchayati Raj Institution
PS	Palli Sabha
RF	Reserve Forest
SC	Scheduled Caste
SJSY	Swarna Jayanti Swarajgar Yojana
ST	Scheduled Tribe
U.P. School	Upper primary School
VSS	Vana Samrakshan Samiti
WM	Ward Member

List of Scheduled Areas within the State of Orissa

1. Mayurbhanj district.
2. Sundergarh district.
3. Undivided Koraput district.
4. Kuchinda tahsil in Sambalpur district.
5. Keonjhar and Telkoi tahsils of Keonjhar Sub-division & Champua and Barbil tahsil of Champua Sub-division in Keonjhar district.
6. Khondmal tahsil of Khondmal Sub-division & Balliguda and G.Udaygiri tahsil of Balliguda Sub-division in Boudh-Khondmal district.
7. R. Udaygiri tahsil & Guma and Rayagada Blocks of Parlakhemundi tahsil of Parlakhemundi Sub-division and Surada tahsil excluding Gajalbadi and Goda Gram Panchayats.
8. Thuamul Rampur Block of Kalahandi tahsil and Lanjigarh Block within Lanjigarh and Kalahandi tahsils in the Bhawanipatna Sub-division of Kalahandi district.
9. Nilgiri Community Development Block of Nilgiri tahsil in Nilgiri Sub-division of Balasore district.
10. Nowrangpur district.
11. Malkangiri district.

Chapter I

DEVOLUTION OF POWER: A **Crisis of Perspective**

DEVOLUTION OF POWER: A Crisis of Perspective

1. Introduction

It is indeed a difficult task to locate what exactly constitutes the State perspective on devolution of power. India emerged as a Sovereign State on the 15th of August 1947 and it was declared as a peoples' Republic on the 26th of January 1950 with the Constitution of India coming into force. The power that the Indian State exercises has its source in the Constitution of India. Therefore, whatever power the State would like to devolve to the people has to have the sanction of the Constitution of India. But the framing of the Constitution has its linkages with the history that India inherited from the British Raj as well as from the freedom struggle. Therefore, the perspective on power or devolution of power has its origin in British India and is as relevant today as it was then. Perhaps, a quick reflection on the historical process leading to imposition of external authority on an unwilling population and the resultant challenges to such authorities by the affected population will throw light on the devolution of power exercises and shall help better our understanding.

1.2 Challenges to Imposition of External of Authority during the British Raj:

The colonization of India was not a smooth process. There was no universal acceptance of British hegemony at any point of history in British India. There were areas and there were people who challenged the imposition of foreign rule over their territories. India was divided into two broad territories, such as the “**Imperial Territories**” where the population was treated as “**Subject People**” and the “**Independent Territories of Tribal people**” where the population was treated as “**autonomous communities**”. A majority of Indians lived as subject people in the imperial territories. It was the people from this class, who later on replaced the British and are presently ruling India. Though the Indian rulers prior to the British had good and dignified relationship with these autonomous communities, there were weak linkages between the subject people and these communities during the British rule.

The independent territories of the tribal people was treated as ‘non-regulated areas’ and the tribals living in these areas enjoyed relative freedom to live a life of their choice without much

external interference. To put it differently the tribal India never surrendered their authority or power to rule them to the British Raj. They also resisted each time there was an attempt to impose British authority over them. There were tribal uprisings everywhere. In Orissa the *Santhals*, the *Kondhs*, the *Mundas*, the *Bhuiņas*, the *Parajas* have had revolted against the imposition of British authority. Therefore, compromise formulations were worked out in Tribal areas. Though the British used force to suppress certain uprisings but they generally followed the approach of “Non regulated areas” in case of the tribal areas where British rule would not apply automatically.

It seems the British were apparently apprehensive of three dangers. **Firstly**, they thought the agricultural land of tribals might pass on to the more civilized section of the population. **Secondly**, they may be exploited by moneylenders and **thirdly**, there was a threat of extinction of tribal customs and culture. Thus the perspective on devolution during the British Raj was guided mainly by the following factors:

- (i) a compulsion to respond to the Challenges thrown up to the authority of the British and non-acceptance of the same by the large section of our population, mainly the tribals.
- (ii) Protecting tribal land, agriculture and customs from the exploitation of ‘civilized’ Indians.
- (iii) Developing an approach of integrating the tribals into the main stream without antagonizing them.

But the perspective was negative in nature since it only restricted or prohibited the role of State or policies on certain aspects concerning tribal land, tribal culture and tribal livelihood but nothing concrete was done to allow them to function as autonomous communities or to enable them to develop their own future by making use of the vast natural resources available at their disposal.

1.3 Developments in India after Independence

When India attained independence and Constituent Assembly was formed to prepare the Constitution of India, it was expected that the dichotomy between the ‘imperial territories’ and the ‘non-regulated’ tribal areas would be duly recognised. There were a number of acts and legal precedents to help the framers of the Constitution to recognize this divide and make necessary

provisions for tribal self-rule in the Constitution itself which the British could not do despite making several legal provisions. Mention can be made of a few such Acts:

- The Ganjam and Vizagpatnam Act of 1839 was enacted to specially address to the administration of tribals areas of Madras Presidency comprising parts of Southern Orissa and a few districts of Andhra Pradesh.
- In 1874, the Scheduled Districts Act XIV (Central Act) was passed with the same purpose and keeping in mind all the tribal dominated areas of the country.
- The Government of India Act of 1917 went a step forward and prohibited transfer of tribal land to non-tribals without the previous consent of the Agent or of any other designated authority.
- The Montague and Chemsford report of 1918 also excluded tribal areas from the reformed provincial governments.
- The Government of India Act 1919, divided the whole of tribal areas into two parts for the purpose of reforms such as wholly excluded (the states of Tripura, Assam and Meghalaya) and partially excluded [the tribal areas of Andhra Pradesh, Bihar (Jharkhand) Gujarat, Himachal Pradesh, Madhya Pradesh (Chattisgarh), Maharashtra, Orissa, Rajasthan].
- The Government of India Act of 1935 said that “the executive authority of a province extends to excluded and partially excluded areas there in, but not withstanding anything in this Act, no Act of the federal legislature or of the provincial legislature shall apply to an excluded area or a partially excluded area unless the Governor by public notification so directs with respect to any act.”

When steps were taken to design the Constitution of India the divide between the ‘imperial territories’ and the ‘non –regulated areas’ or fully and partially excluded areas were not taken seriously. Article 40 of the Constitution, which applies to entire territory of India, says that ‘the State shall take steps to organize Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government. Article 243 (b) of the Constitution also says that, the Panchayats at village, intermediate and district level may be endowed with “such powers and authority as may be necessary to enable them to function as institution of self government”. A reference for extending the provision of these two articles to scheduled areas has been made in article 243 (m) and 243 (z.c).

Until 1993, these articles carried no meaning and till 1996 very few Indian were aware of the fact that there was a provision in the constitution (Vth and VIth schedule of Indian Constitution) providing special powers for the tribal areas of the country. There could be several reasons for this:

i. First, the framers of the Constitution though deliberated on devolving special power to scheduled areas they were not very keen on recognising the autonomy tribals have enjoyed in the past. The discussion in the Constituent Assembly was more on the question of continuing provisions the British had provided for during their rule.

ii. Secondly, the development paradigm that the westernised leadership of independent India visualised for ensuring the growth and economic prosperity of the country made them rely heavily on exploitation of the vast natural resources located in tribal areas. Allowing the tribals to have control over these resources was unthinkable for the new rulers.

iii. Thirdly, the leadership and main cadre of Indian National Congress which spearheaded the national freedom struggle, was drawn mainly from the 'imperial territories' and the 'subject people' who were miles and miles away from the tribals and tribal areas in terms of their thinking and operation. Most of the tribal areas threw up their own leadership who were not part of the mainstream struggles and were active much before the nationalist movement started off under the banner of Indian National Congress and also parallel to the mainstream struggle. Tribals still remember their heroes such a Birsa Munda, Chakora Bisoi, Laxman Naik and others. Dr. B.R. Ambedkar, though was treated as a leader of the masses, he represented the Harijans more rather than tribals.

Therefore, there was no clear vision about the tribal areas in the constituent assembly. As a result of this, only the measures, which the British had followed, were upheld with modifications but no positive steps were taken to devolve power to the scheduled areas of the country. Whatever provision were made in the Vth schedule of the Constitution remained inactive till the year 1996. The government responded to the needs and requirements of tribals areas in terms of centrally sponsored schemes and projects while it went ahead with much more aggressive policies of exploiting the natural resources such as land, water, forest and minerals in scheduled areas causing devastation and catastrophes of different forms.

Neither the British nor their successors in India were prepared to recognise the fact that the people's rights over natural wealth and resources were inalienable. Even the much talked about Vth schedule of the Constitution does not give any recognition to this fact. In the absence of such a realization, the devolution of power exercises of the State may not lead to any concrete outcome.

1.4 Intervention of Indian Judiciary on Devolution of Power

Though, the policy makers of the country did not bother much about the necessity of devolution of power in the most crucial scheduled areas, the judiciary of the country did take a note of international conventions and understandings on the rights of tribals and indigenous people over resources which have sustained life and civilization on earth. The Central Act of 1996 and a recent Supreme Court judgment have brought life to the Fifth schedule of the Constitution which though indicated devolution of powers to scheduled areas was completely forgotten by the legislature and the executive in the country.

The *Samatha Vs. State of Andhra Pradesh and others*, Supreme Court Civil appeals no 4601-2 of 1997 is a case worth mentioning. The majority of the judges, Justice Ramaswamy and Justice Sageer Ahmed have referred to ILO Convention 107 of 1957 and ILO Convention 169 of 1989 and also the UN declaration on the Right to Development adopted in the General Assembly resolution 41/ 128 of 4 December 1986 while giving a 'historic' verdict on control of tribals over their natural resources.

It may be recalled here that article 4 (c) of the ILO convention 107, which is otherwise known as Indigenous and Tribal Population Convention 1957, has said among other things that “--- the right of ownership, collective or individual of the members of the population concerned over the land, which these population traditionally occupy shall be recognised”. Article 12 of the said convention further says that - “ --- the population concerned shall not be removed without their free consent from their habitual territories except in accordance with national laws and regulations for reasons relating to national security, or in the interest of national economic development or for the health of the said populations”.

The ILO convention 169 of June 7, 1989 has further added that - “ --- the people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institution and spiritual well being and land, they occupy or otherwise use and exercise control to the extent possible on their economic social and cultural development”. This convention has also said that “--- the rights of the people concerned to natural resources pertaining to their land shall be specially safeguarded. The rights include the right of these people to participate in the use, management and conservation of these resources”.

The UN declaration on the right to development of 1986 also has said that - “ --- the human right to development also implies the full realization of the right of people to self determination which includes subject to the relevant provisions of other international covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

Though, the Judiciary has taken a note of these international declarations the Executive and Legislative in India have never reflected on their relevance in the context of the situations prevailing in our tribal areas. On the contrary the Government Of India has not accepted the ILO convention on indigenous population on the ground that it does not agree with the definition of indigenous population. There has been no review of the situation in tribal areas even since the inception of the Indian Constitution. The Parliament in India also has not questioned the Executive on this matter. PESA or Panchayats Extension to Scheduled Areas Act of 1996 should be examined in this backdrop. PESA derives its powers from the fifth and sixth schedule of the constitution. According to the Samatha Judgement “ --- the Vth and Vth Schedules an integral scheme of the Constitution with direction, philosophy and anxiety is to protect the tribals from exploitation and to preserve valuable endowment of their land for their economic empowerment to elongate social and economic democracy with liberty, equality, fraternity and dignity of their person in our political Bharat”.

The Samatha Judgement also has gone one more step forward in interpreting right to life enshrined in Article 21 of the Indian Constitution by saying that, “Article 21 means something more than mere survival or animal existence. The right to live with human dignity with minimum

sustenance and shelter and all those rights and aspects of life which would go to make a man's life complete and worth living would form part of the right to life. Enjoyment of life and its attainment – social, cultural and intellectual, without which life can't be meaningful, would embrace the protection and preservation of life guaranteed by Article 21. It further says that, “--- despite the power under article 298, the Governor may, by public notification direct that any particular Act of Parliament or of the legislature of a State shall not apply to a Scheduled Area or any part there of in the State or shall apply to Scheduled Areas or any part there of in the State, subject to such exception and modifications as he may specify in the notification any direction given under clause (I) of Para 5, may be given so as to have retrospective effect”. The word ‘Person’ in Section 3 (I) (a) (Samatha Judgement 1997) would therefore ‘be construed to include not merely the natural persons in the context of tribal and non-tribal who deal with the land in Scheduled Areas by transfer intervenes but all juristic persons in the generic sense including the corporations, partnership firm, a company, State, any person, with corporate veil or persons of all hues, either as transferor or transferee”.

The Samatha judgment has further said, ‘the application of sustainable development requires that appropriate assessment should be made of the forest wealth and the establishment of industries based as forest produce”. The judges have refused to accept mining as an activity, which will help forest resources of the tribals when they say, “it is a well settled law that mining operation is a non-forest purpose”.

Despite several international agreements and declarations on rights of tribals and indigenous people and despite several progressive judgments of the apex court in India, the State has not taken serious note of the situations in scheduled areas while deciding to devolve power to the people. Its latest enactment in the form of PESA of 1996 extending the provisions of 73rd Constitutional amendment to scheduled areas of the country should not be taken on its face value.

1.5 Summary of Lessons from Past

Prior to the formation of the Sovereign State of India, the concept of devolution carried little meaning in the ‘imperial territories’ where the British were able to impose their rule with or without resistance. It is only because of the growing pressure of the freedom struggle, the British

started giving concession to the Indians, which could hardly be equated with 'Power'. But, the British had virtually little control over the non-regulated territories, which were otherwise known as "Agency Areas" also fully or partially excluded areas or the Scheduled Areas - all the terms coined by the British themselves. For these areas where the country's precious natural resources were located, were protected by a vast majority of the Tribal Population and the rulers had certain negative injunctions only. There were directives for their own local administrative authority what to do and what not to do. There was recognition of cultures, customs and dependence on land but there were no 'powers' granted to tribal communities to decide on their own affairs. The British approach was based more on convenience to rule a difficult population rather than on a conviction to ensure the inalienable rights of the natives over their natural resources.

When the Sovereign State was formed in India, there were 4 Schools of thought influencing State formation. One school was led by M.K. Gandhi, who advocated 'Gram Swaraj' or 'Village Republic' to be the main base of Indian democracy. The second school was led by Jawaharlal Nehru, who treated the villagers with contempt and was keen to follow the western capitalist model of development but was constrained by the presence of a good number of socialists in the Indian National Congress to declare that he was doing so. The Socialists represented the third School, because of whose influence, Nehru apparently made a compromise and advocated for 'Socialist patterns of Society' or 'Mixed Economy'.

Dr. B.R.Ambedkar who had the support of dalits in India represented the fourth School. Tribal India did not have a voice in the governance of the Indian State, though the struggles they had launched against the British and the sacrifices they had made were unparalleled in Indian history.

Ultimately, it was the School led by Nehru which succeeded at the end and even the concept of 'Gram Swaraj' coined by the "Father of the Nation" was relegated to the non-obligatory part (the Directive Principles of State Policy) of the Constitution till the 73rd Constitution amendment put some life into it.

But, there was no difference in the approach to the Scheduled Areas of the country between the pre-independence period and the independent India. People of the country did not remember till

1996 that, there was a Vth schedule in the Constitution, which provided for special powers' to the tribal communities. The last 50 years since Independence, has seen how millions of tribals have been rendered powerless because of anti people state policies. About 150 millions of tribals have been forced to leave their homeland and desert their natural resource base. There has been a fast decline in their resource base. They have no 'power' to defend themselves or to defend their resources. All most all mega "development" projects such as dams, mines, industries are located in the scheduled areas and tribals lands. The State in the post-independence era, has not even reviewed the situations in tribal areas since independence. This undoubtedly puts a question mark to the intention of the State to devolve power, particularly when PESA was enacted.

Then suddenly the talk of devolution of power began along with the launching of the process of globalization in India. While the Scheduled Areas of the State, the scenario of which has been briefly discussed in the next chapter, has been opened up for Foreign Direct Investment (FDI), the talk about 'devolution of power' to the non-literate, un-prepared and powerless tribal communities has picked up momentum. At the same time, an aggressive campaign has been openly launched for governance 'reforms' and privatization of resources particularly in the states like Orissa completely at the behest of World Bank and Department for International Development (DFID) of United Kingdom.

It becomes extremely difficult to find out what we may consider as State perspectives on devolution. It seems to be dangerous, since the State has already enacted certain laws declaring them and publicizing them as acts of devolution of powers. Therefore, it is desirable to examine contemporary realities, the Acts of devolution at work and the perceptions of the people at the receiving end.

Chapter II

DEVOLUTION OF POWER: The Rationale, Objectives & Designs of Study

**DEVOLUTION OF POWER:
The Rationale, Objectives & Designs of Study**

2. The Rationale

At a time when the Indian economy (an important component of it being its rich natural resources and a large section of its population forming an integral part of the natural resource based economy) was gradually opening up to global economic actors and the decision making in the economic front was allegedly shifting from State legislatures and the Indian Parliament to anonymous centers outside the orbit of India, the country could draw attention of the whole world for certain progressive legislation. The 73rd and 74th constitutional amendment Acts were enacted by the Indian State which transferred certain ‘decision making powers’ to the three tier Panchayati Raj Institutions (PRIs) and made this process of devolution of power constitutional and mandatory. This ‘historic’ amendment to the Indian Constitution devolved ‘enormous powers’ to the democratic institutions at grass root level. Since this development took place at a time when there was no organised demand from the grass root for more power, there was a realization that it would be worthwhile to examine the overall policy environment of the country of that period, which provided the stimuli for such a ‘positive state intervention’ in favour of the grass-root democratic institutions.

2.1 Contemporary Realities

Since this ‘positive state intervention’ had got far reaching implication for the poor and the deprived at the grass root level, it generated lot of curiosity among many, particularly to know if it was an autonomous process of devolution of power initiated by the Indian State or it has roots in the larger political economy. This was the time when the World Bank was talking about Governance reforms more particularly to expedite the pace of economic reforms it had just initiated in the country. From the perspective of the World Bank lesser role for the state in the governance would mean lesser control over market and greater access to resources, prominent among them being natural resources. The emphasis was to minimize the role of ‘Higher Institutions of Democracy’ in the governance of the State and maximize the role of non-state institutions in crucial matters related to governance. Panchayati Raj Institutions (PRIs) were not considered as part of the ‘State’, rather they were treated as extensions of civil society at the

grass root level. This contradiction did not get any focus in the discourses on governance reforms or devolution of power exercise.

2.2 The Contradictions

The publicity campaign launched by the state to popularise its devolution measures was so aggressive that, the contradiction between the economic reform measures and the devolution of power exercises were often over looked. Most of the intellectual, NGO and academic discourses on the acts of devolution and on its implications were conducted with support from the World Bank and such other bodies. This was the time also one witnessed a few selected NGOs and government agencies getting increasingly involved in matters relating to governance at grass root level. Therefore, it was important to know whether the devolution of power exercise in India was a response to any internal pressures from grass root groups, institutions or the people or it was a result of external pressure for governance reforms, which was treated to be essential prerequisite to expedite the pace of economic reforms!

One of the major contradictions is with regard to the approaches to devolution of power. The 73rd amendment and other acts following it made a provision for the Gram Panchayats (GPs) to have a big say in the plans and programmes to be implemented in the villages. At the same time the cut in Government's spending on social sector in terms of its percentages of GDP (Gross Domestic Product) increased every year. This was a conditionality attached by the World Bank. To put it otherwise while political powers were devolved from top to the bottom, the flow of financial resources to the bottom (village) got reduced further and further.

Again, with the inception of WTO regime the people of India started realising that, most of the policy decisions in the field of agriculture, trade, indigenous products etc. and all other vital matters that affect their livelihood were not taken by their elected decision makers. There was growing concern and a curiosity among the progressive non-governmental organisations and individuals to locate the real decision-making centers of Indian economy. But, very few people could link it up with the question that, if the centers of decision-making were not so visible to the Indian public, what kind of sense the new devolution of power exercise would bring to them.

2.3 Panchayats Extension to Scheduled Areas

A couple of years after the 73rd amendment another progressive piece of legislation was enacted in the Union Parliament to extend the provisions of 73rd and 74th amendment to the scheduled areas of the country. This Act popularly known as Panchayat Extension to Scheduled Areas (PESA), came into being in 1996 after a brief history of popular struggles in the scheduled areas of the country. PESA brought powers further down to the 'Gram Sabha' level. The 'Gram Sabha' in the Panchayat Act (which means a grand assembly of villagers with voting rights), were entrusted with wide ranging powers starting from consultation on land acquisition to that of ownership over minor forest produce and leasing of minor minerals. PESA became operative at a time when Indian economy was opening up all its frontiers to foreign direct investment. The mining sector which is mostly located in the scheduled areas of the country where PESA operates, were made open to MNCs and Indian Corporate sector for exploitation of mineral resources at a throw away price.

2.4 The Realities Visible on the Surface amidst which PESA would Operate

Prior to the taking up the study we considered it important to have a quick reflection on the socio-political scenario prevailing in the villages, the provincial states and in the scheduled areas of the country which would provide the environment for PESA to intervene.

2.4. (a) The Villages

The general and undisputed features which one comes across in the 51, 063 villages in Orissa and for that matter anywhere in the country could be summarized as below:

- (i) Agriculture production was worsening with a large number of farmers finding agriculture to be non-remunerative.
- (ii) Rate of unemployment was increasing with closure of areas of employment at the village level.
- (iii) Control over resources such as land, water and forest was going out of the hands of communities to external forces such as state owned agencies, corporate sector and MNCs.
- (iv) Unmet felt needs of people at grass-root level particularly in the field of health, education and food security was growing at an alarming rate.

- (v) Response to such a situation comes in the form of tailor made schemes devised elsewhere.
- (vi) No scope / no financial resources for planning and decision making at village level.
- (vii) No scope for people to participate in their own governance rather they only provide legitimacy to a system of governance which never allow them to think to be a part of it.
- (viii) No organised response to the situation from civil society actors such as NGOs.

2.4. (b) The State

The scenario at the state level was no different. By state here we mean an administrative unit of the Indian State, for example the state of Orissa.

