

# Legal Framework for Panchayats in Bio-resource Governance

(A compilation for Odisha)

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## FOREWORD

Natural resource management and protection of biodiversity is an important arena in respect of which various legislations, sub-ordinate legislations, and policies made by the Centre and State of Odisha are already in place besides the relevant provisions in Panchayati laws of the State. All these legislative instruments have entrusted definite powers and functions to the Gram Sabha and different layers of Panchayati Raj. Unfortunately, the devolution of such powers & functions have not been adequately supplemented with a proportionate provision/development of resources and capacities, which is why the very purpose of this devolution itself could not be fulfilled properly, and the PRIs have not been able to satisfactorily execute these functions. Another discouraging factor is the inherent weakness of some provisions themselves that create a kind of powers for namesake, and as such are practically useless or little effective. PRI to be 'consulted' is one such example because consultation doesn't necessarily mean a concrete power to take a decisive role. On the other hand, PRIs at each level are mandated to have Standing Committees to look after matters such as agriculture, soil conservation, animal husbandry, forest, fisheries, and horticulture, apart from non-NRM subject matters; but these committees are hardly active.

The present compilation is an attempt to collate all relevant legal provisions that provide for a definite and clear role of the PRIs in natural resource governance and/or bioresource governance. We have included here policy statements that form the basis of the legal framework, and also instructions in the relevant guidelines that practically play a vital role in execution of different projects/schemes.

This compilation, actually intended to serve as the terms of reference for the PRIs for NRM/Bioresource governance, was originally made by our consultant National Institute for Development Innovation(NIDI) in 2011(it is worth mentioning here that this consultant reportedly engaged an expert policy analyst for this purpose and the analyst has placed his version of the draft on his personal webpage without any reference to RCDC or NIDI, unfortunately); but since then some important developments have taken place which is why it had to be revised and updated. The Joint Forest Management resolution of 2008 has now been replaced by that of 2011. However, being government policies, laws, and schemes even the presently mentioned provisions are susceptible to change over time, and hence the readers are advised to update themselves in case they seek a critical reference.

That this is a dynamic compilation with some insights would be evident from the critical comments and remarks placed in the footnotes and elsewhere. We hope that despite its limitations the present compilation would prove to be quite useful for various stakeholders.

Last but not the least I take this opportunity to thank Broederlijk Delen for their support, and my colleagues Bimal Pandia and Manas Biswal for their contribution.

Bikash Rath  
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(A GP-level resource map shown in Turiguda GP of Rayagada district. RCDC has been encouraging the PRIs to play an effective and dynamic role in bioresource governance.)

## ABBREVIATIONS

<b>CBO</b>	<b>Community-based Organization</b>
<b>CWLH</b>	Critical Wildlife Habitat
<b>DFO</b>	Divisional Forest Officer
<b>DLC</b>	District Level Committee
<b>DWSM</b>	District Water & Sanitation Mission
<b>EC</b>	Executive Committee
<b>EDC</b>	Eco Development Committee
<b>EIA</b>	Environmental Impact Assessment
<b>FPC</b>	Forest Protection Committee
<b>FRA</b>	Forest Rights Act
<b>GB</b>	General body
<b>GP</b>	Gram, Panchayat
<b>GS</b>	Gram sabha
<b>ICZM</b>	Integrated Coastal Zone Management
<b>JFM</b>	Joint Forest Management
<b>KBK</b>	undivided Kalahandi, Koraput, and Balangir district
<b>LAA</b>	Land Acquisition Act
<b>MFP</b>	Minor Forest Produce
<b>MG NREGA</b>	Mahatma Gandhi National Rural Employment Guarantee Act
<b>MoEF</b>	Ministry of Environment & Forest
<b>NPMU</b>	National Project Monitoring Unit
<b>NRM</b>	Natural Resource Management
<b>NTFP</b>	Non-timber Forest Produce
<b>OFF(CT) Act</b>	Odisha Forest Produce(Control of Trade) Act
<b>OGP</b>	Odisha Grama Panchayats
<b>OMMCR</b>	Odisha Minor Minerals Concession Rules
<b>PESA</b>	Provisions of the Panchayats (Extension to Scheduled Areas)
<b>PRI</b>	Panchayati Raj Institutions
<b>PS</b>	Panchayat Samiti
<b>SC</b>	Scheduled Caste
<b>SDLC</b>	Sub-division Level Committee
<b>SHG</b>	Self Help Group
<b>SPMU</b>	State Project Monitoring Unit
<b>ST</b>	Scheduled Tribe
<b>VP</b>	Village Panchayat
<b>VSS</b>	Vana Samrakshan Samiti
<b>ZP</b>	Zilla Parishad