- i. Overall scenario relating to poverty unemployment, economic disparities, pattern of use of natural resources were not encouraging.
- ii. States did not have a development plan of its own, rather it acts as an implementing agency for the central government
- iii. States did not have a vision of development independent of the center.
- iv. Most crucial decisions relating to the economy of the state were not taken at the State level.
- v. Role of the State legislature was declining, as the executive took most decisions, the legislature only ratified it some times with a debate which serves only as a ritual.
- vi. The divide between the executive and the legislative was increasing as the Bank was dictating on governance matters.
- vii. Political parties remained undisturbed and unperturbed despite all these developments.
- viii. Despite all these the state has to facilitate devolution of powers, which were mainly central initiatives.

2.4. (c) The Scheduled Areas

It is equally important to know the scenario in the scheduled areas of the country where laws made by the union government and the state governance could not be made applicable automatically.

- i. The development paradigm hits hard in Scheduled Areas with natural resources sustaining life and livelihood of the tribals getting depleted. More industrial projects, more mining projects, more dams, and more displacements are the characteristics of Scheduled Areas.
- ii. Huge inflow of non-tribals into Scheduled Areas mostly because of the above activities as well as for trade and commerce are causing undue interferences and serious disturbances in tribal economic and cultural life.
- iii. Massive and unchecked land alienation in tribal areas leading to an increasing in the number of resource poor.
- iv. Dependency syndrome becoming more acute as people of the Scheduled Areas depend mostly on centrally sponsored schemes and programmes.
- v. Traditional decision making structures becoming increasingly irrelevant as programme specific decision making structures are imposed from above. This results in each village having a series of committees on a variety of subjects.

The overall scenario is characterized by a terrible crisis in the system of governance:

- a. Firstly, the centre of governance perceivably shifting from the union parliament to unknown centers often alleged to be WB, IMF and WTO.
- b. Secondly, the main centres of governance such as the Union Parliament and consequently State legislatures decide to decentralize / devolve power to grass root bodies in order to ensure governance at grass root level.

This reflection on the scenario prevailing in the village, at the State and union level and also in the Scheduled Areas would baffle any sensitive mind interested to know about the "Devolution of power" exercise in India. Such a situation would logically demand the following immediate interventions:

- (a) A thorough restructuring of the system of governance and
- (b) A stronger state intervention in favour of the poor, particularly the people who depend on natural resources such as land, forest and water for their livelihood

2.5 What formed the objectives of the Study!

Despite all these dismal pictures and the visible contradictions, we were interested to know the space these devolution of power exercises would offer to the grass root governance system. If governance could be decentralized up to the grass root level it may influence the process of getting access to or establishing control over the use as well as pattern of use of natural resources including forest, which necessarily includes its protection as well as management. If this actually happens local groups will have more ‘power’ to decide over the use of natural resources surrounding them. Thus, as a group working on ‘natural resources management’ it was necessary for us to understand what actually this ‘devolution’ offers and at which level.

Therefore, a common decision was taken to know the realities, which the specific act of devolution confronts with and to learn from it. Our purpose was to explore processes and policies, which intend to strengthen community access and control over natural resources. Hence, instead of subscribing to the romanticism which some NGOs, academic institutions and government bodies spread about the acts of devolution of power mainly on the basis of the declared intention of the state, we decided to examine the actual acts of devolution, the history it inherits and the realities it meets with in the villages and among PRI functionaries to understand the actual meaning of the devolution of power exercises. The advocacy initiatives on devolution of power has suffered setbacks since, the key actors in advocacy have got engaged in dissemination of information on devolution and in enhancing the capabilities of the PRI functionaries in terms of the information made available to them. Therefore, there was no scope for them to critically examine the devolution acts and also to examine if there was any enabling measure to translate the acts of devolution into concrete action.

2.5. (a) Specific Objectives

Given this context the present study broadly aims at understanding and documenting the perceptions on PESA and the impacts of PESA in the Schedule V Areas. To capture this perspective we had the following specific objectives to study and analyse:

- Forces and processes that led to the enactment of PESA Act
- Role played by the various actors of civil society in influencing the Policy (enactment) and its implementation

- Impact and Implementation of the PESA Act
- Relevance of Panchayat raj system in Land alienation issue
- Role/involvement of women in Panchayati raj and forces operating there of
- Relevance of Panchayati raj system in forest management at grass root level
- Issues/problems relating to devolution as a whole, approaches to the problem and the people's perception on devolution

2.6 Methodology of the Study

To meet the aforesaid objectives of the study we organized the study at two levels. Firstly, the secondary information was gathered to get a macro-picture of the devolution process and the dynamics involved in it. For this secondary literature such as the District Gazetteer, Report on Land tenures and the Revenue system, District Statistical Handbook, research reports and publications on Panchayati Raj were used. The policies and acts relating to Panchayati Raj were analysed to give a macro picture on the concerned issues in the Schedule Areas. On the basis of the macro-picture the second level analysis was designed, which basically aimed at capturing the grass root level actors perception and the processes of devolution. The second level analysis involved a two-stage approach to collect the relevant primary data for this study.

In the first stage sub-district level and district level consultation process was carried out in the scheduled areas of the State. Altogether 8 sub-district level and 11 district level consultation workshops were organized. These followed a State level consultation Here the participants were drawn from the major stakeholders of the Panchayat system i.e. community, elected representatives, PR bureaucracy, opinion builders and the NGO functionaries working at the grass root level. These consultation meetings were organized around the following few fundamental questions relating to grass-root governance:

- What do we mean by 'Power'?
- What kind of 'power' do we require?
- What do we mean by 'We'?
- What do we understand by 'our development'?
- Based on your experience and understanding what powers have been transferred to

Gram Sabha and Palli Sabha?

- What are the problems we confront with at local level?
- Whether Gramsabha or Pallisabha could effectively address these local problems?
- How do we get the ‘Power’ which will help us address these problems and facilitate our development?
- How do you look at Women’s participation in Gram Sabhas and Palli Sabhas?
- Whether we need Gramsabha or Pallisabha? Or do we need both? Why?

Such an approach was taken to understand the perspective of various actors involved in the functioning and strengthening of the Panchayat system. In the process we aimed at identifying the perception of different actors on power, process of devolution, their ability to handle the local livelihood issue, identify the major livelihood related problems of the people and the PESA for that matter.

The identification of major issues through this consultation process helped us to pin down three key issues relating to natural resources and livelihood of people. They were control and access over land, control and access over forest and women’s participation in the grass root governance. After identifying the key problems, in-depth field studies were carried out in 11 Palli Sabhas distributed in 9 Gram Panchayats or Gram Sabha in the scheduled areas of Orissa. The details with regard to them are provided below:

1. Uppar Jaagar, Uppara Kainsari and Ichinda in Keonjhar district were studied from the perspective of land alienation due to Mining
2. Adala and Karalpasi hamlet of Kuskala-Karalpasi village in Keonjhar district were studied from the perspective of land alienation due to commercial tea plantation
3. Kutrachuan, Satkuma, Kudapada, Goeljhumpa and Lapada in Sambalpur district were studied from the perspective of participation and role of women.
4. Suruguda in Sundergarh district were studied from the perspective of devolution of forest management and the role of Panchayat.

Village	GP	Block	District	Location
Uppara Jaagar Uppara Kainsari &	Kumundi Suakathi	Banspal	Keonjhar	Situated at a distance of about 5 kms from Suakathi GP HQ, which

Ichinda				is 15 kms far away from Keonjhar town.
Adala Kuskala-Karalpasi	Jatra Singhpur	Banspal	Keonjhar	Situated at a distance of about 15 kms from Banspal Block HQ, which is 60 kms far away from Keonjhar town.
Kutrachuan & Satkuma Kuleigada Goeljhumpa Lapada	Kutrachuan Kuleigada-Kudapada Lariapalli Jarabaga	Kuchinda	Sambalpur	The sites are about 10 kms from Kuchinda Block HQ, which is 30 kms from Sambalpur town. These villages are at a distance of about 30 kms from Kuchinda.
Suruguda	Chhetenpalli	Lephripada	Sundergarh	It is located at a distance of 23 kms from Sundergarh town.

The primary focus of the field studies was to understand and generate information with regard to the issues/problems relating to devolution, approaches to address these problems, operational aspects of the PESA and the limitations of the policy as well as the Gram Panchayats. The other objective of the study was to understand the perception of people, PR representatives, women and other actors with regard to the concerned issues.

As regards the field study the following approach was taken:

- Large group discussion with the villagers
- Focused group discussion with PRI representatives, women, Self-Help Group
- Semi structured personal interviews with various actors (elected representatives, community leaders, women)
- Collection of basic information relating to the village from the secondary sources.

After the completion of the sub-district & district level consultations and field studies a state level meeting was organised with the associated NGOs, PRI representatives, interested individuals and organisations working on Panchayati raj. In this meeting the findings of the consultation meetings and field studies were shared by the team.

Chapter III

PANCHAYATS EXTENSION TO SCHEDULED AREAS (PESA) ACT, 1996

PANCHAYATS EXTENSION TO SCHEDULED AREAS (PESA) ACT, 1996

3.1 Forces and processes that led to the enactment of PESA Act

As it has been discussed earlier, the 73rd constitutional amendment Act came into force in 1993, which transferred certain decision-making powers to the three tiered Panchayati Raj Institutions (PRIs) and made this process of devolution of power constitutional and mandatory. The States of Indian Union were directed to make suitable amendments to their respective Gram Panchayat (GP) Acts to translate the central amendments into a concrete reality. However, these amendments did not cover the scheduled areas of the country, which enjoy a special status under the Vth Schedule of the Indian Constitution. But there was a provision as per part IX in the constitution for these amendment acts to be extended to scheduled areas of the country, which suggested that ‘parliament may, by law, extend the provision of this part to the scheduled areas and tribal areas referred to in clause (I) subject to such exceptions and modifications as may be specified in such law.’

The Indian government took more than three years to bring about another law for extending the provisions of the 73rd and 74th Constitutional amendment acts to the scheduled areas of the country. The States, while making amendments to their respective GP Acts also did not take the suggestion of the central amendment seriously and rather interpreted the suggestion to their advantage as there was no directives to prohibit the States to have their own laws for the scheduled areas. Finally, a new law was enacted by the Indian Parliament on the 19th of December 1996 that was preceded by a few important developments.

- **Firstly**, some tribal outfits and a number of organisations working for the tribals launched a movement for “**Tribal Self- Rule**” in Scheduled Areas, which gained momentum with major part of the Scheduled Areas across the States jumping into the movement.

- **Secondly**, because of a verdict of the AP High Court delivered on the 23rd of March, 1995 which held that the application of the AP Panchayati Raj Act, 1994 to the Scheduled Areas of Andhra Pradesh (AP) was unconstitutional. The Indian government by then had formed a committee of MPs and experts under the Chairmanship of sitting MP Dr. Dilip Singh Bhuria and with Dr. B. D. Sharma (former Commissioner of SC & ST Commission, Govt. of India) a leader of the Tribal self rule movement as one of the members. The committee was given a mandate to:
(i) prepare the salient features of the law which may be taken up for enactment by the union parliament for extending provisions of Panchayati raj to the Scheduled Areas of the country and,
(ii) suggest the variations and modifications to be brought about in other relevant acts under the Vth Schedule to further strengthen the system of self governance in the Scheduled Areas. The committee submitted its report on the 17th of January 1995 and the parliament enacted the new law on the 19th of December 1996 which came to be known as the Central Act 40 or the PESA (Provisions of Panchayats Extension to Scheduled Areas) Act of 1996. It may be noted here for a greater understanding later on that this act was approved in the parliament without any debate or discussion on it. And those who said “Yes” to it hardly knew what was there in the bill.

The committee under Dr. Bhuria rather had much more and detailed deliberations on the proposed enactment, which was missing when PESA was enacted in the union parliament. This has far reaching implications in the sense, later on there was none to own the new act (PESA) and to defend it when it ran into rough weather or to protest against any violation of the act. Infact it was Dr. B. D. Sharma who drafted the act and Dr. Bhuria who presided over the meeting who were the only people going round the country to defend the act wherever its violation was reported.

3.2. The Salient Features of PESA in Brief

- **First** of all, PESA has extended the provisions of Part IX of the Indian Constitution relating to Panchayati Raj to Scheduled Areas of the country with necessary exceptions and modifications.
- **Secondly**, PESA has elaborated on those exceptions and modification which are to be kept in mind when a State legislature makes a law or act covering the Scheduled Areas of the State.

- **Thirdly**, PESA has directed the States which have got areas to make an Act on the basis of PESA within a year of the enactment of PESA.
- **Fourthly**, PESA is directive for the States and not a law by itself.
- **Finally**, PESA has asked the State legislatures to make laws for the Scheduled Areas “which shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources”.

One of the highlighting features of PESA is its suggestion that, “every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution”. In addition to this, the Central Act of 1996 provides extensive powers to Gram Sabha in the Scheduled Areas in the following sectors:

- i) Approval of plans, programmes and projects for social and economic development prior to their implementation,
- ii) Identification of beneficiaries of anti poverty programmes,
- iii) Certify utilisation of fund spent by the Panchayat.

PESA after giving the above exclusive powers to the lowest unit of grass root democracy, has further provided that the Gram Sabha or Panchayats at appropriate level shall have the following powers:

- i. To be consulted on matters of land acquisition and resettlement.
- ii. Grant prospecting licence for mining lease for minor minerals and concessions for such activities.
- iii. Planning and management of minor water bodies.
- iv. The power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant.
- v. The ownership of minor forest produces.
- vi. The power to prevent alienation of land and to restore any unlawfully alienated land of a scheduled tribe.
- vii. The power to manage village markets.
- viii. The power to exercise control over money lending to scheduled tribes.

- ix. The power to exercise controls over institutions and functionaries in all social sectors.
- x. The power to control local plans and resources.

While prescribing such wide ranging powers to ‘Gram Sabhas or Panchayats at appropriate level’, PESA has further warned that, ‘the State legislation that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self government. It also contains safeguards to ensure that Panchayats at higher level do not assume the powers and authority of any panchayats at the lower level or the Gram Sabha’.

The States were suggested to amend their respective GP acts to extend the provisions of the Panchayat to Scheduled Areas of their respective States within a year keeping in mind the letter and the spirit of the Central Act of 1996.

3.3 Orissa Gram Panchayat Amendment Acts of 1997 on the basis of PESA

The State of Orissa did not take the Central Act seriously. After a year- long struggle by tribal organisations and NGOs in the Scheduled Areas of the State the Orissa GP Act of 1964 was amended in December 1997. Three different Acts were passed in the Orissa Legislative Assembly i.e. the Orissa Gram Panchayat (Amendment) Act of 1997, the Orissa Panchayat Samiti (Amendment) Act of 1997 and the Orissa Zilla Parishad (Amendment) Act of 1997. A reading of the Orissa Amendment Acts suggests that the letter and spirit of the Central Act have not been properly respected. We may examine in brief the provisions of the Orissa Amendment Acts in the light of PESA and the devolution exercise initiated at the union level.

(i.) **Orissa Gram Panchayat Act** has retained as per PESA that, every Gram Sabha shall approve the plan, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementations by the Panchayat at the village level. But in section – 109, the State Act has provided a space for administrative control over the Gram Panchayat. It says, ‘ Collector or such other officer or person specially authorised in that behalf of the State Government shall exercise general powers of inspection, supervision and control over the exercise of powers, discharge of duties and performance of functions by the Gram Panchayat.’ The State Act has provided a check on the autonomy of Gram Sabha and the

Gram Panchayat. Again, the Gram Sabha / *Sasan*¹ does not have any say over the plans and programmes sponsored by the State or Central Government and corporate bodies executed in the Gram Panchayat. The original act that is the Central Act is also silent on this aspect.

(ii.) On the Traditional Rights of Tribals, the State Acts of 1997 have said that the safeguards provided in PESA, have to be " --- consistent with the relevant laws in force and in harmony with basic tenants of constitution and human rights."

(iii.) This addition in the State Act takes away whatever authority has been provided for in the Central Act. It goes without saying that a number of acts are inconsistent with PESA. Mr. Swaraj Biswal, a senior advocate of Orissa High Court has identified more than 40 such acts which are inconsistent with the provisions of PESA (in a paper presented on the 28th of October, 1999 at a State level Seminar organised by a NGO network at Bhubaneswar). Unless those acts are amended, the Orissa Gram Panchayat acts and the Central Act will remain meaningless.

(iv.) On important matters such as on (a) matter of land acquisition for development project, (b) planning and management of minor water resource bodies, (c) on grant of mining lease for minor minerals and concessions for exploration of minor minerals, the Orissa State has entrusted all the powers to Zilla Parishad under the Orissa Zilla Parishad (Amendment) Act 1997.

The State Act does not give any such power to Gram Sabha on matter in respect of land acquisition, minor minerals, and planning & management of minor bodies. Where as it has entrusted all these powers to the Zilla Parishad, which is not required to consult Gram Sabha while exercising all these powers. This has happened despite the provisions made in the PESA that States shall provide necessary legislative safeguards to ensure that Panchayat at higher level don't assume the powers and authority of any Panchayats at lower level or of the Gram Sabha.

¹ Gram Sabha/Sasan is a body composed of all persons registered by virtue of the Representation of the People Act, 1950 (43 of 1950) in so much of the electoral roll for any Assembly Constituency in force as relates to the Grama [and unless the Election Commission directs otherwise] of the roll shall be deemed to be the electoral roll in respect of the Grama.

An analysis of at least some of the provisions in both the Central Act and the State Acts, brings out some of the serious limitations, which may hinder the real process of devolution of power in scheduled areas.

3.4 Land Acquisition

Perhaps one of the most important provisions of the Central Act 40 is the procedure suggested for land acquisition in scheduled areas. The act suggests that, the Gram Sabha or Panchayats at appropriate level shall be consulted prior to making acquisition of land in Scheduled Areas for development projects or before resettling and rehabilitating persons affected by such projects.

The Orissa Act has taken away this power from Gram Sabha and entrusted it with the Zilla Parishad. The unwillingness of the law-makers in Orissa to share even a consultative power with the village level democratic body finds an expression here. Acquisition of land in the Scheduled Areas of Orissa continues to be a sensitive issue. This issue has assumed further significance in the post liberalisation period as several MNCs and Indian corporate giants have signed MoUs with the State government with the full knowledge of the Union government for prospecting mining as well as for setting up industrial plants. There is no opportunity for the Gram Sabhas in the remote Scheduled Areas of the State to know anything about the MoUs till the time the notice is served on them to give away their only source of survival the land, the water and the forest. The intelligentsia and the educated class also don't know much about a project.

Sometimes they happen to know about it accidentally if rival political interests decide to settle scores with each other as it happened in the BALCO privatisation case in February 2001. Even the Legislators in Orissa were unaware of the fact that, their government had signed a MoU with BALCO for leasing out to the latter the *Sasu Bohu Mali* and *Pasang Mali* hills for bauxite mining till it was disclosed by a local newspaper in the context of the national debate on BALCO privatisation. This is not the only case. In all most all such cases land acquisition is either taken for granted or treated as a ritual. The Gram Sabha does not know when a MoU is signed with a company. The Gram Sabha also does not know when the particular company gets clearance from the Ministry of Environment and Forest, nor does it know what the particular company is going to do there and for whose interest. The Gram Sabha hardly knows anything about the project excepting the fact that people have to loose their land and may have to leave the place for a

project to come up. This clearly shows the unwillingness of the Orissa State to share such a small power with the Gram Sabha so as to even consult them on matters of land acquisition.

There seems to be a more generous interpretation of the word 'Consultation' which has been used in PESA more than once. Any such interpretation will never help in converting 'Consultation' to 'Consent'. The ambiguities in the Central Act may not create any problem in peaceful times. But in situations of crisis they might not be of any help to the tribals, as it is becoming increasingly evident from the recent developments in Scheduled Areas. There is no mention in the Central Act about any remedy in case during the process of consultation if the Gram Sabha or the Panchayat at appropriate level says 'No' to land acquisition/transfer of land to non tribals or if despite a 'No' from the Gram Sabha if the State goes ahead with land acquisition. The Central Act despite its progressive intention has taken land acquisition in Scheduled Areas for granted. Therefore, the provision of 'Consultation' with Gram Sabha does not go along with the provisions of the Vth Schedule as it can't prevent undesirable land acquisition or land transfer in Scheduled Areas. This also goes against the thinking, that tribals in Scheduled Areas will have control over the management of natural resources. At the most it can only delay the process of land acquisition or land transfer. This certainly raises a fundamental question-should the power to delay then be treated as a 'power'?

The people of Kashipur stand witness to the limitations of the Central Act. We shall discuss the Kashipur case later on. It may be recalled here that the Land Acquisition act of 1894 (as amended in 1984) stands supreme on matters of land acquisition anywhere in India which also has been upheld by the Supreme Court in it's judgements. Unless this act is suitably amended and the consent of Gram Sabha is made mandatory, the position of tribals vis-à-vis natural resources in Scheduled Areas will deteriorate further. The use of the term 'public purpose' in the Land Acquisition Act has never served the purpose of tribals in Scheduled Areas of the country. The history of deprivation of tribals of the natural resources which has sustained life and livelihood of millions of their brothers and sisters in the Scheduled Areas of the Indian State suggests that tribals have never been treated by the State as a part of the 'public'. The Land acquisition Act needs to be amended to define in clear term what do we mean by 'public purpose'. The inclusion of the term 'company' within the purview of public purpose by the 1984

amendment of the Land Acquisition Act also needs to be reviewed and dropped. It is the Union parliament, which has to amend the Land Acquisition Act. Those who have seen the draft Land Acquisition Bill of 2000, know it well that how carefully the writers of the draft have avoided PESA and the historic Samatha judgement delivered by the Supreme Court in 1997 [upholding the 1st Act of 1970 of Andhra Pradesh which prevents transfer of lands of tribals to non tribal persons (natural or juristic) in Scheduled Areas]. Even the State has been treated as a non-tribal person in this judgement. The Supreme Court while conducting the case have made a proper reading of the Vth Schedule of the Constitution, which provides for the protection of the interests of the tribals vis-a-vis the natural and common property resources which sustains their life and livelihood.

Kashipur provides an opportunity to understand the provisions of Land Acquisition laid down in PESA. Several multinational mining companies have targeted this Scheduled Area in the Rayagada district of Orissa for prospective bauxite mining and for setting up alumina processing plants. The Utkal Alumina International Ltd. (UAIL) is one among them which is a consortium of Norsk Hydro of Norway, Alcan of Canada and Hindalco of India. The tribals of Kashipur did not know anything about the project till the time they were served notice by the revenue administration that the government intends to take away their land for a 'public purpose'². They were told that they don't have any option and they have to leave their land in return of whatever compensation is paid to them. The villagers of Kucheipadar GP came to know about the real cause of land acquisition from the sources of a local NGO. They organised themselves under the banner of *Prakritika Sampad Surakhsya Parishad* (a campaign group of people from the local area) and launched a movement against land acquisition in the year 1994. Their traditional village committee also fully supported the movement. The movement took an interesting turn when the Bhuria Committee report was released to the public. The committee's recommendations

² According to the Land Acquisition Amendment) Act, 1984, 'Public Purpose' includes the provision of land for – new village sites or planned development of existing village-sites; town or rural planning; planned development of land from public funds in pursuance of any Govt. scheme or policy, a corporation owned or controlled by the State (it means any corporate body established by or under Central, Provincial or State Act), residential purposes to the poor/ landless or to the persons residing in areas affected by natural calamities or to displaced persons affected by the Govt. Schemes/Projects, any local authority or a corporation owned or controlled by the State, carrying out any educational housing, health or slum clearance Govt. scheme or by Govt. established authority or a local authority or Society registered under Society Registration Act 1860, cooperative society for time being in force in any State, any other govt. sponsored development scheme, or with the prior approval of the appropriate govt., or by a local authority, any premises or building for locating a public office but does not include acquisition of land for Companies.

were discussed in the villages in Kashipur and the role of Gram Sabha on matters of control and management of community resources and land acquisition were highlighted. The enactment of PESA in 1996 further added to the morale of the Kashipur tribals. They organised Gram Sabhas in a majority of villages opposing the Alumina project in general and land acquisition in particular. The Gram Sabha resolutions were sent to the Governor and all concerned authorities. There was no response from any quarter. The copies of these resolutions were presented by the villagers to a visiting team led by Mr. Muchkund Dubey, the former Foreign Secretary of India, in Kucheipadar on the 14th of January 1999. But the district administration paid no heed to those resolutions. Since 1996, a number of times the tribals of Kashipur villages have organised Gram Sabhas to reiterate their position vis-a-vis the alumina project but without any result. Now the BALCO privatisation controversy has once again unfolded the myths and the futility of consultation with Gram Sabha. The Orissa government without the knowledge of the Gram Sabha or Panchayats at any level has granted mining leases to BALCO for bauxite mining in *Sasu bohu Mali* and *Pasang Mali* hills in Kashipur block of Orissa. This Kashipur area was in the news during the 2nd half of December 2000 for the killing of three tribal protesters of the anti UAIL movement. It has been alleged by a sitting MP of the ruling Biju Janata Dal (BJD) Mr. Bhartuhari Mohatab (The Prajatantra, 4th March, 2001) that the government has done so (granted leases) under 'pressure' from the NDA (National Democratic Alliance) government at the centre. We may discuss about the implications of such a pressure if it is there and about the implications of such a pressure on the whole exercise of devolution of power. Now what would be the meaning and nature of 'consultation' with the 40 odd villages located in *Sasu bohu mali* area? There are 7/8 villages right on the hills. What would happen to the dense green forest which may be the last surviving range of forests in that region located to the east of *Sasu bohu mali*? After all can we treat land as a resource independent of forest and water? What authority does the Gram Sabha have over other resources such as water and forest? What are the instruments available to a Gram Sabha, which it can use to defend its constitutional rights? Again, all land used by the tribals is not recognised as their owned land. It is only the *patta* (record of rights) lands, which are recognised as their property, the loss of which is entitled to be compensated. It may be recalled here that about 63% of land in the Kashipur Scheduled Area and in other Scheduled Areas are non-surveyed land. The survey and settlement operation is a responsibility of the State, which it has (knowingly!) not performed. Therefore, a large majority

of tribals, living on the non-surveyed/non-settled commons who don't have legal titles but are using it for earning a livelihood source for generations goes unnoticed and unrecognised. Neither the Indian State nor its provincial units such as Orissa consider this as a problem that requires state intervention.

3.5. Dynamics of Macro Economy, Vth Schedule and Devolution of Power

There is a systematic and concerted effort to undermine and marginalize the role of democratic institutions in Scheduled Areas if they are perceived as a threat to the rapid globalisation of Indian economy. The existing legal instruments which have some potential to defend these democratic institutions such as Gram Sabha or which can safeguard the interest of the tribals in Scheduled areas have become a target for assault. It may be recalled here that both PESA of 1996 and the 1st Act of 1970 of AP or similar acts in Orissa which aim at preventing land alienation of tribals in Scheduled Areas derive their strength from the Vth Schedule of the Constitution. Now since the Supreme Court has prohibited transfer of land from tribals to non-tribals by virtue of its interpretation of the Vth Schedule (in the Samatha Vs State of AP case), Union Government is planning to amend the Vth Schedule itself to do away with the main source of these legal instruments. The first act of 1970 of AP and PESA are mutually complementing each other while protecting the interests of tribals and their democratic decision making authority. But the proposed amendment will make these acts void and useless.

On the 10th of July 2000, the Ministry of Mines of Government of India issued a 'secret' note for discussion in the committees of Secretaries regarding the amendment to Vth schedule of the Constitution, which it says, has become imminent in the light of the Samatha Judgement. Just four months before i.e. on the 4th of February 2000 the Supreme Court had rejected a petition filed by the Govt. of India appealing the apex court to reconsider its decision on the Samatha case. The note reacting to the verdict of the apex court in the Samatha Vs. State of AP case says that, "it could never have been the intention of the framers of the constitution that no economic activity should take place in the scheduled areas or that the tribals should always remain isolated from the mainstream of the society. Apparently, the interpretation given by the Supreme Court in the Samatha judgement will bring to halt all industrial activities including mining operations in the Scheduled Areas of Andhra Pradesh and latter in other states which in turn will hamper the

economic activities in the Scheduled Areas in the country". We may not discuss the Samatha judgement here, as it requires a different space. But what is shocking here is the pro-active role played by the Government of India in downplaying the provisions of the Constitution which have been designed to protect the rights of tribals over the natural resources located in the areas of their living. There is also an interesting interpretation of 'economic activity' in Scheduled Areas. Mining is treated as being synonymous with economic activity, which does not in anyway help the local economy in Scheduled Areas. Where as the agricultural land, the forest, forest produces and the water etc. all that has sustained life in Scheduled Areas for centuries fail to qualify as an important part of economy. If the Ministry of Mines (MoM) succeeds in persuading the parliament all the legal instruments which look to be pro-people or pro-tribal including PESA will be rendered useless. The MoM has suggested the following explanation to be added to Vth schedule - "the regulations framed under paragraph 5(2) shall not prohibit or restrict transfer of land by members of the scheduled tribe to the government or allotment by the government of its land to a non-tribal for undertaking any non-agricultural operations including reconnaissance or prospecting of mining operations under the provisions of MMDR Act, 1957." This is no more a hidden fact that the government wants to open up its mines to MNCs and the Indian corporate giants without any loss of time. Gram Sabha here appears to be stumbling block. An unknown caucus at a macro level takes all major decisions in the economic front, which is beyond the reach of the ordinary members of a Gram Sabha in Scheduled areas. What would be the effect of consultation in such cases?

In a state like Orissa the situation is further discouraging. In terms of financial resources Orissa presents a very gloomy picture that gives a weak state and strong centre image and thus makes itself vulnerable to undue influence from the centre. The State does not provide any fund to the panchayat bodies down below. The State Finance Commission which was formed as a result of the 73rd and 74th constitutional amendments after a thorough exercise also recommended to the State government the ratio of sharing of resources between the State and the PRIs and also among the PRIs themselves. But the report is gathering dust in the State assembly library. Mostly it is the centrally sponsored schemes, which are implemented in the GPs. The financial position of the Orissa government is precarious, as it has to spend more than 4000 million rupees a month only to run the state administration where as it's income per month is less then 2000 million

rupees. It can't even contribute its matching contribution of 25% to the centrally sponsored schemes. Therefore, in terms of resources the Panchayats are more dependent on the funding of the union. The implications of this situation can be inferred from the following developments.

The State government had made an appeal to the Union government with the following request:

(i.) to wave out the criterion of 25% matching contribution in the case of centrally sponsored schemes implemented in Orissa villages for two years and, (ii.) to allow the State to defer the repayment of certain loan for two years as the State was going through a financial crisis. The centre's response presents a case for serious thinking. The Officer on Special Duty to the Prime Minister Mr N. K. Singh visited the capital of Orissa on the 16th of February 2001. Mr Singh made it clear that the centre would not consider any such request from the State unless (a) the economic reform measures as proposed by the Centre and, (b) power sector reform package are not implemented by the State at a desirable pace. It is during this time that the mining lease to BALCO has been signed without the knowledge of any democratic institution starting from the Gram Sabhas in Kashipur to that of the State Legislature at Bhubaneswar.

Since a majority of the fund for the state is flowing from or through the Centre, the State is not enjoying any financial autonomy in the real sense of the term. This helps the centre to pursue its agenda for globalisation. Resistance from the provincial state either does not exist or is reduced to a ritual. Even on important matters the State legislature is not consulted. The question of consultation with any other democratic body at down below does not arise at all. Therefore, whatever powers PESA has supposedly given to Gram Sabha or Panchayats at appropriate level, on vital matters such as land acquisition or land alienation, are not easy to realise.

3.6. Status of Vth Schedule in the Present Context

The PESA of 1996, the 1st Act of 1970 of AP and the Samatha Judgement of 1997 and the State GP Acts, in the states which have Scheduled Areas, derive their strength from the Vth Schedule of the Constitution. The main source of devolution of power in Scheduled Areas is therefore this Vth Schedule. The Vth Schedule of the Constitution got renewed attention in the light of the Samatha judgement in 1997. The Supreme Court has made a good interpretation of the Vth and the VIth Schedule to the Constitution. It has said that, the objects of these schedules, as seen

earlier is not only to prevent acquisition holding or disposal of the land in scheduled areas by the non-tribals or alienation of such land among non-tribals inter-se. The object is also to ensure that the tribals remain in possession and enjoyment of lands in Scheduled Areas for their economic empowerment, social status and dignity of their person. This has made the Vth Schedule an object of executive anger. This anger has been further fuelled up by the resistance of the Chattisgarh State to the recent BALCO privatisation case partly in the context of the violations of provisions of the Vth Schedule. It has become clear that the centre has already initiated a move to amend the Vth Schedule, the process of which might get expedited in the present circumstances. If the Centre succeeds in doing so, the major legal instruments of devolution of power in scheduled areas including that of PESA will be rendered useless. At a time when the Indian State (or through its intermediary its provincial units) should have concentrated on evolving instruments, mechanisms and polices to translate the acts of devolution of power into realisable goals, it seems to be making all possible efforts to make mortal assault on the very source of devolution of power. The appeal of the Union government to the Supreme Court for review of its decision on mining in Scheduled Areas, its attempt to amend the Vth schedule, its indifference to violation of rights of tribals in Kashipur and other scheduled areas and its most recent step of leasing out to BALCO of *Sasu Bohu Mali* and *Pasang Mali* bauxite hills in Kashipur area without paying any heed to the formidable opposition of the tribals to another such project in the area are a testimony to the fact that there is no political will behind the exercise of devolution of power in India. The pressure of global economic interest is so much on the Indian State that, even the leadership is willing to transform the very foundation of the state, its constitution. How do ordinary tribal villagers in the remote Scheduled Areas of the country cope with this killing situation and how do the fragile instruments such as Orissa GP (amendment) Acts of 1997 come to their rescue perhaps does not require any further clarification. The State is not wasting its time on waiting for a constitutional amendment, it is also using strategies to avert constitutional conjunctions. The land leased to BALCO (then a govt undertaking) in the Korba Scheduled Area of Chattisgarh belongs to tribals. Now with the privatisation of BALCO (with the transfer of 51 percent of equity to Sterlite a private company) the land also has got transferred to a private party. The whole exercise has been done without consulting the tribals or their representative bodies. This violates PESA and the provisions of Vth Schedule. But it is being argued that this transfer of government equity from BALCO to a private company should

purport to mean that it is a transfer of management and not that of ownership. The tribals of Chattisgarh have to move the Supreme Court to get identified if it is an ownership issue or only a matter of shift in the management without expecting a favourable judgement. Those who are familiar with the cost and the price of justice in India know it very well if the ordinary tribal members of Gram Sabha in Chattisgarh or Orissa can ever afford it.

The provincial states are also not much behind the centre in subverting constitutional provisions. In Orissa, for example, no private business interest does the land acquisition in scheduled or non-scheduled areas. The land is first taken away by the government owned IDICOL (Industrial Development Corporation of Orissa) in the pretext of a 'public purpose' and immediately transferred to concerned private interest. And in this process IDICOL earns a huge profit. The Samatha judgement does not say anything about the use or misuse of the term 'public purpose' in scheduled areas of the country. The political leadership who enjoy the support of an astute bureaucracy have proved to be smarter than the courts anytime they have found a gap in judicial interpretations of provisions of law. Perhaps it does not require any further emphasis that unless societal will is mobilised very little could be done to overcome the threats to rights of tribals in scheduled areas.

3.7. Acts of Devolution vs. the Process of Empowerment

Despite all these limitations PESA and its resultant State Acts in Orissa have been able to give something to the tribals and dalits in the schedule areas of Orissa. But acts don't automatically lead to empowerment. The state government in a major move transferred the ownership rights of 60 MFPs to GPs in the Scheduled Areas of the State in the month of April 2000. These items did not include tree borne oil seeds and the government also did not declare any mechanism for enabling the tribals to make use of this transfer of ownership from the forest department to that of peoples democratic bodies. Realising the futility of such a devolution measure a group of NGOs together with a number of forest protecting community based organisations launched a campaign demanding a few enabling initiatives. One of the major demands they put forth before the Chief Minister of the State was that till the time the tribal primary collectors of Minor Forest Products (MFPs) organise themselves skilfully to enter into the MFP trade hitherto monopolised by powerful business interests there should be Minimum Support Price fixed for each MFP item

and the state should make budgetary provisions to buy the produce in case the tribals fail in the trade. They also demanded the state to take up appropriate measures to enable tribal primary collectors co-operative to come up in the MFP trade. As per the calculations of experts (R.K. Sarangi and N.M. Singh) who made a presentation before the Chief Minister on the 9th of June 2000, the provision of having a MSP would have cost the State hardly 10 million rupees a year. A demand was also made to return the profit made out of the Kendu leaves trade to the Kendu leaf pluckers. But nothing was done by the State. Two weeks latter the Chief Minister making a reference to these demands declared the inclusion of 7 tree borne oil seeds to the previous list of 60 MFPs.

Whereas formidable economic interest guide the decision making at the national level which promotes and strengthens concentration of power in the hands of a few, the provincial states like Orissa can't liberate themselves from the clutches of a conservative and anti-people bureaucracy and their nexus with powerful business interests. This is happening at a time when major political parties seem to have reached a consensus on economic issues, more particularly on exploitation of natural resources. The role and relevance of these resources to tribal economy is either grossly undermined or totally ignored where as it's potential to contribute to the mythical growth of national economy is presented in an exaggerated form. The profit that private capital makes out of it is seldom discussed. The ordinary members of Gram Sabha in scheduled areas have hardly any clue about it.

3.8. Response of Various Actors to the Devolution exercise

In such a situation how do the actors (such as the political parties and their outfits, the tribal organisations, solidarity forums and NGOs) involved in the issues involving rights of tribals in scheduled areas more particularly on the issue of protecting natural resources respond or behave?

(i) Political Actors

As it is evident from the national scenario, the major political parties seem to have arrived at an undeclared understanding on the issue of exploitation of natural resources in scheduled areas. Those who have watched the behaviour of all political parties in the BALCO privatisation case may have noticed one hard fact. Most of them focussed either on the transparency question

relating to the disinvestment of BALCO or on the alleged corruption involving the transfer of 51 percent of govt equity to the private party Sterlite. Not a single political party in this State or at the National level did question the rationale of granting the mining lease of two bauxite hills to BALCO without consulting the Panchayat at appropriate level (in the Orissa context the Zilla Parishad) or the Gram Sabha. Sometime because of the dynamics of electoral politics, political parties do create an impression in the minds of the tribals that they are fully accepting the provisions of PESA but they never remember their commitment once they assume power. On the 16th February 2000, during the election campaign to State Assembly, the Biju Janata Dal (BJD) and Bharatiya Janata Party (BJP) combine (two political parties of the State) issued an advertisement in the leading Oriya daily the Samaj, which said that “the tribals have suffered a lot by giving their land to the mining companies. The land, the forest, the water and the wealth hidden in their land in the scheduled area are all theirs. They are the masters of these resources. The Indian National Congress party, which was in power, did not consider this fact. But the BJP and BJD combine will now work for restoring that right to the tribal brother”. This combine came to power in March 2000, which they are enjoying at the moment. It may be recalled here that three tribals were killed on the 16th of December 2000 in Kashipur Scheduled Areas because they were asserting their rights over their land, their water and their hills.

At the time when PESA was enacted the Congress Party was in power both at the centre as well as in Orissa. They never presented PESA as an achievement. The parties, who were in opposition also, did not deem it necessary to discuss the provisions of PESA and its implications. One of the major reasons of the indifference of all political parties to PESA including the one that initiated it may be related to the fact that PESA was not discussed and debated in the parliament. Such an important act was passed in the Lok Sabha in the midnight hours when a majority of the members were absent. One of the outcomes of this was that, later no political party owned this act or cared to defend it. This got further reflected in the State of Orissa in the years to follow. The NGOs and tribal fronts had to struggle a lot to convince even tribal MLAs representing different political parties from the Scheduled Areas on the issue of amending the State GP Acts in the light of PESA. On the initiative of a few local NGOs and their collective forum and with the support of Orissa Adivasi Manch an interactive session was arranged with a group of MLAs (most of them being tribals) at the State Guest House on the 18th of November 1997 which was

conducted by Dr B.D.Sharma. This was done to convince them about making amendments to the Orissa GP Acts in the light of PESA. Ultimately when the amendments were initiated and discussed in the assembly and the progressive provisions of PESA were taken out not a single MLA protested. The legislators in Orissa have never shown any interest in the devolution exercise. This has led to the growth of unionism in PRI structure in Orissa. Starting from the Presidents of the Zilla Parishads to that of the Sarpanchs of GPs have formed a union in Orissa. They are indeed demanding devolution of powers but to the offices they are holding and certainly not to the democratic body of which they are a part and never to the Gram Sabha.

Again, all these grass root level elected representatives are affiliated to different political parties directly or indirectly. They often behave the way they are directed to behave. The present tribal MLA of Laxmipur (which covers Kashipur) Mr Bibhisan Majhi, provides a brilliant example for reflection. Mr Majhi then an ordinary tribal was an important member of tribal delegation from Kashipur which visited Delhi in the month of March 1999 to protest against the violation of PESA in Kashipur. Among others they had met Dr. Dilip Singh Bhuria. Majhi got elected to the state assembly a year latter on a BJD ticket. But now Majhi has completely distanced himself from the tribals and their issues in Kashipur more particularly on the question of violation of PESA in the area by the State.

Therefore, the political party process has so far been unable to generate any hope in peoples' mind that the devolution of power to the people is taken positively by parties in power or aspiring to be in power.

(ii) The Other Actors

Among the other actors who claim to be having genuine concerns in the Scheduled Areas of the State are the NGOs, their tribal outfits (such as the Orissa Adivasi Manch) and the fronts (Tribal Self-Rule Movement) launched by them directly or indirectly. Almost all of them have taken PESA seriously. They do believe that real empowerment in Scheduled Areas could be done if the provisions of the act are faithfully implemented. The number of these actors may be insignificant but the efforts they made particularly in the post-Bhuria committee and pre- PESA period deserve to be appreciated. But most of them perhaps read the provisions of PESA too much and

looked for a shortcut to realise its goal. Events got precedence over processes. Organisation of people was not accorded any priority. Rather it was the organisation of events like a daylong seminar or at the most a rally for a few hours kept these actors preoccupied in Orissa. Some of them even thought that simply lobbying with a few caring legislators as well as bureaucrats would serve the purpose. Fund played a major role in creating forums and also in dissolving them. These funds received from the State and the external agencies also played a key role in the search of shortcuts to informed organisation building in scheduled areas of the state. The reflections of all these can be seen in the birth and death of Orissa Adivasi Manch, which lived for about four years. The role played by these actors may be with the best intention have the following serious implications for the Panchayats at all level in Scheduled Areas more particularly for the Gram Sabha.

A great majority of the tribals who are the potential members of a Gram Sabha in their respective villages do not know anything about the PESA. All those who know about it do not have a critical view of the Act. They have been told that they have got all most everything they would look for in the PESA. The limitations of PESA, the hurdles which are there in the process of its realisation, the role of the agencies, of the State, the role of political leadership and the bureaucracy and the attitude of the non-tribal and non-dalit Oriya middle class who dominate the power structure in Orissa at all levels and who never treat the tribals and the dalits as equal human beings are seldom discussed with them. They are also not aware of the macro economic forces, which are a threat to the autonomy of their democratic institutions. How do then they come up in a situation where the rights guaranteed to them by the Vth Schedule of the Constitution are blatantly violated and protest against it? How do they prepare themselves to make use of the benefits of certain policies of devolution if there are any? How do they demand for more enabling mechanisms from the State which are necessary to realise the positive aspects of PESA and the State Acts? There seems to be a big grey area, which is yet to get adequate attention from these actors.

3.9. Lessons Learnt from Our own Consultations and Interactions at District and Sub – District level

Therefore, with an inquisitive mind Vasundhara decided to explore issues/problems relating to devolution as a whole, approaches to the problem and the People's perception on devolution particularly on PESA. A series of discussions and consultations were organised at the district and sub-district level to solicit opinions, feedback and inputs from (i) PRI representatives, (ii) NGO workers and (iii) representatives from People's Organisations. The outcomes have been presented in a tabular form for the convenience of understanding.