## Legal Framework for Panchayats in Bio-resource Governance

### *Background:*

Bioresource governance primarily and immediately focuses on the governance of the living entities under jurisdiction, but practically it has to focus also on the non-living/abiotic entities like land and water as they form the habitat of the biotic elements.

The decentralized governance system for rural areas is working through the Panchayati Raj Institutions. The 11<sup>th</sup> Schedule (annexure-1) of the Indian Constitution has devolved 29 different subjects to the PRIs, and several of these powers are related to bioresource governance in one way or the other.

In the context of Odisha the Panchayati Raj System consists of Gram Sabha/Palli Sabha, and three-tier Panchayati Raj institutions comprising Gram Panchayat (elected executive body of Gram Sabha<sup>1</sup>), Panchayat Samiti (elected executive body at intermediate/middle level) and Zilla Parishad or District Panchayat (elected executive body at District level). These Panchayati Raj Institutions are governed by the Panchayati laws exclusively made for them and as well by some Central and State laws made in relation of various other matters. Gram Sabha and each tier of Panchayat have been endowed with a variety of powers and functions in matters connected with governance at their respective levels. Whereas the OGP Act, Panchayat Samiti Act, and Zilla Parishad Act had provided for various responsibilities for the PRIs in respect of the bioresource governance, the Government of Odisha, as a follow up to the 73<sup>rd</sup> Constitutional Amendment, devolved some powers corresponding to 21 out of the 29 different subjects. This is known as Activity Mapping(annexure-2).

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<sup>1</sup> The Odisha Gram Panchayat Act,1964 has, through its confusing and complex definitions/provisions like that of 'Grama' and 'Grama sasan' said that the Gram panchayat is the 'executive authority' of the Grama sasan[ the collective of the voters of the notified village(s)]. The assembly of this collective is called Gram sabha. It may thus imply to the assembly of the voters of one or more notified villages. Palli sabha, on the other hand, normally implies to the assembly of the voters of one village only. The usual practice is : Gram sabha takes place at panchayat level while Palli sabha takes place at revenue village level. This is against the provision of the Constitution (Seventy-third Amendment) Act,1992 which clearly specifies the Gram sabha to correspond to a village only. For Scheduled Areas however 'Gram sabha' can take place even at hamlet level, as per the Provisions of the Panchayats (Extension to Scheduled Areas) Act(PESA ACT, 1996), 1996 which has recognized even hamlets or habitations as 'village'. Hence, for such cases the 'Palli sabha' and 'Gram sabha' mean the same .

Subsequently, there have been introduced some more legal provisions that mandate for a role of PRIs in the natural resource governance and benefit sharing thereunder. The Biological Diversity Act, 2002 is one of them. By the time of finalization of this compilation, the state government in Odisha has either partially complied with such provisions or is still in the process of doing that. For instance, the State Biodiversity Rule has been drafted, but not notified finally so far.

In the context of bioresource governance, the powers and functions of the panchayats at different levels can be studied under the following categories:

- (A) Biodiversity
- (B) Forest
- (C) Land
- (D) Water
- (E) Mining
- (F) Agriculture, Fishery, and Animal Husbandry
- (G) Miscellaneous

## A. Biodiversity

- **The Biological Diversity Act 2002:**

This Act contains certain provisions which concern the local bodies including Panchayats and the people living in their jurisdiction.