	Representatives of Panchayati Raj	Representatives of Voluntary Organisation	Representatives of People's Organisation
1.	What do we mean by 'Power'?		
	<p>The PRI representatives in general responded to this question by saying that, by power they mean they have the authority to:</p> <ul style="list-style-type: none"> ▪ Make beneficiary selection in various developments programmes. ▪ Construct Road, Bridge, School etc. for the people. ▪ Plan & execute all other usual development works. ▪ Take decisions on the above which should not be changed. 	<p>The more articulate one among the NGO workers defined 'Power' as something which would give people the</p> <ul style="list-style-type: none"> ▪ Rights to improve the quality of their life. ▪ Freedom to realise their fundamental rights. ▪ Access democratic means to participate in the development processes. 	<p>For the People's Organisations 'Power' meant:</p> <ul style="list-style-type: none"> ▪ The Right to manage the natural resources. ▪ Freedom to live a respectful life. ▪ To take vital decisions at village level regarding their economic activities, forest produces, agriculture and development work.
<i>Remarks</i>	<i>It was clear from all interactions that people in any group did not have any thinking or reflection on "Power". All the time the facilitators had to persuade a lot and create an atmosphere for brainstorming on the subject". Whatever outcomes we see above or below is an outcome of this brainstorming in each and every place of interaction. This speaks about the preparedness of the people who would participate in the Devolution of Power exercises at grass root level.</i>		
2.	What kind of "power" do we require?		
	<p>The PRI representatives said one thing emphatically in all the places of consultation that -</p> <ul style="list-style-type: none"> ▪ Once they select the list of beneficiaries of anti-poverty programmes in the Palli Sabha and Gram Sabha, it must be honoured and it should not be altered. ▪ In certain places they had demanded that power be given to them to exercise rights over forests and to make provisions of food and shelter for the poor. 	<p>The NGO workers had the following to suggest,</p> <ul style="list-style-type: none"> ▪ Power is required to control and manage resources related to life and livelihood i.e. lands, water and forest. ▪ And also to fulfil the minimum needs of life. 	<p>According to the Peoples organisations power is needed to -</p> <ul style="list-style-type: none"> ▪ To solve the local problems. ▪ Control and manage over land, water and forest. ▪ To provide basic facilities to people. ▪ To fix prices for NTFPs and manage them. ▪ To fix daily wages. ▪ Safeguard the interest of exploited class.
<i>Remarks</i>	<i>PR representatives often concentrated on the beneficiary selection of development programmes. Fundamental issues on life and livelihood never come up in their discussion.</i>		
3.	What do we mean by "We"?		
	<p>The PRI functionaries wanted to include within 'we'</p> <ul style="list-style-type: none"> ▪ All the people living in a village or villages of a Panchayat. 	<ul style="list-style-type: none"> ▪ According to NGO workers," We" stands for the local people, the migrated people, and the indigenous people in the area. 	<ul style="list-style-type: none"> ▪ The peoples organisations however said within "We" they include the Poor, the Scheduled Tribes and the Scheduled Castes who are marginalised in the society
4.	What do we understand by 'our development'?		

	<ul style="list-style-type: none"> ▪ The majority of opinion was that development would ensure the benefits 	<ul style="list-style-type: none"> ▪ The NGOs replied that, without endangering the culture, language, practice, 	<ul style="list-style-type: none"> ▪ The representatives of peoples organisations wanted ‘Development’ to ensure the minimum requirement
	Representatives of Panchayati Raj	Representatives of Voluntary Organisation	Representatives of People’s Organisation
	from the government. There were also opinions that it would ensure economic development of all people.	life and livelihood of people carrying out progressive works with own or collective efforts would be called development.	in the life of people i.e. food, shelter, education and health by developing their resources such as land, water and forest.
<i>Remarks</i>	<i>Perhaps the differences and similarities in perceptions are self- explanatory.</i>		
5.	Based on your experience and understanding what powers have been transferred to Gram Sabha and Palli Sabha?		
	<p>The overwhelming opinion of these groups was that -</p> <ul style="list-style-type: none"> ◆ No power has been given, only responsibilities have been entrusted to these bodies. The Palli Sabha/ Gram Sabha, are not able to realise what power has been given to them. Rather the development activities are done with the instruction of govt. officials. ◆ Very few people said all powers have been given to Gram Sabha, however they could not explain that beyond the selection of beneficiaries. ◆ While many people said that whatever power was given, it has only divided the community fabric. 	<ul style="list-style-type: none"> ◆ NGO workers did not see any major power, which has been given to Gram Sabha and Palli Sabha except to make beneficiary selection. 	<ul style="list-style-type: none"> ◆ Gram Sabha has got some power for the development of G.P. more particularly to select beneficiaries.
Remarks	<i>As per the opinion of all these groups “Beneficiary selection” is the only power which seems to have been given to Gram Sabha. PR representatives and people’s representatives said that whatever power is given to Panchayat, it only divides the village community across the Political Party line.</i>		
6.	What are the problems we confront at local level?		
	<p>The long list of problems identified by PRI representatives included the followings:</p> <ul style="list-style-type: none"> ▪ The selected list of beneficiaries is often changed at higher level more particularly at the Block level. ▪ The identification of BPL & APL list is not done properly. ▪ While Gram Sabha is putting a ban on liquor the govt. is giving licenses to 	<p>The NGO workers list contained the followings:</p> <ul style="list-style-type: none"> ▪ Unequal land distribution. ▪ Caste conflict with no acceptable authority to intervene. ▪ Declining price of NTFP items with no control of Gram Sabhas over it. ▪ Water scarcity for irrigation. ▪ Displacement due to mines, major industries and dam projects. ▪ No rights over forest. 	<p>For the Peoples organisations the list included:</p> <ul style="list-style-type: none"> ▪ NTFP items are purchased below the minimum procurement price ▪ KL pluckers are not getting the payment in time. ▪ Land alienation (village lands are transferred outside people) ▪ Displaced people are not rehabilitated ▪ Food scarcity ▪ Minimum wages are not given to labourers ▪ Identification of BPL/APL is not properly carried out, this process

	<ul style="list-style-type: none"> ▪ open liquor shops. ▪ No employment is available in the villages. ▪ Conflict on lands ownership remains unresolved. 		<ul style="list-style-type: none"> ▪ often leads to conflict. ▪ Traditional Gram Sabha is losing its importance ▪ Education & health sectors are not given due importance ▪ While Palli Sabha & Gram Sabha are
	Representatives of Panchayati Raj	Representatives of Voluntary Organisation	Representatives of People's Organisation
	<ul style="list-style-type: none"> ▪ Forest degradation continues unchecked. ▪ Water scarcity both for drinking and irrigation continues and they don't have the power to intervene. ▪ Teachers do not come to schools regularly. ▪ Books are not provided in time. ▪ Corruption rampant in the development works. ▪ No priority is given to health needs. ▪ The benefits of development works do not go to the poorest people/genuine beneficiary. This creates dissatisfaction and conflict among the village community. ▪ NTFPs are bought by traders below the minimum procurement price fixed by govt. ▪ Paddy is not purchased even at the minimum support price fixed by the govt. 		<ul style="list-style-type: none"> ▪ not allowing liquor trade, govt. is giving license ▪ Rampant corruption
<i>Remarks</i>	<i>The lists are self-explanatory.</i>		
7.	Whether Gram Sabha or Palli Sabha could effectively address these local problems?		
	The PRI functionaries were almost unanimous when they said that, these local bodies couldn't address these problems since they don't enjoy so much power under the existing law.	Their opinion was also the same.	The people's representatives did not have a different opinion on the question.
<i>Remarks</i>	<i>The existing Acts of devolution of power symbolised by Gram Sabha or Palli Sabha cannot address the local problems, was an unanimous opinion among the representatives of the three groups.</i>		
8.	How do we get the "Power" which will help us address these problems and facilitate our development?		
	The PRIs were of the opinion	The NGO workers wanted -	<ul style="list-style-type: none"> ▪ The people's organisations also had

	<p>that power can be acquired by -</p> <ul style="list-style-type: none"> ▪ Raising Public awareness. ▪ And pressurising the govt. 	<ul style="list-style-type: none"> ▪ More discussion at the village level on these issues. ▪ Organise people's movement demanding more power. ▪ Place the demand before govt. and put pressure on it. <p>Information sharing with people.</p>	<p>similar suggestions to make. They added further by saying that, proper organisation and proper leadership is required to demand for more power from the government in the form of a people's movement.</p>
	Representatives of Panchayati Raj	Representatives of Voluntary Organisation	Representatives of People's Organisation
<i>Remarks</i>	<p><i>However, no group was able to spell out what could they do as a first step in this direction. The discussions further proved that people at any level or in any category were not prepared for demanding more power though they were fully & adequately aware of the fact that their democratic bodies have not received any real power.</i></p>		
9.	How do you look at Women's participation in Gram Sabhas and Palli Sabhas?		
	<ul style="list-style-type: none"> ▪ The male functionaries did not take the question seriously anywhere but from the discussions it emerged that most of the women representatives are infact represented by their male family members in most of the Panchayat activities. Most of them also were of the opinion that women have found a place in this governance process because the govt. has brought a policy with regard to this. They seem to be convinced that women don't deserve this role on their own. ▪ The women functionaries had something else to share. According to them it is a male dominated system. The male functionaries are non-co-operative in nature and they don't tolerate women. 	<ul style="list-style-type: none"> ▪ In the opinion of NGO workers, in a majority of cases women are not able to assert their rights and in some cases where one finds a few notable exceptions the male colleagues either don't co-operate or put up hurdles before them. ▪ Most of them feel that if women are given proper skill training they would prove to be more effective than men in the PRIs. 	<ul style="list-style-type: none"> ▪ The participants from peoples' organisation agreed with the opinion of NGOs and added that in no Gram Sabha one would see women participating in it. ▪ In the Palli Sabhas, though they do participate but only as a ritual. ▪ In most cases according to them these Sabhas don't take place in the knowledge of the adult members of the villages.
<i>Remarks</i>	<p><i>The participation of women has been treated more as a ritual. The women representatives who have proved to be more capable than their male counterparts do not get any support. The nature of Gram Sabha continues to remain male oriented. There is no serious thinking on this issue at any level.</i></p>		
10.	Whether we need Gram Sabha or Palli Sabha? Or Do we need both? Why?		
	<ul style="list-style-type: none"> ▪ The PRI functionaries were not able to decide, therefore most of them said they need both while a few were happy to suggest only Palli Sabhas. 	<ul style="list-style-type: none"> ▪ The NGO workers wanted to have both the institutions since they thought both have an important role in discussion & planning and implementation. 	<ul style="list-style-type: none"> ▪ The Peoples organisations preferred only Palli Sabha because they thought this would be the smallest unit where people can actively and effectively participate in the deliberations and decisions.

<i>Remarks</i>	<i>This question was important in the sense that there was a growing concern in Orissa regarding the effective participation of people in Gram Sabha because of its huge size.</i>		
<i>Overall Remarks</i>	<ul style="list-style-type: none"> ▪ <i>For all most all the participants confronting these questions was a first time experience. This indicates that people at any level have not reflected on what would be the meaning of power for them. Therefore, there was also no thinking on devolution of power.</i> ▪ <i>Till these brainstorming sessions there was no occasion for them to reflect on what powers their grass root democratic institutions have actually got. Most of the NGOs and Govt. bodies working on Panchayat Raj and PESA were only engaging themselves on popularising what powers the Acts have given to the people.</i> ▪ <i>The most visible power so far seems to have been selection of beneficiaries of different schemes of the govt. Since the list of potential beneficiaries is many and the supply of benefits is quite less, the selection of list has caused tensions, conflicts and multiple polarisations of the village communities.</i> ▪ <i>PR representatives who had initially said we have got some power after a brainstorming session came to the conclusion that all they have got some responsibility but no power.</i> ▪ <i>Till date, PR representatives are not able to think up about the fundamental issues relating to life and livelihood of rural population which speaks about what kind of people are at the helm of affairs in our grass root democracy and how much alienated are they from the issues of the people.</i> ▪ <i>The Gram Sabhas and Palli Sabhas have not come up to people's expectation in their present form.</i> ▪ <i>The environment in Gram Sabhas and Palli Sabhas is not encouraging for women to participate.</i> ▪ <i>The Gram Sabha, which is treated as the Parliament of the village, does not meet in the knowledge of all adult members of the village.</i> 		

Apart from organising a series of district level and sub district level consultations and brainstorming sessions, Vasundhara also conducted out a few case studies to get the views from the villages on specific subjects.

The approach for the case studies was to record the situations as they look to be vis-a-vis key issues concerning the system of governance. The next Chapter contains the case studies in better details.

Chapter IV

CASE STUDIES

Development for Whom!

*The Poor tribals
or
The Rich Landlords
or
The State.*

Development appears to be a merciless process. The real owners of the resources are forgotten. They are left behind in the race of development. They sacrifice everything – their Homeland, their Agriculture, their Culture and their Livelihood.

And they are forced to a wretched life !!!!

Case Study 1

Land Alienation in Schedule V Areas³ and the Functioning of Gram Sabha/Gram Panchayat:

Case Study of Suakathi & Kumundi Gram Panchayats in Keonjhar District

1. Background

The present research work was carried out to understand the issues of land alienation and the role of Gram Panchayat/Gram Sabha in Schedule V areas. Since Suakathi area in Keonjhar district of Orissa falls under mining belt, land acquisition is a major problem of this region. So the study was undertaken in two Gram Panchayats (GP) namely, Kumundi and Suakathi GPs of this area.

The district of Keonjhar lies on the Northwestern part of Orissa. The district has a total population of 13,37,026 (Census of India, 1991) of whom 44.52 % people belong to the Scheduled Tribe communities and 11.49 % belong to the SC communities. This district is gifted with number of minerals like Iron ore, Manganese ore, Chromite, Quartzite, Bauxite, Gold, Pyrophillite and Limestone. The district has been divided into 3 sub-divisions for administrative purpose, and for development purpose it has been divided into 13 Community development blocks.

2. Study Sites

The studied villages fall into Banspal Block which has 19 Gram Panchayats (GP) within it. The study focused on three Palli Sabhas (PS) (in case of Orissa State one revenue village is considered as Palli Sabha⁴) of two GPs – *Suakathi* and *Kumundi*. Suakathi GP comprises of 6 revenue villages namely, *Uppara Kainsari*, *Tala Kainsari*, *Daonla*, *Ichinda*, *Laupada* and *Suakathi*. Kumundi comparatively is a smaller GP having four revenue villages namely, *Uppara Jaagar*, *Tala Jaagar*, *Urmunda* and *Kumundi*. These villages surround Gandhamardan hill which

3 Scheduled Area refers to areas declared as Scheduled Area on the basis of the intensity of tribal population as per the clause (1) of article 244 of the Constitution of India.

4 A Palli Sabha has been constituted under section 6 of Orissa Gram Panchayat Act, 1965 for every 'Village' within the Gram Panchayat.

hosts one of the biggest iron ore deposits in the State (9250 million tones with average grade of 63% Fe). A Palli Sabha has been constituted under section 6 of Orissa Gram Panchayat Act, 1965 for every ‘Village’ within the Gram Panchayat.

Suakathi is the Panchayat Headquarter located at a distance of about 15 kms from Keonjhar town (District Headquarters) on the NH-6. Further, this place is widely known for Orissa Mining Corporation (OMC) field office and a huge mining workers’ colony. From the panchayat headquarter the studied villages are situated at a distance ranging between 4-8 kms.

3. Profile of Studied Villages

3.1 Uppara Jaagar Village

It is a revenue village under Kumundi GP. The Panchayat comprises of 4 villages namely, *Uppara Jaagar, Tala Jaagar, Urmunda and Kumundi*. (need to tell the difference between a revenue village and just a village)

The village is divided into four hamlets locally known as *Sahis* (Hamlets) in scattered locations namely, *Rugdi Sahi* or *Dehuri Sahi, Kadabandh Sahi, Jamdalia Sahi* and *Matikhani Sahi*. Neighbouring them there is another center of habitation known as *Hatinga Sahi*. This is a colony of mining workers (160 families), who have migrated from different districts like Jagatsinghpur, Bhadrak, Cuttack, Balasore, Kendrapada and places like Joda and Badbil in the district of Keonjhar. This colony was established by OMC by displacing the locals of Uppara Jaagar village. Here it may be clarified that though *Hatinga Sahi* lies within the revenue boundary of the village but for all practical purposes it is separate from the main village as all its amenities are managed by the OMC.

Basic facilities

Post Office	Urmunda
Primary School	Uppara Jaagar
U.P.School / M.E.School	Kumundi
High School/College	Suakathi
Tube well	Unused due to the bad taste of

	water
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Social Composition

The village has 90 households (excluding the mining colony). As shown in table 1 the Bhuiyan tribe dominates the village. Being the largest group they influence the decision-making process in the village. The other important tribe is the Munda.

Table 1: *Hamlet and Caste-wise distribution of Households*

Hamlet	HHs	Caste groups
Rugdi/Dehuri	42	Bhuiyan
Kadabandh	25	Bhuiyan
Jamdalia	13	Bhuiyan
Matikhani	10	Munda

Livelihood

In Uppara Jaagar the landholding size is very small which fails to provide sustenance throughout the year. During the entire agriculture season they hardly get employment for 30-60 days. For the rest of the period in a year they depend on wage labour in the non-farm sector. Here the main sources of occupation are mining labour and construction labour.

A wealth-ranking exercise was done in this village to understand the economic status of the villagers. The villagers were asked to decide the parameters and categorize the whole population. Based on this exercise the entire village was divided into three major groups: Worst off, Manageable and Standard. Most of the households do not have surplus food, i.e. 88 HHs out of 90 HHs are barely able to meet their needs. (see table 2 below)

Table 2: *Wealth ranking*

Categories	Parameters	Households
Worst off	<ul style="list-style-type: none"> • Landless • No bullocks • Dependent on wage labour throughout the year 	3 HHs (Bhuinyan) 2 HHs (Munda)
Manageable	<ul style="list-style-type: none"> • ¼ acre of record land and a max. of 2 acres of land most of which is encroached • Partial dependence on wage labour 	75 HHs (Bhuinyan) 8 HHs (Munda)
Standard	<ul style="list-style-type: none"> • Land upto 5 acres • Possess she-buffalo (maximum 40 nos.) • Have sufficient food for the entire year • Have goats 	2 HHs (Bhuinyan)

Note: Worst off refers to the class who are not in a position even to meet their daily basic needs; Manageable refers to the class who just manage to meet their basic needs but doesn't have any surplus rather have deficit; Standard refers to the class which succeeds in managing the needs and at times have surplus.

3.2 Uppara Kainsari Village

Upper Kainsari is a tribal village comprising of 41 households. People of two tribes, Bhuinya and Munda reside in the village. The village doesn't have a school. Children go to school of Litigot, the neighboring village that is about 3 kms away. The village is connected with a Kutcha road. The post office is about 7 kms from the village.

Social Composition

The village has 41 households. The major tribes found are Bhuinya and Munda.

Table 3: *Hamlet and Caste-wise distribution of households*

Hamlet	HHs	Caste groups
Bhuinya Sahi	24	Bhuinya (ST)
Munda Sahi	17	Munda (ST)

Livelihood

The average size of landholding is 1 acre. There are only 2 households having land about 2½ acres each. Due to low landholdings wage labour i.e. outside casual labour and labour work in the mining site forms a major source of earning for the people of this village.

3.3 Ichinda Village

Social Composition

There are 95 households in Ichinda village. It comprises of schedule tribe and other backward castes. Bhuiyan is the dominant tribe consisting of 83 households.

Table 4: *Caste wise distribution of households*

Caste	Total HHs
Magadha (OBC)	3
Gauda (OBC)	3
Barik (OBC)	2
Bhuinya (ST)	83

Livelihood

There are three landless families belonging to Magadha caste. The remaining 88 households possess agricultural lands but they are not sufficient to meet the food requirements for the entire year. Apart from agriculture wage labour, other important livelihood activities of villagers are casual labour and headloading.

4. Mining Issues

The major mining company operating in Suakathi area is Orissa Mining Corporation (OMC). It started mining operation in the year 1964. Besides, there are also a few private companies operating in the area. Some of them are Basudev Agarwal Iron Mines, Narain Sons Co., M/s Keonjhar Minerals Anjar Phrephyllite Mine, Bhatiadih Phrephyllite Mine and M/s DM Minerals Pvt. Ltd. (Medinapur).

All these companies are engaged in exploiting iron ore and phrephyllite. Together they have taken 2481.85 hectares of land out of which 81.34 % is forestland. For details see table below.

Brief information about OMC and other private mining companies operating in the area is presented as below:

Name of the Company	Total area (in hectares)	Forest area (in hectares)	Mineral Ore
OMC	618.576		Iron
Block A		501.7472	
Block B		1268.5609	
Gandhamardan Sponge Iron Pvt. Ltd.	100.1632	82.2009	Iron
The forest area is mostly Khesra forest and a small portion is Reserve Forest			
Urmunda Iron mines (Basudev Agarwal)	82.03	11.07	Iron
Laupada Iron mines (Narain Sons)	141.36	35.8648	Iron
M/s Keonjhar Minerals Anjar Phrephyllite Mines	72.52	27.2960	Phrephyllite
Bhaliadih Phyrephyllite Mines	94.29	40.3234	Phrephyllite
M/s D.M. Minerals Pvt. Ltd.	142.04	51.6138	Phrephyllite
Forest type - Khesra Forest			
Total area	2481.85	2018.68 (81.34% of total area)	

As is observed from the above table a significant portion of the area leased out is forestland (about 81.34% of the total mining area). These forestlands are classified as *Khesra* forest and Proposed Reserve Forest, but a small portion comes under Reserve Forest category. Besides, private lands, recorded and unrecorded, from the three villages has also been acquired by OMC and the private companies.

5. Acquisition of Private and Common Lands: an important source of Subsistence

Prior to mining operation that was first started by OMC in the area in the year 1964 lands were cultivated by the local people

Acquisition of Patta Land by OMC: Story of Senapati brothers

Since the last 37 years OMC has occupied 2 acres of patta lands under the possession of two families in the village. Out of these 1 acre was held jointly by four brothers, Hadu Senapati, Bulu Senapati, Tila Senapati and Dhira Senapati and rest 1 acre was owned by Bira Senapati.

After acquisition of land by OMC the landowners demanded for permanent job to one member from their families.

Disagreeing to the proposal OMC offered temporary posts to them in the company. OMC was also willing to pay some monetary compensation though very small amounts. This was not acceptable to the individuals and they refused to make any compromise with the company.

Meanwhile, they approached the company several times for a job in lieu of their occupied lands but they didn't succeed in their mission.

and a variety of crops were grown such as, paddy, different types of pulses etc. (see Photo-1) Several other benefits were also accrued by the local people from the occupied patches. Cattle grazed freely on the hilly forest tract. The villagers and their domestic animals used to enjoy the water of a perennial stream flowing from the nearest Gandhamardan hill. The stream water also irrigated agricultural fields of a few villagers. These benefits have stopped flowing to the people since the mining operation has started in the area and particularly after the construction of residential quarters for the mining workers by OMC in *Uppara Jaagar* village. The stream water was diverted and stored for supplying to the workers colony.