- As per the Section 2(h), the term “local bodies” means Panchayats and Municipalities, by whatever name called, as defined in the Constitution and in the absence of any Panchayats or Municipalities, the institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act.
- As per Section 7, no citizen of India or a body corporate registered in India, shall obtain any biological resource for commercial utilization, except after giving prior intimation to the State Biodiversity Board concerned: But the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and *vaids* and *hakims*, who have been practicing indigenous medicine.
- As per Section 21 (1), the National Biodiversity Authority shall while granting approvals under Section 19 or Section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products,

innovations and practices and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefits claimers.

- As per Section 24 (1), any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in Section 7 shall give prior intimation to the State Biodiversity Board. On receipt of such intimation, the State Biodiversity Board may, in consultation with the local bodies concerned and after making enquiries if necessary by order prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. However, no such order shall be made without giving an opportunity of being heard to the person affected
- As per Section 32(2), the State Biodiversity Fund shall be applied for such purposes as (a) the management and conservation of heritage sites; (b) compensating or rehabilitating any section of the people economically affected by the notification; (c) conservation and promotion of biological resources; (d) socio-economic development of areas from where such biological resources or related knowledge has been accessed subject to any order made under section 24, in consultation with the local bodies concerned; and (e) meeting the expenses incurred for the purposes authorized by this Act.
- As per Section 37(1), the State Government may, from time to time notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act in consultation with the local bodies. The Section 37 (3) mandates that the State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.
- As per Section 41(1), every local body shall constitute a Biodiversity Management Committee (BMC) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro organisms and chronicling of knowledge relating to biological diversity. As per Section 41(2), the National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee. As per Section 41(3)

the Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resources for commercial purposes from areas falling within its territorial jurisdiction.

- Every local body which has constituted a Biodiversity Management Committee shall cause, the annual report and audited copy of accounts relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body. (Section 47)
- A State Government shall by rules notify the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied; the form of annual report and the time at which such report shall be prepared during each financial year; and the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished (Section 63-2).

#### **The draft State Biodiversity Rule, 2010**

The Government of Odisha published a draft State Biodiversity Rule for public comments, in 2010 and has not issued any final notification thereof since then as a result of which the actual progress of the implementation of the Biological Diversity Act in the state has been negligible. The draft Rule, like the central Rule, has concentrated the power at the level of the State Biodiversity Board. Local bodies are required to constitute BMCs, but there is no mention of the Panchayat Samiti. The draft provisions seem to have not taken into consideration the mandate and provisions of the Forest Right Act, 2006; but have clearly said that the word 'consult' (with BMCs/local bodies) includes, the following steps, inter alia, (a) issuing of public notice, in local languages, of the proposal for access / collection, (b) discussion/dialogue with the general assembly of the local body; and (c) formal consent from the assembly after being provided adequate information about the proposal and its implications for conservation and livelihood.

- **Odisha Grama Panchayats Act, 1964:**

The Gram Panchayat may, and when required by the residents of the local area, shall undertake discovery, removal and destruction of water hyacinth, pricklypear or any other agricultural pest on any land, premises or water as well as construction of fences and barriers to check its movement and may recover its cost from the residents of the locality concerned unless the local residents arrange for free labour for the purpose (Section 54).

## B. Forests

- **PESA Act,1996:**

Panchayat at the appropriate level and Gram sabha shall be endowed with power and authority in respect of the ownership of minor forest produce (Section 4-m-ii)

- **Forest Rights Act, 2006:**

- Gram Sabha means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women [Section 2-g];
- 'Habitat' includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes [Section 2-h];
- 'Minor forest produce' includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tusser, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, tubers and the like<sup>2</sup> [Section 2-i];
- 'Village' means - (i) village as defined in Section 4 of PESA ACT, 1996 or (ii) any area referred to as village in any State law on Panchayat, or (iii) forest villages<sup>3</sup>, old habitations or settlements and unsurveyed villages whether notified or not; or (iv) in case of States where there are no Panchayats, the traditional village, by whatever name called [Section 2-p];
- No plan for resettlement in critical wildlife habitat shall be carried out without the free informed consent of the Gram Sabha in the areas concerned to the proposed resettlement and to the package [Section 4-2-e]<sup>4</sup>;

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<sup>2</sup> While this term 'the like' seems to be legally vague, the Odisha government has not implemented the definition of MFP as provided by FRA, 2006 and has not revised and upgraded the description of MFP that it introduced in the NTFP policy of 2000 with subsequent notifications as well as promulgation of the OGP(MFP Administration) Rules, 2002. This has apparently created a legal contravention. The state PESA Rules of Rajasthan and Himachal Pradesh have clearly followed FRA in respect of defining MFP.