5.1 Impacts

Having lost their lands, their subsistence source of livelihood to mining companies, people are compelled to lead a hard life. As seen in *Uppara Jaagar* village, the land where the mining worker's colony is established initially was the homestead land of the people of *Uppara Jaagar* (70 families were staying in the year 1964). It is important to note down that these were unrecorded lands. After being displaced the villagers settled a new settlement close to the old habitat. Presently in the new settlement the homestead land has been recorded in the name of male heads of the family. Further taking the benefit of the ignorance of the poor villagers OMC occupied 2 acres of private lands (recorded lands) and till now the landowners have not been compensated for their lands.

The advent of mining activities led to large-scale immigration of outsiders into this area. Over time this has given rise to tension between the locals and the immigrants. The major area of contention is the use of common property resources like village common land. The village has a mango orchard in the common land, which is located near the OMC colony. The people of *Uppara Jaagar* had been enjoying fruits from the orchard since the beginning. But after the colony came up the new residents started exercising their control over the resource and prevented the villagers' access to it, thus resulting into tension between them.

Similarly seven households in *Uppara Kainsari* village have lost their recorded agricultural lands measuring about 5 ½ acres to the mining company. However, they also have not been compensated. The Revenue Inspector was intimated but of no results. Besides, non-recorded

lands (around 15 acres) has been taken away by the mining company from this village. Grazing land was occupied and converted to a pond, thus presently there is no space left for cattle grazing.

Land acquisition was also seen in the third village i.e. *Ichinda*. But, no private land was reported to be occupied from this village.

The forest of Keonjhar district is traditionally the habitation center of elephants. However, with the increase in mining activities in the area huge forest areas are getting cleared at a fast rate (as shown in the above section) resulting in a shortage of fodder for the wild animals. This has created a new crisis for the tribals of Keonjhar. Like in the studied areas 2018.68 hectares of forestlands has been cleared for non-forestry purpose i.e. mining thus has reduced the forest available for wild life.

This development has led to increasing instances of elephant attacks on these villages. Destruction of crops by elephants has become a common and regular phenomenon in the area. The villagers narrated that in the last 3-4 years this problem has become acute and they relate this to the disappearance of forest due to increasing mining activities. The villagers find themselves in a helpless situation due to the lengthy procedure involved in getting any compensation for the crop

The team met a group of villagers in the RI office who had come to report about their houses damaged by wild elephants to get compensation. There were a few in the group whose houses were destructed last year. Since their houses were not damaged in this year their applications were not accepted. Again, the problem doesn' t end here. It was said that many similar incidents has not been recorded in the govt. register and in such a situation people cannot claim for compensation as per the govt' s norm. Actually i absence of a clear idea about the process of availing compensation the villagers doesn' t know whom to approach. Since forest department controls forests and wild elephants live in forest people think this issue to be the concern of FD and so intimate the department. But in actual these cases are handled by the revenue department.

loss and houses destructed by wild elephants. Again the compensation amount is also very low. The villagers also complained about the apathetic attitude of the govt. officials on such issues.

In 2001 the attack of elephants reached unbearable height. Thus in September 2001, 5000 tribals from different villages of the district, as a mark of protest against the apathetic attitude of the officials staged a rally in the district headquarter town Keonjhar. The inapt handling of the situation by the district administration created a law and order problem. However, of late the

District Collector has taken a cognizance of the issue and has promised to initiate proper steps in solving the problem.

6. Revenue History and Settlements

Prior to mining operation in the area in 1964, land survey was not carried out by the government. This has been a major reason that very few people actually own recorded lands and major chunks of land remaining as unrecorded. These lands are neither recorded in the government record nor the government has ever made an attempt to find out who is the actual landowner.

The first revenue settlement in Keonjhar district (then a Princely State) was made only in the year 1803. Subsequent settlements were then made in the years 1858 and 1888 but these were not regular. Seed capacity was used for estimation of area. This kind of adhoc arrangement provided lot of scope to the intermediary forces and the King to exploit the tribals. As a result the district witnessed a major Bhuinyan rebellion in 1892. In the year 1899 a more elaborate survey settlement operation was initiated and this was completed in 1913-14. But this settlement also did not cover the entire district. Like the survey did not cover the areas inhabited by the *Bhuinyans* and *Juangs* (in Keonjhar two important primitive tribes are found *Bhuiyan* and *Juang* and the regions dominated by these tribes were respectively named as *Bhuiyan* and *Juang pirs*). The last settlement operations commenced in 1911 and continued till 1914. This was a regular chain and plane table survey. Assessment was made under the Bengal Tenancy Act. The term of the 1911-14 settlement was fixed as 20 years but on its expiry revision settlement was not taken up.

As a result of this in the district there are large number of tribal cultivators who are enjoying occupancy rights over lands (as a customary right) but do not have ownership right over the same. This gives an opportunity to the state as well as private mining companies to displace them from their land without paying any compensation. As a result the people loose their access and control over natural resources.

7. Gram Panchayats and Decentralization of Power: *The Ground Realities*

PESA Act came in 1996 after which more than five years have lapsed but the Panchayati Raj Institution (PRI) representatives and the communities are yet to internalize the concept of Panchayati-raj in its true sense. In the studied GPs very few adult citizen and more in case of women are unaware about the Panchayat. Even the knowledge of PRI representatives are limited to implementation of civil works like construction/repairing of roads, selection of beneficiaries for government sponsored programmes and schemes like Indira Awas, Annapurna Yojana, Widow/Old age pension and so on. They were found to be ignorant about the rights of people over resources and also are not sure about dealing with them within the provisions of PESA Act. Again, most of them show a disconcerting attitude towards such fundamental issues. For e.g., in a meeting called by OMC with the Panchayati-raj representatives of Suakathi Gram Panchayat, the members asked the company to donate Rs. 6 lakh for construction of a college at Suakathi, electrifying the main road passing through Suakathi Panchayat headquarter and providing water supply to people of *Uppara Jaagar* village but did not raise issues like forcible occupation of private agricultural lands by the mining companies or the compensation issue. Here, it must be added that the inability (knowingly or unknowingly) of PRI representatives to raise fundamental issues is intelligently used by the OMC to get clearance from Ministry of Environment & Forests, Govt. of India to continue their operations in the area.

These grass root democratic institutions are elite dominated and controlled by upper castes Hindus. They are hand in glove with the administration and the companies. In Suakathi GP the Sarpanch a Brahmin by caste and his close allie, the nodal officer (who comes from Keonjhar town) dominates the Panchayat. Previously he was working with a mining company at Joda and then in Suakathi with OMC. Then he won the election and became the Sarpanch. This gentleman does little to protect the interest of the tribals of the area but does everything to promote the interest of the mining company.

7.1 Functioning of Gram Sabha/Palli Sabha

According to the government norms it is mandatory to organise Gram Sabha twice in a year i.e. on January 26th and August 15th to discuss the issues of the villages. But these meetings are organized in a short notice. Thus there is hardly any attendance/participation of people in the meetings. On the other hand decisions are taken by a few dominant people and they organize the signature of the absentees on plain paper to meet the legal requirement. Infact, the discussions in the Palli Sabha and Gram Sabha at the best confined to selection of beneficiaries for different government schemes/programmes such as Indira awas, old age/widow pension, distribution of ration cards, road construction & repairing_but hardly there is ever discussion on livelihood issues. This clearly brings out the nature of functioning of GramSabha/Palli Sabha.

7.2 Representation and Participation of Women

In Suakathi GP out of total 18 ward members (WMs), 7 are women, which represent 38.89% of the total strength. While in Kumundi GP out of 12 WMs three are women, representing 25% of the total strength. Out of three, one female post is lying vacant at present after the death of the old member and till the time of survey there has been no selection of a new member.

Though there is substantial number of women representatives but their participation is very poor. Women representatives attend the GP meetings but hardly participate in the decision-making process. They come to the meeting with their male relatives, listen and silently follow the instructions given to them by the Sarpanch.

' Righto Vote'
Women cast their votes in every election but they do not have their independent choice. Their decision is externally influenced. Women of <i>KadabandhPada</i> say – 'we put our votes where our men asked us to'.

In the Palli Sabha women' s attendance is very poor. Except the female ward members other women in the village do not come to the meeting. PESA Act though empowers the ward member (irrespective of sex) to convene a GS but this doesn' t happen in reality and the meetings are usually organised by the male members. Phulmani Dehuri, the ward member of *Uppar Kainsari* village is the lawful president of the PS. However, in actual practice the PS is presided by one of her relative, the ex- ward member of the village. He happens to be the current Samiti Sabhya of the Panchayat Samiti. Thus he has emerged as the de-facto ward member and he performs all the works supposed to be carried out by the actual ward member.

Phulmani the ward member of *Uppara Kainsri* village laments – “women in my village do not attend PS. The male persons (Husband or Son) of a family participate in the meeting. On the other hand women are also not interested to go to PS and even if some women have the desire their husbands do not allow them to participate. Supplementing to this another woman told us – “*when my husband is going to the meeting then why should I go*”. But, whenever any outside organisation or Anganwadi worker comes to the village for organising SHG, raising awareness on health issues women are invited to the meeting. In such meeting women are present in significant numbers.

Talking on women' s involvement the opinion of a village level worker (who hails from Keonjhar town) was that women have been selected as representatives since their representation has been made mandatory in the policy. This has only created a scope for women to be a part of this process.

Another important observation is that at the grassroot level the various procedures of democracy are systematically thwarted by the dominant section. For e.g. the election of the ward member is a farce. They impose their decision on the villagers and get it passed. As seen in *Uppara Kainsari* the male individuals of the village and the Sarpanch selected Phulmani as the female ward member in her absence.

The other reason of low participation of women as well as men in GS/PS is poverty. Due to various push (?) factors the able bodied male and female migrate out to other regions for their livelihood. Thus for a greater period they are absent from their native place and fail to participate in this process.

7.3 PRI and other issues

GP doesn't play a proactive role on issues relating to natural resources. The comment of PRI functionaries on the new NTFP Policy 2000 was that the state government' s policy relating to rights of NTFP trade in the scheduled areas is quite ambiguous. Their perception is that in reality, Panchayats have not been bestowed with any power under the PESA Act rather they have been handed over responsibilities only. Infact, many of them expressed their ignorance about the

content of the new NTFP policy 2000. Naturally so, the State government has so far not circulated the Policy in local language! Those who have got some knowledge of the policy suggest that without creation of enabling environment and concrete devolution of power the policy cannot be implemented by the GPs.

Till now the activities of the Panchayat are limited to funds they received under various central government schemes such as, JRY IRDP, MWS, SJSY etc. The funds are expended on construction and maintenance of village roads, repairing of school building, setting up or maintenance of tube wells etc. According to the PESA Act, GPs would ensure and monitor utilisation of JRY funds at the Panchayat level, ascertain funds coming under different development projects. But the representatives feel that these powers have a little meaning for the Panchayats since there is resource crunch and funds are not being released to GPs. Further the Panchayat lack financial freedom. There is no arrangement for meeting the sundry expenses of the Panchayat. There is no linkage between Employment Assurance Scheme and Panchayat. Many a times the GP doesn't have knowledge about the funds sanctioned to their area. Again, Panchayat doesn't have internal income sources. And even if there is some opportunities like generating revenue through local sources like from the *haats* it is an uneconomic source. Though the Panchayats are supposed to be the actual owner of common property resources like fruit orchards, tanks, it is often found that they are leased out without the knowledge of GP. They also don't receive any revenue to this effect. In absence of an assured funding support dependence of the GP on the Govt. has become a compulsion.

8. Present Situation

Thirty-seven years have passed since OMC started carrying out mining in the area but the villagers have not received a single penny as compensation from the company. The enthusiasm among the tribals to get an employment during the initial period has vanished. It was noticed that atleast one member from each households in the three villages have not yet managed to get work in the mining company. At present there are 151 permanent office staff, 750 mining workers and 300 daily wage contract workers working with OMC. A significant numbers of mining workers are from outside the area. This has limited the scope for the locals to depend on mining.

On the other hand the Welfare Schemes implemented by OMC do not benefit the local people nor it addresses their livelihood issues. The financial assistance extended by OMC to different govt. and private organizations is generally utilised in organising sports, tournaments, science exhibition, construction of temple, tube wells in the college premise (Excerpts from the report of OMC). There are provisions of drinking water facilities, health care, housing, education and other facilities such as:

- Creche for the children of working mothers
- Entertainment programme
- Games and sports
- Social security measures
- Ex-gratia in case of death of the workers
- Rehabilitation assistance scheme for the mining workers
- Statutory provision for the workers (EPF, Gratuity, Bonus)
- Peripheral development
- Plantation

However, these benefits are extended only to the mining workers and are not meant for the people of the local area.

Conclusion

The introduction of mining activity has not benefited the local inhabitants. On the other hand it has benefited the outsiders, the company and the State. Because of this operation people have lost their control and access over natural resources. The PESA Act, which was supposed to bestow the control and access over natural resources on people has failed to do so. The grass root democracy is controlled and orchestrated by the dominant class and the company for their benefit. The participation of women in this process is nominal. The Panchayati raj system is not able to address the real problem of the people like in our case study the alienation of tribals from natural resources. In this context when we confronted people with the question that how they visualize the future, what would be the situation after the mineral deposit is exhausted and the company moves away from the area, they had no answers.

Case Study 2

Land Alienation and Role of Gram Panchayat in Schedule V Area:

Case Study of Jatra and Singhpur Gram Panchayats in Keonjhar district

1. Background

The objective of this study was to understand the sensitivity and role of Gram Panchayats (GP) in Schedule-V area on the land alienation issues.

Given this focus of this case study two villages belonging to two neighbouring Panchayats were selected. They are *Adala* village of Jatra Gram Panchayat and Kuskala- Karalpasi village of Singhpur Gram Panchayat in the district of Keonjhar (see Map). In this area about 20 years ago a Private company named Orissa Tea Plantation Ltd. initiated tea plantation. The owner of the company hails from Calcutta. For this plantation purpose the said company acquired 2200 acres of government land on lease from the State government and started plantation on the acquired land. (see Photo-2) This tea estate is known as Bhuinyapirh Tea Estate, Tarmakant GP. Prior to the acquisition, the people of Adala and Karalpasi used this land for cultivation. From this land they were able to eke out their living.

2. Profile of Studied Villages

2.1 Adala Village

Adala village is a heterogeneous village having 193 households in three hamlets namely – Munda sahi, Kandakala sahi and Bhuinyan sahi. In this village, the population belongs to Scheduled Tribe (ST) and Scheduled caste (SC). The table given below presents a picture of castewise distribution of households. From the table below it is clear that 99 per cent households belong to ST communities.

Table 1: Caste-wise distribution of Households

Caste	Households
Bhuinyan (ST)	120
Kolha (ST)	27

Munda (ST)	44
Harijan (SC)	2

Sources of Livelihood

Agriculture and Wage labour are major sources of livelihood activities in the village. An examination of the landholding pattern (patta land) of the village brings out that 8-10 Bhuinyan families have 5 acres of land, 167 families have less than five acres of land and the rest 25 households are land less. However many households in the village are cultivating government land.

2.2 Kuskala-Karalpasi Village

The other village, Kuskala-Karalpasi is a fairly big revenue village in Singhpur GP of Keonjhar district. The village has 450 households, out of them 200 belong to Bhuinyan tribe and the rest 250 households belong to Mohanto, Munda (ST), Gauda, Harijan (Lower caste Hindu) and Non-tribal (Christians). The village has been divided into four wards and one of them is a reserved constituency for women. The households of Kuskala-Karalpasi revenue village are distributed over eight points of habitation, thus it has 8 hamlets and Karalpasi is one among them. The revenue village comprises of 450 hhs while in Karalpasi hamlet there are 54 hhs. Bhuinyans are the largest number (the table below gives a picture of the social composition of the households in the Karalpasi hamlet).

Table 2: Caste wise distribution of HHs in Karalpasi hamlet

Caste groups	Households
Bhuinyan (ST)	28
Munda (ST)	17
Gauda (OBC)	3
Christian (Non-tribal)	6

Sources of Livelihood

A very small fraction i.e. only 10 percent of the total population in the village has land of size between 10-15 acres. 25 percent are landless having only homestead land for which they do not even have patta. The remaining households have lands between 50 decimil - 1 acre from which they manage to derive food for about 2-3 months. Thus a large section of people are primarily

engaged in wage labour. Some of them also carry out seasonal business like selling of til seeds, mustards and pulses.

3. Background of Tea Plantation

In the year 1982 tea a private company named Orissa Tea Plantations Ltd. came to the locality and initiated tea plantation. Kanhei Dehuri of Adala village, ex-chairman aged about 75 years says, “a total of 2200 acres was brought under tea plantation”. These lands were earmarked for distribution among the retired defence personnel. However from this region there were no individuals serving the military. According to Mr. Dehuri the villagers were cultivating these lands for quite long time.

It is important to note it here that the name of the tea estate i.e. *Taramakant Tea Estate* creates confusion in the minds of the people. Taramakant is a neighbouring panchayat but the tea estate does not have even a trace of land in this panchayat. Rather the tea estate is located within the revenue boundary of Jatra Gram Panchayat. Similarly the land belonging to the Adala of Jatra GP and Karalpasi hamlet of Kuskala-Karalpasi village of Singhpur GP is used by the company for plantation. However as Taramakant village has a post office, it is used as the local office of the estate.

3.1 The Story of People's Struggle

The acquisition of lands and the initiation of tea plantation met with strong protest by the villagers of Adala and Karlapasi hamlet. Champa Dehuri of Adala village, a natural leader of the locality, led the protest movement against the plantation from the front. She recollects, “We were cultivating the lands for generations. Those were the happy days. We were able to eke out our needs by tilling the soil. Since the arrival of the plantation company things have changed. We were not informed about their intention. On a fine day the revenue officials came and told us the lands have been given for tea plantation. We protested against this move of the state.

The campaign against tea plantation was a collective effort of the two villages, Adala and Karalpasi hamlet of Kuskala–Karalpasi in 1984. Mr. Kahnei Dehuri was the leader of this movement. He is from Adala village and the ex-chairman of the Banspal Block. Kanhei Dehuri has a strong political background. He was Block Chairman for a quite a long period from 1965 - 1980. As a leader he has a good base in the locality and is respected by everybody.

Like most other peoples' struggle, this one against the tea Plantation Company to protect their access over land, also went through various ups and downs. The State's response was severe. In the course of the struggle 39 women and 11 men were sent to jail for 11 days. The villagers organized protest rallies broke the proclamation of section 144 of the Indian Penal Code (which prohibits the gathering of people) for 3 years. One of the co-agitators from Adala died in the prison. Many more were sent to jail.

The State used all kinds of tricks to divide the people. The then Collector and the B.D.O. used money power to lure the villagers, false promises like their rights for grazing of cattle in the acquired lands was given, promises for better jobs with the tea company were made. When all these tricks failed the company gained confidence over a section of the village by appointing some individuals from the village and created division among them. This led to the collapse of the movement. Till date the people have not received any compensation for the land they had lost or any of the other benefits like the promised jobs.

The acquisition of land for tea plantation and the plantation activities as such was carried out without consulting the villagers of the locality. People came to know about the same only when the Collectors and his staff asked them to vacate the land. Initially the villagers thought a small patch of land would be taken for these purposes. But as time progressed and the company started its activities they realized that 2200 acres of land would be acquired for the purpose.

As one enters the house of late Haldhar Dehury three pairs of eyes of his sons gaze at you. One can read the sense of disappointment and helplessness in them. Their voices break, tears roll down over their sunken cheeks when they are asked about their father. In broken voices they narrate, "we were very young then, close to about fifteen years. On that day our father had taken the cattle to the grazing field (now plantation land). Little did he know that grazing had been prohibited in those lands. The police came and arrested him on the basis of the company's complaint". He was kept behind bar for a few days and was released on bail. Again after some days courts summon came which innocently he did not respond. Thus he was rearrested and was sent to the jail. In the jail he succumbed to death! Till date no one in the village know the reasons of death. He is survived by three sons. They have not yet received any compensation for the loss. Now they meet their ends through wage labour. The story of Dehury family describes how the State suppressed the movement by using force.

3.2 Impacts of Tea Plantation

As a consequence to the introduction of tea plantation on a large commercial scale, the forest and the local people were the worst victims. The forestland, which was leased out to the private company for plantation, was clear felled and all the big trees were cut down. As mentioned above, in the past prior to the plantation these areas were cultivated by the people of neighbouring villages such as Adala and Karalpasi hamlet of Kuskala-Karalpasi revenue village. A variety of crops like paddy, black gram, til seeds, Gulchi etc. were grown on these lands. Infact these people used to obtain their livelihood for six months in a year from these lands. However, the farming practices implemented by the locals did not harm the forest cover rather they provided protection to the big trees in the area. In addition this area was also a grazing place for the cattle of surrounding villages such as, *Adala, Kandakala, Jatra, Dhanagadi, Sukruda, Raba, Tarmakant, Kusukula* etc. All these benefits have stopped flowing to the people after the plantation was undertaken. People lost the lands and eventually the rights of cultivating these lands. Cattle were no more allowed to graze inside the plantation site. As there is no forest now the women are forced to go to far off places to collect firewood. People are not getting house construction materials, which they were getting from this land. Along with these problems availability of Non-Timber Forest Produces like a variety of tubers, fruits as mango, Myrobalans, Char (*Buchanania lanzan*) etc. became scant.

4. Present Situation

At present OTPL is using 500 acres out of 2200 acres acquired for plantation. The rest of the area is under their control and people do not have access over it. The plantation estate has 20 permanent staff and 70 temporary staff. The temporary staffs are appointed on daily wage basis and they come from the local area i.e. *Adala, Jatra, Raba, Jaldiha, Tarmakant, Gopapur, Balroe* and *Tilaposi* villages. The estate has failed to provide employment to all households in the affected villages. This has created a lot of dissatisfaction among the locals leading to tension between them and the company. On the one hand the local villagers are unhappy with the company for not getting a job in the estate and on the other the workers are also highly dissatisfied about low wage, untimely payment etc. Sometimes the workers payments are delayed for six months or even more. The tension in the area intensified with the retrenchment of

the temporary workers in December 2001. These people are now jobless and are left with no alternative sources of income earning.

TRIFED⁵ (Tribal Cooperative Marketing Development Federation of India Ltd.) now wants to carry out tea plantation on 1000 acres of *anabadi*⁶ land. The plantation is to be undertaken in 11 villages along with the landless households. *Jatra* is one among these selected villages where the plantation would be undertaken on 100 acres. As per the project plan these land after plantation would be handed over to the individual landless households. However, the farmers had to make an agreement with TRIFED that the crop would be sold only to them and cannot be sold to any private trader. Further, TRIFED organized an exposure visit of the local people to coffee plantation areas in Kerala state. But in the later period the idea induced by TRIFED that fascinated the locals was rejected and this resulted into tension between the local tribals and TRIFED. The major area of contention was the huge loan amount that the poor landless households had to take from the TRIFED. It is being heard that a loan amounting 1.5 lakh would be sanctioned to each landless individual to carry out tea plantation. In the entire process it is very clear that the State cunningly wants to restrict local people's access and rights over these lands which they have been traditionally cultivating and eking out their livelihood. This seems to be another well-planned strategy of exploiting the poor tribals by establishing monopoly market by the State for the produce i.e. tea, since Orissa does not have alternate markets for this produce. There are experiences that the lands used for growing tea crop has potentiality for a particular period after which becomes unfit. Further the lands can no more be used for cultivation of other crops.

The dissatisfied tribals started protesting against this move of TRIFED under the banner of a regional level people's federation named *Anchalika Bhuinya Pirh Jan Chetna Parishad*. This people's body was formed in the year 1991 and was facilitated by a local NGO. It comprises of representatives from village committees, women groups and few PRI representatives. The federation is actively involved in the protest movement against tea plantation. This body succeeded in stopping the field verification during 2000. But, with the joining of the new Collector in the year 2001 the process has taken a momentum. She is pursuing the cause of tea

⁵ TRIFED is an apex-level federation of State Tribal Development Cooperative Federations and State Forest Corporations.

⁶ Government revenue lands.

plantation and organizing village level meetings. On the other hand the Parishad has intensified its protest campaign in the area and people are strongly determined to vehemently oppose tea plantation.

Meanwhile the federation entered into a direct confrontation with OTPL in 1998 and forcibly took control over a patch inside the leased plantation site. In the beginning there was strong resistance from the company' s side but later on it was compelled to put down its arms before the federation. Here it is important to mention that the federation has a strong base and support of the local people and so the private company did not want to enter into any tense situation with the federation. The patch is used for vegetable cultivation and the benefit earned is utilized in meeting the expenses of the federation. In addition the federation has also taken up agitation against corruption, moneylenders to free mortgage lands of people, initiated movement against low wage, facilitated proper distribution of rice by PDS etc.

5. Role of Gram Panchayat against Land acquisition

As mentioned above the initial protest against tea plantation in the year 1984 was led independently by the people of Adala and Karalpasi hamlet of Kuskala-Karalpasi villages. Support of the Panchayat was lacking during that period. After 18 years when protest movements are emerging again the situation remains same. The Extension of Panchayat Raj to Scheduled Areas Act (PESA) passed in 1996, which confers ownership rights over *Jal* (Water), *Jungle* (Forest) and *Jamin* (Land) to GPs in Schedule V Areas, but the panchayats are yet to become active and functional as envisaged in the Act. Rather the experiences at the grass root have been sickening. In almost all cases it is observed that the Panchayats act merely as an extension counter of the State in implementing govt. schemes and programmes. Most of the times they functions at the discretion of the district administration. In this case also the Panchayat, which is a local democratic body formed to work for the interests of people actually works hand in glove with the District administration. On one hand where the tribals took up arms against the TRIFED and eventually the District administration for supporting tea plantation, the concerned Panchayat is supporting the latter by helping in organizing village meetings to motivate people for tea plantation.

5.1 Panchayati Raj Institution and other issues

Jatrai GP has four revenue villages namely *Jatra*, *Adala*, *Sukdula* and *Badkul*. Of the 12 ward members in this GP there are 8 male ward members and 4 female ward members. The Sarpanch of this GP is a lady from Bhuinyan caste. She contested the Sarpanch election because men of her village wanted her to become the Sarpanch. Further the Panchayat secretary of *Jatrai* GP is also from the same village and is a relative of her. Thus in almost all cases it is seen that reservation for women seats in Gram Panchayats has not served the basic purpose i.e. to promote women's participation and grass root leadership. Rather this policy is used as a tool by men in the local politics to keep their control over the system intact.

5.2 Role of Gram Sabha / Palli Sabha

GS/PS generally are organized when there is pumping of some fund or government programmes/schemes to the concerned Panchayat or a village. Palli Sabha is organized when there is instruction to the ward members from the block office. In these meetings discussion are always restricted to the agenda prescribed from the above and most of the times they are conducted without prior notice to all households in the village.

The major functions of the Panchayat include road construction/repairing, BPL card distribution, selection of beneficiaries for Indira Awas & pension, renovation of ponds, leasing of Haat, fruit orchard. Most of the PRI representatives feel

Champa Dehuri says, 'PRI members are not representatives of people. They are representatives of their self-interest'.

the above activities as their only responsibilities and functions of Gram Panchayats. Few others who have some understanding of the Act. Like, Sanjay Giri, the Samiti Sabhya from *Jatra* village narrates – 'PRI representatives in Schedule V areas have enormous power such as programme planning, right to information etc.'" These principles are good theoretically but when it comes to its applicability in the field these are questioned.

Besides the above bodies there also exist traditional village councils/committees in all villages for organizing common religious festivals, resolving intra & inter village disputes and various other matters relating to village management. When contribution and participation come in

question, every household in a village is associated with this institution. Infact, in the name of PS and GS there is lot of outside interference which has very little to contribute positively and rather creates fragmentation in and between the villages. As said by Kanhei Dehuri of *Adala* village the village touts dominate the GS/PS and poor people hardly participate. Moreover, the timing of these meetings, which are generally conducted during the daytime, does not suit the poor people. For them attending a meeting means doing away with one day's wage. This prevents them from attending the meetings.

Conclusion

To sum up this case study, which was carried out with a view to understand the role of PRIs in the context of PESA Act in land alienation situation, the following observations can be made:

- Though the PESA Act provides for consultation with the Gram Sabha in case of any acquisition of land in practice it is little followed. This is quite evident from the actions being taken by the district administration to pursue the TRIFED proposal for tea plantation. In the whole process the PRI representatives are either mute observer or are with the State disregarding people's interest.
- In Adala and Karalpasi hamlet of Kuskala-Karalpasi villages the state is trying to take advantage of the absence of proper settlement records, which gives ownership rights on land to people. In all the tribal areas the problems is similar. Infact, the State doesn't recognize the customary rights of tribals over the resources (Land). This puts them in disadvantageous situation.
- The present PR system is failing to take root and deliver its intended services to people because of various reasons. For one thing still people pursue it as an externally imposed institution vis-à-vis their traditional self-constituted Panchayat. Again, the present PRI members are more a part of the State and its interest than people and their interest. The ignorance of PR members only adds to the identity crisis of this institution among the people.

Case Study 3

Functioning of Gram Sabha and Palli Sabha in the context of Women's Role and Participation:

Case Study of Kutrachuan and Kuleigada-Kudapada Gram Panchayats of Sambalpur District

1. Background

This study was carried out to understand the issues relating to participation & representation of women in GS/PS in Schedule V areas and factors influencing their representation and participation. For this purpose the study was undertaken in Kutrachuan and Kuleigada-Kudapada Gram Panchayats in the Kuchinda sub-division of Sambalpur district of Orissa.

Kuchinda sub-division is an Integrated Tribal Development Agency (ITDA) area and falls within the Schedule area of the State. It has three blocks namely, *Kuchinda*, *Jamankira* and *Bamra* and 1335 revenue villages (Census 1991). The sites selected for this study come under Kuchinda block of the district. Kuchinda block has 16 GPs and 135 revenue villages (Census 1991).

2. Study Sites

For the purpose of the study three Palli Sabhas (PS) in two adjacent Gram Panchayats (GP) were selected. These were:

1. Kutrachuan village, Kutrachuan GP, Kuchinda block, Sambalpur district.
2. Satkuma village, Kutrachuan GP, Kuchinda block, Sambalpur district.
3. Kuleigada village, Kuleigada -Kudapada GP, Kuchinda block, Sambalpur district.

Brief description about the sites

Revenue Village	GP	*HHs	Hamlets	Castes
Kutrachuan	Kutrachuan	(150) 115	Kisanpara, Tungripara, Bhakuapara, Majhipara.	Dhoba, Aghriya, Khadra, Gond, Kisan, Bhuinyan, Keuta, Ghasi, Chamar, Brahmin, Kumbhar, Kamhara, Khandayat, Gauda, Pana
Satkuma	Kutrachuan	(271) 246	Khadra, Aghriya, Bijadih, Gond, Kisan, Teli, Sahanra, Tumri	Same as above

Kuleigada	Kuleigada- Kudapada	(250) 232	Gayamal, Pati Sahi and Kudapada	Same as above
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*Figures in parenthesis refer to the survey figure where as the other figures are the Official HH figures as per 1991 Census.

The selection of these sites was purposive. Firstly, they come under the Schedule areas of the State. Secondly, the area has witnessed a number of campaigns initiated and headed by women, on numerous issues affecting their lives and livelihood. To site a few cases, in 1999 women of this area led a campaign to demand higher price for Kendu leaves. Similarly in 1996-97, they fought against the landlord class demanding higher wage rate, demonstrated in front of the Collector's office against low wage rate in government works, fought against the liquor mafias etc. Besides, at all the sites of these studies women have organised themselves to form thrift and credit groups facilitated by a local NGO. In one village named Satkuma, women were also involved in protection of common property resources like cashew plantation although the protection efforts broke down because of non-cooperation of men. In this kind of situation where women are relatively more organised and have come out to fight for their demand, we thought it is important to examine their role in the grass root democracy.

3. Profile of Studied Villages

3.1 Kutrachuan Village

It is a mixed caste village divided into four hamlets. Though Bhuniyans (tribal) are the most dominant social group the village politics and economy is controlled by Aghriyas (non-tribal Hindu). The Aghriya families hold majority of agricultural lands in the village, about 90 percent. The rest is controlled by other castes. Based on information collected from the field in Kutrachuan village 2 Aghriya families have around 200 acre lands each. About 20 families have lands between 25-50 acres leaving aside the uplands. The rest Aghriya households have 10 acres excluding the uplands.

In addition many of them are in govt. services and engaged in business activities. They own and control the rice-milling activity in the village. Two Aghriya families also have transportation business. The degree of inequality between Aghriyas on the one hand and the tribals and other castes on the other hand is very high. The Aghriyas in general enjoy a higher economic status.

3.2 Satkuma Village

Satkuma is a mixed caste village and divided into 8 hamlets namely, *Khadrapada, Aghriya Pada, Bijadih, Gond Pada, Kisan Pada, Teli Pada, Sahanra Pada* and *Tumri Pada*. These hamlets are named after the social groups dominating the particular clusters. The village comprises of people from different castes such as, Aghriya, Khadra (ST), Gond (ST), Dhoba (SC), Kisan (ST), Bhuinyan (ST), Harijan, Brahmin (upper caste Hindu), Gauda (OBC), Khandayat etc.

Social Composition

Aghriyas are the dominant land owning class, thus through their control over land and labour controls the village decision-making process. However, in numerical terms the tribals dominate the social set-up in the village (Please see table below for details of caste groups and the households distribution).

Caste groups	HHs	Caste groups	HHs
Aghriya	52	Dhoba (SC)	5
Khadra (ST)	7	Chamar	30
Gond (ST)	1	Harijan	45
Kisan (ST)	52	Blacksmit h	2
Bhuinyan (ST)	1	Brahmin	2
Keuta	5	Potter	1
Ghasi	15	Khandaya t	10
Gauda	43		

3.3 Kudapada Hamlet

Kudapada hamlet is a part of Kuleigada revenue village. It is a mixed caste village comprising of Aghriyas, Gond, Gauda & Brahmins and has three hamlets namely, Gayamal, Pati Sahi and Kudapada. There are 11 wards in the village.

From the revenue village the distance of Kudapada hamlet is hardly half a kilometer. This hamlet has 5 wards and all ward members are male.

In the entire Panchayat there are 11 ward members and out of them only three are female.

4. Socio-Economic Status of Women

The education status of women in this area is very poor. In the study villages young girls particularly from Aghriya and Teli castes have started going to college recently. Previously girls mostly stopped their education after 6-7 years of formal schooling.

Women from almost all castes excepting for Aghriyas are engaged in livelihood activities to support household income (*the table in the right describes caste-wise participation of women in livelihood generating activities*). They work as agricultural and as wage labourers in construction and road repairing activities. But, despite this significant role in supporting the family economically, women's say in the household decision-making is negligible. This is reflected from the narration by women of Satkuma – “we have no freedom

Castewise Participation of Women in Livelihood generating activities		
Caste	Yes	No
Aghriya		√
Dhoba	√	
Khadra	√	
Gond	√	
Chamar	√	
Brahmin	√	
Khandayat	√	
Kisan	√	
Bhuinyan	√	
Keuta	√	
Ghasi	√	
Kumbhar	√	
Kamhara	√	
Ganda	√	

to spend our earnings ourselves. Whereas the male members spend a large share of their income in liquor and we have no power to oppose them”. (see Photo-3) This is not to say that women are not playing any role in their family or outside. Rather women of these areas are very vocal and have participated in number of issue-based campaigns. Here we will cite in detail two situations where women came forward to assert their rights.

4.1 Movement to raise Wage rates

About six years ago (year 1996) the labourer class engaged in the homes and agricultural fields of Aghriyas initiated a strong protest against low wage rates in this area. The wages prevailing at that period was very low. The seasonal labourers were engaged from 5 a.m. in the morning till 6 p.m. in the evening and were paid a remuneration of 3-tambi of *paddy* only (1 *tambi* = 400 gms approx.) per day along with one meal i.e. flat rice during lunchtime. But, those who were engaged the entire year (permanent labourers) availed additional benefits. They were allowed to cultivate in a small piece of land (30 *decimil*) and were also provided 1.5 *Khandi* seeds (1.5 *Khandi* = 20 kg approx.) by the owners. Land was given on temporary basis. There was also a

system that if they failed to deliver services to the owners throughout the year land and the crop was taken away from them.

This oppressive situation compelled the people to organize themselves and they went on “no work” movement. For about seven days not a single agriculture labour went to their master’s field. This compelled the landowning class, Aghriyas to come for a negotiation. Ultimately the wage was increased to 4 *tambi* of paddy per day. And now it has come up to 5 *tambi* of paddy per day.

During the same year they protested against the low wage paid by contractors for various government sponsored works. They were being paid a wage rate of Rs. 12.50 against the provision of Rs. 25.00 per day. The women *gheroed* the Collector for 24 hours and forced him to a discussion. As a result the prevailing wage rate increased up to Rs 25.00.

4.2 Movement against Alcoholism

Alcoholism among men is rampant in this area. This results in wife beating, extravagant spendings, ill health etc. The women in the study villages fought against this social evil. The process involved agitation against the local liquor brewers. Remedial measures were also undertaken at the household level. The women stopped their husband from going to the liquor-brewing place. These campaign efforts of women adversely affected the business of liquor and the liquor mafias in connivance with the local police tried every means to suppress the agitation. An arrest warrant was taken out against seven women leaders and a false case of instigating people and creating disturbance was lodged against them. The case is still pending in the sub-division court. On the whole though this movement couldn’t check alcoholism but for a short period it succeeded in reducing the consumption of alcohol among men.

At one of the study site i.e. Satkuma village women of Gond, Kisan & Gauda castes collectively started protection of cashew field. However, these initiatives didn’t survive for a longer period because of non-cooperation of men folk. Men of the village converted the cashew field into agricultural lands.

It is evident from the above activities that women in this area are quite active. In this process the local NGO played a significant role. They made the women conscious about various issues and made them understand the relevance of protest culture. Their activities also helped in raising their confidence and skill to articulate their expression. However, the most important thing to note here is that despite the involvement of women on various issues the natural leadership among them has not emerged. This can be ascribed to the prevalence of various traditional factors and also partly to the role-played by the facilitating agency. The non-development of natural leadership among the women is reflected in their low participation in the Panchayat raj system.

The present case study tries to look at the factors inhibiting women's participation and representation of women in Panchayati-raj. To explore the causes further we have tried to analyse the relationship of women vis-à-vis Panchayati Raj institutions and other power centers in the community.

5. Women's Representation and Participation in Panchayati-raj: *The Reality*

5.1 Representation of Women in Panchayati-raj Institutions

GP	Total Wards	Ward Members		Sarpanch		Naib Sarpanch		Panchayat Secretary	
		*M	*F	M/F	Caste	M/F	Caste	M/F	Caste
KutraKu trachuan	13	10	3	F	SC	M	Brahmin	M	Aghriya
Kuleigada-Kudapada	12	9	3	M	SC	F	Gond	M	Aghriya

* M – Male, F- Female, T - Total

The above table describes about the representation of women in Panchayati-raj institution. It is observed that in the studied Gram Panchayats (GP) 24% of the ward member are women (3

women out of total 13 ward members in Kutrachuan GP and 3 women out of 12 ward members in Kuleigada-Kudapada GP). Besides this, the Sarpanch of Kutrachuan GP is a lady. And in the second GP the Naib Sarpanch is a lady. While discussing with the women representatives we found out that they contested the election only because the male members of the community forced them to. In a sense none of them had participated in the process voluntarily. The Sarpanch of Kutrachuan GP, Ms Sukanti Berhia Says, “the men of my village wanted me to be the Sarpanch because this seat was reserved for a female candidate. It was because of their persuasion I contested the election”. Again, it is important to take note of the fact that husband of Ms. Sukanti Berhia, the Sarpanch is a peon in the local High school and wields lot of political clout in the locality. This played a major role in the victory of Ms. Berhia. All these bring home one major point that the women were never consulted for selecting the Sarpanch candidate, further still male decide and force in their decision on the women.

5.2 Participation of female representatives/women in Gram Sabha/Palli Sabha

The lady Sarpanch of Kutrachuan GP attends and presides the Gram Sabha (GS). However, the female ward members of the GS mostly remain absent from such meetings. But, in case of Palli Sabha (PS) the situation is different, the female ward members normally attend them. This indicates that the participation of women representatives even in terms of attendance decreases with the rise in the level of the institution.

Now coming to the participation of women in general we found that their participation varies with the nature of the meeting and the caste background of the majority of the participants. The upper caste women do not participate in GS/PS. It is only the tribal and lower caste women who participate. They participate mostly in the meetings where the GS/PS prepares the list of beneficiaries of various government schemes. On the other hand they are ignored/not invited to the meetings where the villagers discuss on some important issues of the locality. Such treatment of women reflects the general attitude of the men folk towards them. They are considered to be the beneficiaries but are incapable to deliver on issues of life.

The low participation of women can be explained through various factors. The conservative social fabric prohibits women to take part in the GS/PS. Apart from this they are rarely informed

about the timing and content of meetings. Most of the meetings are organised during the working hours of women. Thus they are not able to free themselves from their work to attend the meeting. In another sense, attendance of meeting is a major cost for the women, as they have to sacrifice a day's earning to attend a meeting. There are a few other important factors like:

- Women's priorities, voices are not given recognition in GS/PS.
- Husbands discourage their spouse to attend the meetings.

The PESA Act has created a space for the participation of men and women from every household in PS but the ground situation doesn't reflect this. At the generic level it was observed that PS has failed to create a conducive environment to promote the participation of people, specifically the marginalised sections. This is because of the cost it imposes on the participants (loss of wage). In addition, the *Palli Sabha* is dominated by vested interest and goon elements of the society. The presence of such elements discourages people to participate in the same. Yamuna Kharsel, ward member of Kutrachuan village laments – 'PS entertains the interest of contractors and their appointed touts & goons but not the interest of common people'. Thus the PR institutions have failed to command respect of the people.

5.3 Unequal Power relations

In any social set up the power relation among the members of the set up plays an important role. This relationship creates the environment for realization of the objectives of an Act or a programme. In case of PESA Act, it bestows power on the village assembly to deliberate and decide on matters relating to people. All such decisions are to be taken in consultation with people cutting across caste/class/gender lines. However, the real life experience proves otherwise. In the present Panchayat Raj set up the Panchayat Secretary, a part of the Panchayat bureaucracy plays a crucial role. This position is normally occupied by people of higher caste. Like In Kutrachuan and Kuleigada –Kudapada Gram Panchayats the Secretaries belong to Aghriya caste who are the major landowners of the area. Again, though in *de jure* sense the Sarpanch is the head of the Panchayat but in *defacto* sense the Secretary is the most powerful actor. He dominates the decision-making process and runs the Panchayat office with the support of his kith and kin. Contractual activities like construction of Anganwadi building, youth clubhouse etc. are given to his relations and it is reported that huge sums of money is siphoned

off in this process. Infact, “*this is not Panchayati-Raj but Secretary-⁷Raj; the lady Sarpanch and ward members work as mute official under the Panchayat Secretary*”, narrates Mr. Jagdish Nayak, a ward member of Satkuma village.

Coming to the village situation the people of higher caste control the marginalised section through their control over land. Like, Khadiapada hamlet of Kutrachuan village have 10 *Khadia* (ST), they work as wage labourers in the agricultural fields and / or ---- work as domestic help in Aghriya families. They were brought and settled in this village by the Aghriyas. The Aghriyas also engage other caste people. Like the landless Gouda families (9 households) are dependent entirely on Aghriya households throughout the year. All these indicate that the Aghriyas through their control over land control the landless labour class. Their dominance over their life is not limited to the economic aspect, rather it has bearing over other social aspects of life as well.

In the past attempts were made to change the power equations. Once such example is ceiling and redistribution of surplus lands among the landless as a part of the land reform programme. In Kutrachuan village itself 46 landless HHs were distributed 4 decimil of agricultural lands each (Revenue records, 1991). While doing so they were told that they are being given good cultivable land (*Bahal land*). This was also mentioned in the record of rights. But, during the demarcation process they were shown uplands (*guda land*), which are not cultivable. The villagers complained that the rich land owning class is responsible for this.

Disambar Khadia (ST) and Dashru Bhaisa(Gauda)
(Personal interview)

Dashru Bhaisa and Disambar Khadia of Kutrachuan village are two landless labourers among many. Their fathers were working as Goti (bonded labour) with two Landlord families in the village. Their masters had promised them a patch of land in lieu of their service. This promise never came true. After their demise the sons were lured with the same promise. So Dashru and Disambar also worked as goti for 20 years. Then they realised that this promise of land cannot be realised. They quit and now work as wage labour.

About five years ago (in the year 1997) 4 decimil-homestead land was given to them. The patta (land entitlement paper) has also been handed over to them. But so far the revenue authority has not demarcated the lands. Thus they remain landless.

There are many Dashru and Disambar!

Can the present system address their issue?

⁷ Raj means ‘ruling’.