<sup>3</sup> Human settlements temporarily allowed inside reserved forests by the Forest Department for forest work. These are not recorded as revenue villages. These are quite old now and assume a kind of permanent status awaiting recognition as revenue village.

<sup>4</sup> The Ministry of Environment & Forest, Government of India drafted several versions of a Protocol/Guideline that can suggest how CWLHs should be declared with due respect to the concerned provision in FRA. The latest of this draft was issued on 4<sup>th</sup> May 2011 that was considered to be quite liberal and also almost in full conformity with the mandate of the FRA as it provided enough scope for the Gram sabha to decide whether to opt for coexistence or not, and in case it agrees for co-existence(continuing the existing habitation/population as is where is) then there can't be any eviction of that community. Further, the Expert Committee to be constituted for determination of the CWLH was to have representatives from the concerned Gram sabha(s), the Gram

- Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both within the local limits of its jurisdiction by way of receiving the claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim, and the Gram Sabha shall pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee; any person aggrieved by the said resolution may prefer a petition to the SDLC within 60 days of the passing of the resolution [Section 6];
- No petition shall be preferred directly before the District Level Committee against the resolution of Gram Sabha unless the same has been preferred before and considered by the SDLC [Section 6-4];
- The SDLC, DLC and State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by respective PRIs, of whom two shall be the ST members and at least one shall be a woman SDLC [Section 6-8];
- **Odisha Grama Panchayats Act, 1964:**
  - Gram Panchayat to administer Minor Forest Produce as one of its obligatory functions (Section 44 -1);
  - Notwithstanding anything contained in any other law, in the Scheduled Areas, subject to the control and supervision of the Grama Sasan, the Grama Panchayat shall exercise within its local limits, such power and perform such function in such manner and to such extent as may be prescribed in respect of xxx the ownership<sup>5</sup> of minor forest produce xxx(Section 44-2)
  - Gram Panchayat to ensure maintenance and planting of trees on both sides of the public streets and maintenance of village forests as one of its discretionary functions (Section 45);

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Panchayat, and the District Panchayat. However, no final notification seems to have been made after that thereby creating a legal lacunae as evident from the Minutes of the 2<sup>nd</sup> meeting(dtd.3<sup>rd</sup> February 2012) of the J&K State Wildlife Board that states that due to absence of clear guidelines from MoEF on the subject “the legal issue of notifying Critical Wildlife Habitats can be postponed” (Source:

<http://www.jkwildlife.com/pdf/2nd%20state%20board%20for%20wildlife%20minutes%20of%20meeting%202012.pdf>).

<sup>5</sup> This term ‘ownership’ was however never defined by the government thereby creating confusion as to what it means/allows by the same. As a result, the GPs in Scheduled Areas did not normally pursue anything beyond the regulatory powers enjoyed by the GPs in non-Schedule Areas. Even the PESA ACT, 1996 Act has the same limitation.

- Gram Panchayat to ensure maintenance of village forests as one of its discretionary functions (Section 45);

- **Odisha Forest Produce (Control of Trade) Act, 1981 :**

*The OFP(CT) Act provides for the appointment of agents for 'specified forest produce', and a Gram Panchayat can be one such agent (Section 4-2). As per the OFP(CT) Rules, 1983 the Gram Panchayat has to submit the application for this purpose enclosing a duly certified resolution passed in this respect(section 3-iii).*

- **Odisha Kendu Leaf (Control of Trade) Act, 1961:**

*This Act provides for a share of the Gram Panchayat and Panchayat Samiti in the net profit of kendu leaf trade by the state, specifying 'not less than 50%' (section 11). Subsequently, however, the government has issued revised notifications in the matter and at present 50% of the net profit is shared with the Zilla Parishad(8%), Panchayat Samiti(10%), and Grama Panchayat(72%). Rest 10% is retained by the government for some direct grants.*

- **Odisha Gram Panchayat (Minor Forest Produce Administration) Rules, 2002:**

*Any person intending to procure the minor forest produce from the primary gatherers or to trade in such produce within the Grama Panchayat during any trading year is required to register himself on payment of such registration fee to the concerned Grama Panchayat, as may be notified by the Government from time to time. But fixation of the minimum procurement price would be done by the Panchayat Samiti in September and would be circulated to different offices of district administration and to all the GPs. The Gram Panchayat may modify the prices so fixed keeping in view the local needs by adopting a resolution to that effect. If Panchayat Samiti fails to fix the price then the District Collector would call a meeting of PS preferably in October to fix up the minimum procurement prices. The registered trader shall furnish monthly and annual returns to the GP who in turn shall submit the annual return to the concerned Forest Range Officer. However, in case of violation of the rules by a trader, the Sarpanch or Secretary of the GP shall lodge complaint before the DFO. The DFO may seize the MFP from the defaulter trader, auction it off publicly and deposit the sale proceeds thereof to the State treasury under the appropriate head of account under the Odisha Forest Act.*

- **The National Forest Policy, 1988** in its Chapter on 'Rights and Concessions' (4.3.4) contains the following provisions that have relevance to the people living in villages-
  - The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and concessions from

*forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribals.*

- *The life of tribals and other poor living within and near forests revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.*
- *Similar consideration should be given to scheduled castes and other poor living near forests.*
- *Paragraph-1 Schedule-1 to MG-NREGA 2005 provides for projects on drought proofing, afforestation and tree plantation to be executed by Gram Panchayat as the principal implementing authority. The micro-planning for such projects is to be done by concerned Gram Sabha (Section 16-1).*
- **Joint Forest Management Resolution, 2011-** *The Government of Odisha in Forest & Environment Department issued a JFM resolution dated 9.9.2011, in response to the repeated criticism that the resolution of 2008, then in practice, violated the provisions of PESA ACT, 1996 and FRA. This new resolution therefore tried to make atleast some basic compliances with the said Acts; relinquished the role of the departmental representative as the Member Secretary of VSS, thereby removing a major hurdle before the VSS for its independent and smooth functioning; and put the EDC at par with the VSS in respect of usufruct sharing. However, core area of the Protected Areas, and the mangrove wetlands still remain out of the purview of the JFM; and the new resolution is yet to fully conform to the mandates of PESA ACT, 1996 and FRA(like, rights over MFPs). It may be mentioned here that the JFM resolution has not been issued under any Act or Rule which is why it lacks a legal stand, though followed by the government. The NTFP policy resolution of March 2000 was given a legal status through relevant incorporations in the Odisha (MFP) Rules, 2002; but similar initiative has not been taken in case of JFM, not only in Odisha but also at national level.*
- **Selection of the forest area:** *While deciding the extent of area to be assigned, the Palli Sabha shall consult the Forest Range Officer concerned and take into account the area customarily being protected and used by the community, the number of adjacent villages, their claims, if any, and users' regime. In case a group of villages decide to constitute one VSS jointly, they may do so. The local Forester will provide the technical input and facilitate the process of identification of the forest area to be assigned to the committee.(2-ii)*

➤ *Constitution of the Executive Committee (EC)*

The Palli Sabha shall elect the Chairperson, the Vice-Chairperson, the Secretary and the Treasurer and a minimum of other 11 (eleven) members to constitute the Executive Committee. At least 50% of the members of the EC shall be women. The number of SC & ST members in the Executive Body shall be in proportion to their membership in VSS / EDC. There should also be representation from the group of community, who do not have any livelihood support other than depending on the forests. (4-i)

➤ *Duties and responsibilities of VSS / EDC*

The VSS / EDC shall ensure that the decisions taken in the Palli Sabha to regulate access to community forest resources and stop any activity which adversely affects the wildlife, forests and the biodiversity, are complied with. (6-iii)

➤ *Role of Palli Sabha*

As per the 73<sup>rd</sup> Amendment of the Constitution, certain powers and responsibilities have been vested on the PRIs. Therefore it is necessary to define the relationship between village level institution like VSS / EDC and the PRI and establish a linkage with the Palli Sabha.