They succeeded in influencing the Revenue department through their financial power. Thus we were given the uncultivable land. Even many of them are yet to get possession of such land. This shows the power of the land owning class. Interestingly, around 10-12 HHs have been paying tax against the land, which has never come into their hands.

The 73rd amendment empowers the GS/PS to manage the local resources like village common land, village ponds, fruit orchards, grazing land etc. In practice, still the landowning class controls such resources for their personal benefits. Like the old ⁸*Kata* in Kutrachuan village is being controlled by a few Aghriya households. They use the water for irrigating their fields. This results in water scarcity during the summer. But, others do not oppose them because most of them are dependent on Aghriya households for their livelihood.

Conclusion

The enactment of the 73rd amendment to the Indian Constitution has guaranteed one-third seats for women in the PR system. This amendment has provided an *institutional space* for women's entry into political institutions at least at the grass root level. Such a provision creates a scope for the growth of women leaders at the grass root level so that they can make inroad into the male dominated governance system.

Here the crucial point to be noted is that getting elected to a post, by itself doesn't ensure their participation. As in *Kutrachuan* and *Kuleigada-Kudapada* Panchayats there are six women representatives, who have got elected by virtue of the reservation system. In practice, despite being elected their involvement in the process is nominal. They are controlled by the male elected members or by their male relations. This is because of the influence of the patriarchal system in which they live. Again, these women are quite active in articulating their views. But, they have failed to become active in the PR system. This is partly again because of the patriarchal system and also because the PR system has failed to create right kind of environment for women's participation. Also, so far the Panchayats have failed to gain the confidence of women – their experience in this regard stands as testimony.

⁸ Traditional water harvesting structure closed from three sides and open on the fourth side.

At the grass root level, women lack understanding of the ground realities of political and power dynamics. The general awareness on the new PR Act among them is very low. Lack of information thus defeats the very purpose and the spirit of new PR Act. Empowerment of local governing institutions through real devolution of powers and decentralization of authority is necessary to make reservation effective for both women and marginalized sections. Conducive environment has to be created where women can feel comfortable to come and can share their views, ideas and participate effectively. At the same time women also need to build strong alliances amongst themselves and with other marginalized groups to bring about this required change.

Case Study 4

Functioning of Gram Sabha/Palli Sabha from the perspective of Women's role and Participation:

Case Study of Lariapally and Jarabaga Gram Panchayats of Sambalpur district

1. Background

Panchayati Raj and Devolution of power is widely discussed after 73rd and 74th constitutional amendment in India. There is a popular perception across the country that the Government has already taken proactive steps for decentralised governance and the present Gram Panchayat is empowered enough to address the issue relating to peoples live and livelihood. In addition women were also given a space to participate in Panchayati Raj process. The present case study was conducted with the following objectives:

- i. To understand the role and participation of women in the functioning of Gram Panchayat (GP) in Scheduled area.
- ii. To find out the forces facilitating/hindering the participation of women in Panchayati Raj.

2. Study Sites

Lariapally GP and Jarabaga GP of Sambalpur district were selected to carry out the field study. These two GPs were selected because in both the areas women had taken active interest in social issues and also in both the GPs the Sarpanch is a woman.

3. About the Area

3.1 Lariapally Gram Panchayat

Lariapalli G.P headquarters is located at a distance of 20 Kms from Bamara block of Sambalpur district. It consists of nine revenue villages. The villages are surrounded with forest and small nallah⁹. The substantial population belongs to tribals. However, Aghriyas the highest landholding caste are powerful and dominate the area. One of the villages called Kuladera in the same G.P has uranium deposit. The Ministry of Energy is exploring the possibility to set up mines and at present conducting various surveys.

⁹ Water stream.

Table 1: Population details of Lariapally G.P.(As per records of GP)

Villages	SC	ST	OC	Total
Lariapally	49	344	141	534
Sagarpally	23	290	10	323
Kuladera	-	158	-	158
Goejhampur	02	327	08	337
Rengalbede	08	368	54	430
Badakhalia	-	158	-	158
Kholbilung	66	450	188	710
Nuadihi	55	788	229	1072
Dungarbahal	-	169	14	183
Total	203	3058	644	3905

3.2 Jarabaga Gram Panchayat

Jarabaga G.P consists of 12 revenue villages. The entire G.P. is concentrated with tribal population. However the non-tribal community called as Aghriya dominated the power structure. The total population of the village is 5865, tribals constitute the major chunk i.e. 4139 followed by OC and SC at 1173 and 553 respectively.

Table 2: Population Details Of Jarabaga G.P. (As per records of GP)

Village	S.C.	S.T.	OBC	Total
Jarabaga	138	910	216	1264
Uttargaon	53	329	105	487
Dangakhunti	-	295	02	297
Bilung	117	302	260	679
Salpakudar	-	61	45	106
Lapada	112	325	95	532
Kandhakulei	22	143	86	251
Karliadihi	18	166	12	196
Dumku	03	359	54	416
Sargidihi	22	347	78	447
Kinabaga	17	170	80	267
Kuntarabahal	51	462	84	597
Betjharan	-	270	57	327

Total	553	4139	1174	5866
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4. Profile of Studied Villages

4.1 Goeljhumpa Village

Goeljhumpa is a revenue village of Lariapalli G.P in Bamra block. The village is situated 3 k.m. north to the G.P. headquarters, Lariapalli. It is covered with forest on three sides i.e. in North *Hatigirda* Reserve forest in West *Bandhabar* Reserve forest and in South *Nuadihi* village forest.

The village was set up about 100 years back. Tribals especially *Kisan*, *Oram*, *Khadia*, *Gonda* had shifted from *Kansabahal*, *Velvadihi* of *Rajgangpur* areas. *Kisans* had first come to this place and cleared the level areas and started cultivating paddy. In the beginning of the settlement, people and their paddy field were always under threat from wild animals. Even at this point of time the forests are dense and host a number of wild animals.

The village is clustered into two social habitation namely, *Goeljhumpa* and *Karelokhamon*. There is a Stream flowing across the village and people having land close to it use the water for chilly cultivation.

There are total 56 households in the village who are mostly tribals. The household details are as follows:

Table 4: Caste-wise distribution of Households

Tribe	Households	Tribe	Households
Oram	18	Lohar	1
Kisan	18	Gonda	1
Khadia	17	Munda	1
Total	56		

Education

The village has a lower primary school established in 1975. The nearest U.P. School is situated at Lariapally at a distance of 1 ½k.m., the nearest M.E. School and High School is situated at Nuadihi at a distance of 5 k.m. Nearest college is around 8 k.m from the village. A stream is flowing across the village. As there is no bridge over the stream, the village gets disconnected from its nearest town at the time of heavy rain. The stream originates from the hills, hence the velocity of

water increases at the time of heavy rain. Even a water level of 5 feet, makes it difficult for people to cross over it. The children often stop going school at the time of the rains. Till date the village has 16 persons who have passed matriculation and 2 persons have obtained a Bachelor's degree.

Other Institutions

There are 2 SHGs in the village, one is promoted by local NGO called AWARD and the other one is a Government promoted SHG.

Livelihood

The major livelihood avenues in the village are agriculture and collection of NTFPs from the nearest forest. As far as wealth ranking is concerned, there are three categories of households, one is Medium Category, those manage their families for the entire year from their agriculture land by cultivating paddy and using on an average ¼ acre for cultivating chilly. There are 25 households falling in the medium category. Thirty households fall in the poor category having land on an average of 2 to 3 acres and being able to manage for 3 to 6 months from agriculture and from trade in NTFPs. The remaining 1 household is very poor. It is the Lohar household and the major occupation is blacksmith (Lohar).

Children too support their families in the day-to-day agriculture and NTFP collection activities. The major cultivation in the area is paddy. Few farmers having land near the stream or a well cultivate chilly which gives good return to the household. However poor households are not able to cultivate chilly as it needs a high investment. The major NTFP collections in the area are Kendu Leaf (*Diospyros melanoxylon*), *Siali Leaf* (*Bahunia vahilii*), *Mahua flowers* (*Madhuca indica*), *Tola* (*Mahua seeds*), Sal Seed (*Shorea robusta*) and Sal resin. Besides Kendu leaves (KL) the other products do not pay back a remunerative price to the collectors. Trade in KL is controlled by the State government and the price of KL has risen in last year. However the pluckers are not compensated with their labour input. For the KL activity people get their payment 2 to 3 months later which creates dissatisfaction among the collectors. The lowest category of household always works as daily wage labourer in government programmes. Wild

elephants are the major threat to the crops in the village areas. People have been facing the threat since the last 10-year. As they feel due to human interference in their habitation has created this problem.

4.2 Lapada Village

Lapada is a mixed caste village with dominance of the Agharia caste. It is located in the Jarabaga G.P. of Bamara block in Sambalpur district. It is just 2 kms away from G.P. headquarte, towards the eastern side. The village was settled around 250 years ago. The tribal groups living in the village are *Kisan, Gonda, Ghasi, Munda* and *Khadia*. There are Scheduled castes and other caste households living in the village. The village is strongly dominated by the Aghriya caste and this village is an example of the feudal system still prevalent after 50 years of Independence. Till date bonded labourers are working for the Aghriya family. The caste and tribe details of the village are as follows:

Table 5: Caste-wise distribution of Households in Lapada village

Caste/Tribe Category	Households	Caste/Tribe Category	Households
Kisan	22	Munda	1
Gond	23	Harijan (Pana)	14
Agharia	6	Lohara	2
Teli	6	Lodha	4
Gouda	2	Bhuian	8
Chamar	5	Khadia	8
Ghasia	3	Khajuria/Keuta	(2+1) 3
Total	111		

Livelihood

The village is primarily dependent on agriculture and collection of non-timber forest products for their livelihood requirements. Daily wage labourers working in Aghriya families are also there Paddy is the important agriculture crop in the village. Selected few households cultivate chilli especially people belonging to the better of section and having land with good irrigation facility. The situation of daily wage labourers is disheartening. In the village people do not even get half of the minimum wage fixed up by government. Few families have remained as bonded labour in the Aghriya family since generations. The bonded labourers are frightened to open up their

mouth. The area had experienced a people's wage movement in 1996, which had come after a long tolerance of feudalism and years of operation by the upper and influential caste people.

5. Wage Movement led by women

'Village Institute for Social Action' (VISA) was working in the area since 1985 and had promoted SHG groups in Lapada village in 1990. One of the significant developments in the process of empowerment was the Lapada Women SHG. They had discussed the lower wage payment to the labourer and decided to pick up the issue to fight against feudalism and injustice. All the labourers joined in the movement except for a few bonded labourers. The movement was planned at the time of harvest to pressurise the landlords to pay higher wages to the daily wage labourers. This initiative sparked a chain reaction with 22 SHGs in 15 of the adjoining villages who joined the movement. However, this movement could not realise the desired objectives. The landlords hired outside labourers for their agriculture work even after objections were raised from the labourers involved in the movement. VISA had extended support to the movement. When the Aghriya family was affected in the movement directly they wanted to attack the staff of VISA and the leaders of the movement. To mitigate the threat these people lodged a complaint before the District Collector with the support of a NGO - MASS. The Collector told the people that "you people are instrumental in the wage movement and those affected would certainly would be violent". The people's representatives told the Collector that the government wanted people should be empowered and when people are really empowered to address their problem why are the government personnel responding in this fashion. The Collector passed this complaint to the Labour Commissioner. On the order of Labour Commissioner, the district Labour Officer came for an on the spot inquiry and stayed with the Aghriya family. The people said that he took some bribe and without even consulting the labourers prepared a report stating that the leader of the movement & the NGO people have recruited the labourers and are not paying the labourers their dues. He fined these people to pay back the amount or face imprisonment. There is serious doubt over the honesty and integrity of the officer. However after series of complain and pressure, the office of the Labour Commissioner had withdrawn the fines.

6. Functioning of Gram Panchayat: *The Reality*

6.1 Representation of Women in Panchayati Raj

The posts of Sarpanch in both the GPs are held by tribal women, these being reserved posts. The Panchayat representatives and common people in the G.P. are not aware about the PESA Act. The understanding was vague as far as the Panchayat Sarpanch is concerned. The Sarpanch of Lariapalli is Ms Jashabanti Kundu and is the daughter of an ex-Sarpanch of the G.P. where as in Jarabaga. The Sarpanch is the wife of ex-Sarpanch. This in a sense reflects how the electoral system perpetuates power in the hands of powerful. Again, in both cases though women are the Sarpanch but their husband and Kin are in actual sense controlling the system. This is because of the prevalence of the patriarchal form of social set up. Infact, this defeats the very purpose of reservation system. Despite this, a few in the village still feels that atleast this has created a space for tribal and dalits participation particularly, the women. To quote Bipin Majhi a Panchayat Samiti member of Jarabaga GP, ‘Reservation policy has created opportunities for us to participate in the process. Otherwise the upper caste (Aghriya) families could have dominated.’

While confronted with the question that how far reservation system is ensuring the participation of women, the villagers were of the opinion that it is of little help. They also said that in a rotational reservation system the male normally uses the elected women to strengthen their base so that once the seat is de-reserved they can contest and win. Thus in the general perception women representatives are viewed as a stopgap arrangement.

6.2 Participation of Women in GS/PS

Like in all parts of the State women’s participation from the villages in GS/PS is very poor or negligible. Except the elected representatives other women generally do not come to the Sabhas (meetings). Again, these meetings are never held regularly. Even if they are held normally the discussion centres around selection of beneficiaries for various centrally sponsored programmes. This along with the ¹⁰untouchability system dissuades women and other marginalised sections to

¹⁰ Low caste people are not allowed to sit with higher caste people though illegal by law this system still persists in rural India.

participate in the GS/PS. In case of Lapada village the women are prohibited to even attend the meeting. A few women complained that the objectionable behaviour of the males towards them is the main reason of their non-participation.

We asked the women that given the history of struggle relating to wages, whether such issues are discussed or not. They were of the opinion that neither it was discussed during the struggle period or afterwards. This is because the PS is dominated by males of higher caste and the whole struggle was against them. Similarly, the distress sale of MFPs is also never discussed in the Sabhas. Gurubari Nayak of Lapada village said that, “a majority of villagers are dependent on MFPs for livelihood but we receive very low price. But, this problem has never been discussed in PS in our village. Why should it be? Our GS/PS is dominated by people who do not depend on forest for their survival.” It is to be noted here that because of low landholdings MFPs form an important source of earning for the people of these village. They collect a variety of forest products like Mahua flowers, Mahua seed, Sal seed and Kendu leaves as mentioned above.

In this pocket the Ministry of Energy is carrying out exploratory Uranium mining for last two years. To the utter surprise of the researchers no one is aware about this process and it's likely impact. The villagers say that “something is going on” and after that they remained silent. It is heard from non-official sources that the mining operation will be carried out in a ten sq. km area.

In the Panchayat system of both the places like that in other the Secretary play a key role. This post is held throughout the state by male members. And normally they are from the upper caste, if not they are under the control of the latter. The Secretaries also help in perpetuating the dominance of male over female. In the studied GPs they don't recognise the role of Sarpanch, as they are women representatives.

Conclusion

It was observed that women's participation in the Panchayat system is disheartening. This is due to the patriarchal social set up that always tries to oppress the female members. Apart from this the control of the upper caste male over land, water, occupations and the different formal as well as informal village institutions puts them in an enviable position. They use this position to dominate women and use them for their personal benefit. The women find the system unfriendly.

They show less interest as the system doesn't address their issues and the male behaviour is discouraging. This they say happens at all levels of the Panchayati system (PS, GS, Panchayat Office and Samiti Office). Again, illiteracy and ignorance have only added to the situation. The 73rd and 74th amendments as well as PESA have only created a space for women participation. But, an Act by itself cannot address the ground level realities nor can it ensure the participation of women. Thus what needs to be addressed is the creation of an enabling environment for their participation. For this one has to change the power structure within the system by changing the base of the present power structure.

Case Study 5

Panchayati Raj Institution and Forest Resource Management in Schedule V Areas:

A Case Study of Suruguda Village in Sundergarh District

1. Background

The primary aim of the present case study is to understand and analyse the role of Panchayat in managing forest resources at the village level. For this purpose the study was carried out to have a better understanding on the institutional arrangement for forest resource management at the village level and its relationship with the Gram Panchayat (GP).

Forest plays an important role in the lives and livelihood of poor people and fulfils their basic livelihood requirement particularly in the tribal and hilly areas during lean season. Thus the management of forest resources has drawn wide attention of policy makers, researchers, people's organisations and voluntary organisations. After the enactment of Extension of Panchayati Raj to Scheduled Areas Act

(PESA), a popular perception was built that the power of control and management of natural resources which are critical to the life and livelihood of rural population especially the tribals has been transferred to Gram Panchayat (GP) and Gram Sabha (GS). Therefore, this study was undertaken to understand the impacts of PESA Act in the field and the ground realities in the context of devolution of power to Gram Panchayat with regards to forest resource management in particular.

The study was undertaken in Suruguda village of Sundergarh district for two reasons. Firstly, It presents a successful case of community forest management and falls within the Scheduled Area. Further, Vasundhara in the past had studied the forest management aspect of this village. The perspective then was to understand the role of community in local resource management i.e. forest.

2. Profile of Studied Villages

2.1 Location

Suruguda comes within Sundergarh district, in the northeasterly part of Orissa. It is about 23 kms from the district headquarters i.e. Sundargarh town. The village is linked by a pucca road with the town.

2.2 Social Composition

This village comprises of four hamlets namely *Aghriya Pada*, *Brahmin Pada*, *Harijan Pada* and *Bhuinyan Pada*. It is a heterogeneous village with 155 households. The Aghriyas are the most dominant social group and are also economically the most powerful. They also dominate the socio-political life of Suruguda.

Table 1: Caste wise distribution of Households

Caste groups	HHs	Caste groups	HHs	Caste groups	HHs
Aghriya	40	Keuta	2	Chamar	3
Bhuinyan	21	Gauda	15	Ghasi	5
Dhoba	3	Dhanuar	6	Brahmin	3
Teli	6	Lohar	3	Kisan	30

<i>Aghriya Pada</i>	19	Aghriya	19	19	-	-	-
<i>Bhuinyan Pada</i>	38	<i>Bhuinyan</i>	16	-	16	-	-
		<i>Aghriya</i>	10	10	-	-	-
		<i>Dhoba</i>	3	-	-	3	-
		<i>Teli</i>	5	-	5	-	-
		<i>Barik</i>	2	-	2	-	-
		<i>Keuta</i>	2	-	2	-	-
<i>Gauda Pada</i>	24	<i>Gauda</i>	15	-	-	15	-
		<i>Dhanuar</i>	6	-	-	6	-
		<i>Lohar</i>	3	-	-	3	-
<i>Harijan Pada</i>	22	<i>Harijan</i>	13	-	2	10	1
		<i>Chamar</i>	3	-	-	3	-
		<i>Ghasi</i>	5	-	-	5	-
		<i>Aghriya</i>	1	-	-	1	-
<i>Brahmin Pada</i>	25	<i>Bhuinya</i>	3	-	3	-	-
		<i>Teli</i>	1	1	-	-	-
		<i>Brahman</i>	3	3	-	-	-
		<i>Aghriya</i>	5	5	-	-	-
		<i>ST (Kisan)</i>	10	-	10	-	-
		<i>Gond</i>	3	-	3	-	-
<i>Bandha Pada</i>	7	<i>Aghriya</i>	5	5	-	-	-
		<i>Bhuinya</i>	2	-	1	1	-
<i>Milupada</i>	20	<i>ST (Kisan)</i>	20	-	20	-	-
Total	155			43	64	47	1

2.4 Forest Resource in Suruguda

The forest adjoining Suruguda are Bindha Reserve Forest (R.F) and Bhalutungri Khesra Forest (Revenue Forest). The village is protecting 80 hectares of the Reserve forest and 40 hectares of Khesra forest since 1985.

The forest is mixed Sal forest in nature. Some of the major species found in the forest are Sal, *Asan*, *Dheura*, *Bheru*, *Sidha*, *Karda*, *Char*, *Kendu*, *Dhuben*, *Salhaya*, *Kekat*, *Banem*, *Khair*, *Gamhar* etc. The R.F. is on the hills and the lower part of the R.F. has a gentle slope and a dominant crop of Sal coppice. The vegetation in the upper reaches is dominated by bamboo.

3. Dynamics of Power relation

Suruguda village was established by the Bhuinyan settlers who for a quite long time were enjoying the post of Village headman (Gauntia). With the passage of time Aghriyas migrated into this place and through their industrious nature and cunning role took away the headmen ship from Bhuinyan. Currently they control the village. They have command over the majority of land in the village, control the money lending, trading activity and almost all village level institutions.

In the post-independent period with the abolition of Zamindari system the Gauntia system has also disappeared from the lexicon of the State but in practice it still continues. During this phase the people and or the State has promoted number of institutions to manage affairs relating to the village. Like, School committee, Village development committee, JFM committee, Festival committee etc. All these institutions are controlled by the Aghriyas.

From this description it emerges that the land owning class play an important role in the village. They have established their control over all types of resources by controlling the various village level institutions.

4. Forest Protection and Management in Suruguda

The forest protection in Suruguda was initiated in the year 1985. This was basically a response to the non-availability of forest produces on account of the depletion of forest during the seventies and early eighties.

Some of the major reasons of the depletion are:

- a) Forest was leased out by the government to the contractors.
- b) Extravagant use of wood by villagers, especially by the Aghriya community. It could be observed that every Aghriya house has consumed a lot of wood. At places one shall find that whole trees have been used.
- c) Excessive grazing (As far as grazing is concerned HHs from all communities having domestic animals were involved)
- d) Uncontrolled forest fires.
- e) Stone quarrying operations.

The Harijans of the village initiated the forest protection and management activity in Suruguda. They happen to be the most forest dependent group in the village. Till 1989 the marginalised sections controlled the forest protection and management initiative. In the said year the forest department intervened and brought this community initiative under the JFM Programme of the state. Here it ought to be added that this intervention triggered a change in the management system of the forest and with the passage of time brought the management under the command of the dominant peasant community, Aghriyas. Now the Aghriyas and the forest department representative control the entire Executive Committee. This can be understood better by examining the structure of the forest protection and management committee.

4.1 Structure of Forest Protection and Management Committee

The present Executive Committee comprises of seventeen members, elected through a consensus approach. Once in every two year the village General Body consisting of all majors (above the age of 20 years) sit together and decide who should be the member of the executive committee. Here they try to have representative from each hamlet of the village. This council also decides the name of President, Vice-President, Secretary and Assistant –Secretary of the Executive Committee. Theoretically this appears to be democratic but in practice is not so. The election are rarely held on regular basis

The General Body through selection process appoints Executive Body members. For the first time during *Vana Samrakshan Samiti* (VSS) formation under Joint Forest Management

programme in 1994 voting was done for the post of President and Secretary. The first committee led by Shri Dukalu Prushet continued for quite a long period for almost 11 years, excluding a few whom resigned after two years on personal grounds. After the breakdown of this committee frequent changes in the subsequent committees were observed. A major reason of these changes is absence of strong leadership and vested interest of some individuals within the village.

One more aspect of the forest protection and management committee is the dominance of a particular social group. Like, out of seventeen members seven are from Aghriyas caste, though in the village the number of household of Aghriyas is about 26 percent of the total household. Not only that they occupy all the key positions like President, Secretary, Vice-President and the Assistant Secretary (for details see table-4).

Table 4: Representation of Members from different hamlets in the Forest Protection Committee

Hamlet	Members	Sex	Caste	Designation
Bhuinya Pada	Alekh Bhoi		ST	Member
	Khadi Kalo	Male	Bhuinyan	Member
	Pabitra Patel	Male	Aghriya	President
	Sadashiv Patel	Male	Aghriya	Vice- President
	Sarojini Patel	Female	Aghriya	Member
	Charulata Patel (Sarpanch)	Female	Aghriya	Member
Brahman Pada	Laxman Kisan	Male	ST	Member
Harijan Pada	Gojendra Badi	Male	Harijan	Member
	Gulapi Sa	Female	Harijan	Member
	Sesadev Suniani	Male	Harijan	Member
	Sukru Buda (Ward Member)	Male	Harijan	Member
Aghriya Pada	Bipin Buda	Male	Harijan	Member
	Tikina Chowdhury	Male	Aghriya	Member
	Motiram Chowdhury	Male	Aghriya	Member
	Soumendra Patel	Male	Aghriya	Secretary
Milu Pada	Kumar Majhi	Male	ST	Member
	Saraswati Kisan	Female	ST	Member

An examination of the functioning of the committee further reveals the dominance of Aghriya community. Our discussion with the community clearly brought out that in the Executive Committee most of the decisions are taken by the Aghriyas and others are asked to follow through. The conflict management system also supports this conviction. For e.g. in March 1999 a harijan person was caught while bringing a few poles from the forest. He was severely penalised by the committee, a fine of Rs. 200.00 was imposed on him and he was handed over to the Forest Department. In the same village similar offence by Aghriyas are normally not taken into cognisance by the committee or even if they do so, they settle the matter with a lenient penalty. In another situation, about benefit sharing, in 1998 only the Aghria households did the cleaning operation as only they had the information about the process. Thus, they reaped the benefit while others could not as they were not aware of the event. It is of importance to note the role of Forest Department. The FD instead of becoming a neutral facilitator of the process has often taken the side of dominant group, Aghriya. In fact, the marginalised sections complain that the forest department is instrumental in bringing the Aghriyas in the forest protection committees.

So far we have found that the Aghriyas, the rich landlord community have command over the forest resource management system. They usurped to the position of power through their command over land and with the support of the State. Due to their socio-economic position the marginalised section fail to raise a voice of protest. This silence should not be viewed as their consent to the in-equitous happenings in forest management rather it is a product of the peculiar manner in which they are dependent on this land owning class for their livelihood. As noted earlier the Aghriyas control not only a major portion of land in the village but also are the major money lending and trading class of the village. They also control all types of institutions in the village. Below we will shift our focus to the role of Gram Panchayats in forest management.

5. Gram Panchayat Functioning: The Reality

The JFM resolution of 1993 says that every GP should have a committee to supervise the activity of the JFM programme at the village level. To quote the resolution “The Gram Panchayat in whose jurisdiction the scheme (JFM) will be

in operation would be advised to have a sub-committee on JFM. The sub-committee will review once every quarter the functioning of the VSS in general and particularly whether the responsibilities cast on the parties in the Memorandum of Understanding were being discharged satisfactorily. The GP would keep the concerned Divisional Forest Officer (DFO) appraised of the working of the scheme from time to time.” [No 16700–10–F (pron)–20/93–Forest and Environment Department, Govt. of Orissa] The PESA also says that the Gram Panchayat / Gram Sabha is responsible for the management of forest resource at the village level.

In this context, we attempted to find out what role the grass root governance system is playing in Suruguda in the management of forest. The villagers were unanimous in their view that forest related issues are never discussed in the Gram Sabha / Palli Sabha. Mr. Soumendra Patel, the Secretary of VSS was of the opinion that “the Palli Sabha only sits to decide the beneficiary list for Indira Awas Yojana, Jeevan Dhara Well schemes. The Sarpanch is a member of the VSS but not because he is a Sarpanch rather as a private individual. So his participation in VSS should not be viewed as gram panchayats’ involvement in forest management.” On further query, we found that the villagers even the Panchayat members are not aware about the aforesaid cited provision of JFM resolution or for that matter of the PESA.

In peoples’ perception, Panchayat is a part of the State, it is an agency of the government. This impression has relationship with the functioning of the Panchayat at the base level. Many of them view that non-participation of Panchayat is a blessing in disguise. They say Panchayat is not taking much interest in forest management because it does not get any revenue out of the same. The Panchayat system, according to them, is ridden with the interest of the dominant group and PR functionaries. Again the State plays the key role in the Panchayat system. Further, Panchayats because of the flow of various kinds of funds is vitiated with various political interests. Thus, it is not the right kind of institution to look after forest. They suggest that instead of Panchayat the traditional institutions, which are informal by nature and more egalitarian, should be entrusted with this task.

We discussed with the PR representatives and officials in Suruguda about the functioning of JFM sub-committee at Panchayat level. The Sarpanch, Naib-Sarpanch, Ward members and even the Panchayat Secretary pleaded ignorance about the existence of such a provision! It means the committee does not exist and thus, does not perform.

Kendu leaf plucking provides substantial income to the pluckers at the village level in Suruguda. For this commodity the Kendu Leaf wing of the Forest department relies on *Phadi*¹¹ committees at the village level. This committee consists of a few pluckers, Kendu leaf department workers and the Forester who is in charge of the locality. It is supposed to be a democratically constituted committee. While the field study was going on, a peon of the Forest Department brought a notice to the people and asked for villagers' signatures. To our utter surprise, while asking for signatures, the bearer of the notice did not explain the content of the notice rather tried to hoodwink the people by telling a lie. He said that the notice is about rise in government daily wage. When confronted, the bearer quickly left the village. This only reflects the way various wings of the State function.

The team had a long interaction with the Sarpanch, Shrimati Charulata Patel of Suruguda. Our intention was to know her perception on development, to find out whether she has any plan to contest in the ensuing election and if yes, why? She came out with a blunt 'No'. Then we asked why? She said, 'Last time I contested because the seat was reserved for women. This time it has been dereserved. In the new situation definitely my opponents will be male so, I am not contesting.' Then we asked if it is reserved would she contest? She came with a pat answer 'Yes'. We became more inquisitive and asked her what she will do if she is elected? Her answer was she would build a college, build a pucca road and will try to get more grants under the centrally sponsored schemes. Again we asked how she views her role as a Sarpanch in natural resource management. She looked blank and then said that "--- they are not the responsibility of a Panchayat!" We further asked her why she is interested to contest? After a long time she said, "if she becomes the Sarpanch for another term then she will award construction contract to her relations."

¹¹ Kendu leaf collection centre

Conclusion

In a way of conclusion the following major findings emerges out of the case study:

The present Panchayat system does not play any role in the management of forest resource which is key to the life and livelihood of the marginalised sections.

The Panchayati raj system itself is marred with various kinds of interest lobbies *i.e.* political parties, contractors and land owning class. Thus, the system takes care of their interest and not the peoples' interest.

The Panchayat system is not free from the influence of dominant section of the community. Thus, it never bothers even to discuss on important issues like the forests.

Given the functioning of the Panchayats the common people are apprehensive about its role in forest management. Thus they say, traditional informal institution is better than Panchayat.

The PR functionaries do not view forest as a key resource though it supports the majority during the lean season. To them, resource in the context of Panchayat system means the grants received from the State government. Given this, viewpoint forest management is never viewed as a function of Panchayat.

Lastly, despite PESA and in it the role given to Gram Sabha on management of local resource like forest the people are not discussing about forest in the Gram Sabha. This is because of the sub-ordinate role they are forced to play in the general socio-political environment. It is evident from the fact that for their survival they depend on the rich community.

Chapter V

OBSERVATIONS AND CONCLUSIONS

Chapter - V

OBSERVATIONS AND CONCLUSIONS

An analysis of historical processes leading to devolution of power at different stages, a reflection on contemporary realities at the micro as well as macro level, a close interaction with the active participants of the State initiated devolution exercises and the simple study of situations in some of the villages reveal myths and realities surrounding the State initiated devolution of power measures today, PESA being the most ‘radical’ among them.

5.1 Whether there is a body of rules, principles or constitution to define or design the processes and procedures of governance or not, the actual governance normally does not depend much on the *written*. The *non-written* determines the process of governance at any level. The *non-written* includes interpretations, inferences and also adding meaning to it. PESA has not been able to stand above this reality, which guides democracies of our times.

5.2. An important point which needs to be examined in the overall context of Scheduled Areas is the role of Governor. What is said in the Vth schedule of the Constitution on the role of Governor is infact drawn from the different acts, which the British had enacted during their rule. Therefore, it should be recalled that, the role and authority the Governor used to enjoy was almost in absolute terms. Now, since elected governments are ruling everywhere this role of the governor has eroded considerably. The political realities, which govern the day to day governance in India, have reduced the role of Governor to that of an agent of the party or coalition in power at the centre. For all practical purposes the Governor is not an autonomous position. He is ‘Governor in Council’ and he does not represent the person of the President but the ‘President in Council’. Therefore, to expect the Governor to play a role in scheduled areas independent of these realities may engage us in good debate and discussions but will not yield any real benefit to scheduled areas. If the elected governments and the political parties don’t recognise the fast deteriorating situations in scheduled areas and the role of natural resources in

ameliorating the plight of the tribals, a ceremonial position of Governor may not be of much help to us.

5.3 The role of Tribal Advisory Council, which is supposed to advise the Governor, has been of no help to scheduled areas. It never meets on regular basis and has been of no use to Tribals since its inception. This is true in all states having scheduled V areas.

5.4 PESA has to confront with a grim reality. That is, when it comes to the life of the millions of people who don't understand the intellectual meaning of State, the state appears before them as the absolute manifestation of power- political, economic and coercive, though, today the State carries a different meaning for the market forces. Therefore, for the common people, the natives of Scheduled Areas, the decentralisation of governance or devolution of power or PESA would carry little meaning unless it reverses the present process of development which is in fact a process of pauperisation and depletion of natural resources such as the forest, the land and the water which has sustained life for generations in their habitations.

5.5 The limitations of PESA, the hurdles which are there in the process of its realisation, the role of the agencies of the State, the role of political leadership and the bureaucracy and the attitude of the non-tribal and non- dalit Oriya middle class who dominate the power structure in Orissa at all level and who treat the tribals and the dalits with contempt throw up fundamental questions which need further reflection if we are serious about the devolution exercises.

5.6 Since there has been no change in the power structures and social relationships in the villages even 54 years after the independence, any official devolution of power is likely to strengthen the positions of those who have been dominating it.

5.7 A revelation, which we got exposed to in our unstructured discussions at the district and sub-district level is that, the people who are supposed to be active participants in the devolution exercise are not aware of the macro economic forces, which are a threat to the autonomy of their democratic institutions. How do they then come up in a situation where the rights guaranteed to them, by the Vth schedule of the constitution, are blatantly violated and protest against it? How

do they prepare themselves to make use of the benefits of certain policies of devolution, if there are any? How do they demand for more enabling mechanisms from the state which are necessary to realise the positive aspects of PESA and the State Acts? This seems to be a big grey area, which needs further explorations.

5.8. The dominant development paradigm which the State has adopted takes away whatever power it wants to devolve to grass root institutions such as Gram Sabha. Big dams, Big industrial projects, Big mining projects are a threat to the community resources of the tribals in Scheduled Areas. Though PESA has provided that the Gram Sabha is competent to preserve these community resources, in cases where it clashes with any project, Gram Sabha is rendered powerless. There is no provision, which suggests what should Gram Sabha do, when its decisions are not honoured.

5.9 None of the devolution acts so far, including PESA and their sources that is the Vth Schedule of the Constitution, has recognised people's rights over natural resources to be inalienable. No other rights in Scheduled Areas carry any meaning in the absence of the recognition of such a fundamental right.

5.10 The most notable feature of PESA seems to be the provision of "consultation" with Gram Sabha on crucial matters such as land acquisition. Many people often forget that PESA has never made an exclusive provision like this for Gram Sabha alone. It has in fact said consultation with "Gram Sabha or Panchayats at appropriate level" which includes the Zilla Parishads. Therefore, the scope for manipulation at the State level has been already provided for in PESA itself, which was made good use of by the state governments like that of Orissa when they made their own laws with regard to this.

5.11 The provision for "consultation" prescribed in PESA does not mean 'consent'. It does not explain what does this provision actually mean. There is also no mention about any punitive steps or legal instruments which the Gram Sabha or Panchayats at appropriate level can make use of in case these bodies are not consulted or if their decision is not honoured.

5.12 From the district consultations that the research team held, it appears that people at any level have not reflected on what would be the meaning of “power” for them. Therefore, there was also no thinking on devolution of power. Such a situation is bound to be exploited by those who understand the exploitative meaning of it.

5.13 Till these brainstorming sessions there was no occasion for them to reflect on what powers their grass root democratic institutions have actually got. Most of the NGOs and government bodies working on Panchayat Raj and PESA were only engaging themselves on popularising what powers the acts have given to the people.

5.14 The most visible power so far seems to have been selection of beneficiaries of different schemes of the govt. Since the list of potential beneficiaries is many and the supply of benefits is quite less, the selection of list has caused tensions, conflicts and multiple polarisations of the village communities.

5.15 PR representative who had initially said we have got some power after a brainstorming session came to the conclusion that all they have got is some responsibility but no power.

5.16 Till date, PR representatives are not able to think up about the fundamental issues relating to life and livelihood of rural population which speaks about the kind of people who are at the helm of affairs in our grass root democracy and how alienated are they from the issues of the people.

5.17 The Gram Sabhas and Palli Sabhas have not come up to people’s expectation in their present form.

5.18 The environment in Gram Sabhas and Palli Sabhas is not encouraging for women to participate in its activities.

5.19 The Gram Sabha, which is treated as the Parliament of the village, does not convene in the knowledge of all adult members of the village.

5.20 The participation of women has been treated more as a ritual. The women representatives who have proved to be more capable than their male counterparts do not get any support. The nature of Gram Sabha continues to remain male oriented. There is no serious thinking on this issue at any level.

5.21 The degraded political culture plays its own damaging role in the process of selection of candidates for contesting elections into PRIs, in the election process itself and also in the post election period when these representatives assume power. Panchayats have decentralised corruption to the village level. Development of the village is no longer the major concern. In one of our study village Suruguda, the main inspiration for the head of the Panchayat to continue in the office was that she could get a construction work worth 200000 rupees on contract for her son from the Panchayat every year. This has become a universal phenomenon in all most all the GPs of Orissa.

5.22 One of the several things, which could not be covered in our studies, was that the “Invisible Governors” of Panchayats in Scheduled Areas. They include moneylenders, election financers, the timber and liquor mafia.

5.23 One of the important things, which a devolution exercise should bring along, is enabling mechanisms and environment, which are equally important particularly in the context of scheduled areas. In the absence of such mechanisms, the devolution exercises are rendered useless.

5.24 There are three lists in the constitution describing the jurisdiction of the Central and the State government over subjects on which they can make law. But, there is no list for Scheduled Areas where Panchayats or Gram Sabhas in these areas can frame laws. Therefore, the Union list, the State list and the Concurrent list as defined in the Constitution still hold ground even for Scheduled Areas. A brilliant example of this can be found on the subject of Land Acquisitions. It may be recalled here once more that the Land Acquisition Act of 1894, which has been amended in 1984, still stands supreme in Scheduled Areas. If a tribal is paid compensation for his land,

against his wish when it deprives him of his livelihood and source of life, it will not be treated as a violation of his fundamental rights as per this Act.

5.25 A number of Acts covering the above mentioned list which required immediate amendment in order to make PESA effective has not been carried out as yet.

5.26 Now several parallel initiatives of devolution have been taken up such as the Pani Panchayats (explain) which are aiming at privatisation of natural resources such as water. This is going to create a divide between the existing institutions of democracy at the village level and the planted Pani Panchayat type arrangements. The formation of Self-Help Groups ignoring the PRIs is also a case to be examined.

5.27 The traditional decision making institutions of Scheduled Areas have lost their significance because of the imposition of the three tier Panchayat Raj and the other institutions which the government is doing at present at the behest of World Bank and DFID. The result is quite clear. People in all these areas don't own up to any such institution. On the other hand they get further alienated from their traditional decision making bodies.

5.28 At the same time there has been no attempt to arrange an interface between people's institutions such as the Community Forest protection bodies which have been effectively protecting forest for a quite long time independent of the govt and the Gram Sabhas or Panch Sabhas.

5.29 Since the independence of the country there has been no critical evaluation of the overall situations in scheduled areas. The rulers do not have a scientific understanding of the realities tribals confront in scheduled areas.

5.30 Therefore, it makes our task of understanding state intentions behind its acts of devolution of power more difficult.

At the end it can be suggested that on the basis of the understanding of the above issues, the prerequisites of devolution must be fulfilled first in order to make any act of devolution achieve its objectives. One such prerequisite necessarily includes the recognition of people's inalienable rights over their community resources. Apart from this the Acts of Devolution should be clear in its intent as well as language and it must be supported by necessary enabling mechanisms.

Chapter VI

IMPACTS

Chapter - VI

IMPACTS

The entire exercise on devolution of powers conducted by Vasundhara was by itself an innovative, educative and enlightening process. The series of consultations which took place at the district and sub district level, the series of interactions we had with PRI functionaries, NGO workers and activists and the field investigations conducted by our team mates have at least brought about the following impact:

6.1 The NGOs and NGO sponsored Peoples Organisations in the state had almost accepted the policies of devolution in scheduled areas and a majority of them had unwittingly or otherwise launched a sustained campaign highlighting the benefits the new acts of devolution would bring for the common tribals of the state. This exercise initiated by Vasundhara made them halt for a while and reflect on the critical aspects of governance at grass root level with seriousness. For the first time critical questioning about the functioning of the system was given precedence over one-sided propaganda about the new acts of devolution to be more specific PESA. This is a significant breakthrough, since the NGOs who are working closely with the people are now willing to know the myths and realities surrounding the PRIs in Orissa- in the scheduled and non-scheduled areas.

But, a systematic follow up programme is required to capitalise on this new realisation of the NGOs and to take appropriate steps towards generating a conducive environment through out the state and maintaining it till real powers are given to the people.

6.2 Again, the Vasundhara exercise on PESA has brought to focus, the inalienable rights of the tribals in Scheduled areas over natural resources. Organisations and individuals who participated in this exercise realised that such a right has not been recognised in any act of devolution including that of PESA. Most of these actors engaged in the devolution process either directly or indirectly had no concern to see if there was any linkage between the acts of devolution and the rights of the tribals over their land, forest and water. Now, some of them have started discussing about the linkages.

Vasundhara should facilitate it further in order to take the discussions to the village level.

6.3 All most all the agencies engaged in PRIs govt and non- govt so far had focussed on what the acts of devolution had provided for. There was almost no discussion on the enabling mechanisms which must follow an act of devolution prior to our brain storming sessions but at the end we found a realisation gradually building up demanding enabling steps to be initiated by the executive in order to make the acts effective.

6.4 Vasundhara must widen and extend this process of discussion to GP level involving all these actors with the objective of mobilising voters of the grass root democratic institutions for putting more pressure on the state leadership to devolve real power and to enable them exercise these power by developing suitable mechanisms.

6.5 This study further strengthened our conviction that no act by itself may lead to real devolution in a highly stratified society like that of ours. This has now become a common concern with more and more groups and individuals working for the people in scheduled areas sharing this conviction.

6.6 There was a dearth of critical literature on devolution of power in Orissa. Most of the literature available with the NGOs and other intermediary groups concentrated mainly on publicity aspects. The consultation workshops and brain storming sessions were the only exceptions. The impact of the background materials prepared by the team along with the set of questionnaire was so much on the participants that there was a demand in almost every place to print them and circulate the materials as widely as possible to enable the people untouched by this exercise to reflect on the system they have at their disposal in the name of grass root governance.

6.7 There has been demand in all most all the districts to continue this “enlightening process” and take it to the villages. In many places there were suggestions to print booklets in simpler Oriya language so that people will understand what is myth and how it confronts the reality. In fact, there were suggestions to make a video film on PESA and initiate discussions in the villages with the help of it.

6.8 The impact of the exercise on the PRI functionaries was equally good. They had never reflected on “Power”, “Development” and ‘Devolution’. At the end of the exercise they were convinced that their understanding of these concepts has betrayed them. They want to strengthen further their new realisation with inputs from agencies like Vasundhara, which might help them to put, organised pressure on the State for devolving real power. In the beginning of each interactive session most of these representatives had no concern about the natural resources which sustain life in scheduled areas but at the end of the session they would conclude with a question, “tell us if there is any provision in any act or law by which we can protect our precious resources from evil eyes”. Every session in every place has ended with a few questions unresolved. In most of the places they have demanded to make the exercise a regular process and not end it like an event as most NGOs do it.

This is a challenge thrown to Vasundhara and there is a need to have a serious reflection on how to organise a good follow-up programme.

6.9 The impact on Vasundhara is equally significant. The hard facts discovered through the process suggest that more hard work is required to be done in order to take this process reach its logical conclusion. More organisations, more PRI representatives, more people’s organisation need to be mobilised and networked in order to demand devolution of powers which would help the people strengthen their livelihood and other life support systems.

6.10 Vasundhara is contemplating to organise a brain storming session involving like-minded agencies from across the country and to design a common and effective strategy to achieve the above objective.

6.11 There has been a realisation because of the study that there are several grey areas, which we must explore, in order to be more useful for the people. For example, there is a need to study the Land Acquisition Act of 1894 vis-a-vis the new acts of devolution at length to throw more lights on its actual functioning and real impact on the life of the tribals in Scheduled areas. There are 42 similar acts in the State which needs a critical investigation if any advocacy agenda has to be

planned and campaign to be launched on the basis of it demanding real power for grass root democratic institutions.

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