- ✓ Regarding protection and conservation of forest, wildlife and environment, the EC shall work as a Sub-Committee of Palli Sabha,(8-i)
- ✓ If the work of the EC of any VSS / EDC is found to be detrimental to forest conservation and against the larger and long term interests of the people, the VSS / EDC may recommend for dissolving and reconstituting the EC. The Palli Sabha, on receipt of such recommendation may enquire into the matter and forward its findings to the Divisional Forest Officer for necessary action. The Divisional Forest Officer, after examining the merit will dissolve the EC and advise the GB of VSS / EDC for its reconstitution. Such dissolution will be formally placed by the DFO before the District Level Steering Committee in its next meeting for information. (8-ii)

➤ **Conflict Resolution:**

- ✓ In case of intra village conflict in matters of implementation of Joint Forest Management, the Executive Committee of the VSS/ EDC shall endeavour to amicably resolve the conflict. If it fails to resolve the conflict, it shall bring the same to the notice of the Palli Sabha and try to sort out the issue. If the conflict still remains, the same would be referred to the Sub Divisional Level Steering Committee formed in the line of the SDLC under FRA, 2006 and their decisions would be final. (13-i)
- ✓ In case of inter village conflict; the same would be referred to the Sub Divisional Level Steering Committee and their decisions would be final.(13-ii)

➤ **Steering Committee**

*There shall be Steering Committees at the Sub Division Level, District Level and at the State Level. The Sub Division Level Steering Committee (SDLC) shall have the Sub-Collector as its chairperson, and should include, among others, the Chairperson of the Panchayat Samiti concerned as well as the Zilla Parishad member, as its members<sup>6</sup>. (15-i, ii)*

• **Odisha Village Forest Rules, 1985:**

*The Odisha Village Forest Rules, 1985 is applicable only to the village forests notified under section 30 of the Odisha Forest Act, 1972. These Rules provide for constitution of a Village Forest Committee for the management of such village forest, and the Sarpanch of the concerned GP<sup>7</sup> would be its chairperson while the Ward Member(s) would be the members. In case the village forest involves more than one GP, the Sarpanch of the highest populated GP would be the Chairperson while other sarpanchs would be the members(Section 3). The sale proceeds of the forest produce realized by issue of permits in every village forest shall be deposited in the Grama Fund of the Grama Sasan concerned, after deducting the expenses(if*

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<sup>6</sup> No representation of PRIs in the district-level and state-level committees.

<sup>7</sup> Mentioned as 'Grama' in the original Rules, but it can't mean simple village since a Sarpanch is elected only at GP level and not village level.

any). Half-yearly returns against the same are to be submitted to the DFO and the Panchayat Samiti(Section 12).

- **The Supply of Bamboos to Artisans Including Cooperative Societies(Odisha) Rules, 1980:**

*These Rules provide for supply for forest bamboo to the bamboo artisans. The Sarpanch of the concerned GP can issue identity certificate to an artisan for his registration(Section 3-2).*

- **The Odisha Protection of Scheduled Castes & Scheduled Tribes(Interest in Trees) Act, 1981:**

*This Act restricts the sale of the timber of 'specified trees' in case the owner of such tree(s) belongs to the Scheduled Caste or Scheduled Tribe, without the permission of the Forest Range Officer who on receipt of application for sale of such timber, may cause an enquiry to be made by the Gram Panchayat(or other competent agencies mentioned in the Act). The report of enquiry has to be signed by the Ward Member, among other specified persons(Section 3).*

### **C. Land**

*Major land laws like the Land Acquisition Act, 1894<sup>8</sup>; the Odisha Survey & Settlement Act, 1958; and Odisha Prevention of Land Encroachment Act, 1972 do not provide for any role of the PRIs. On the other hand, the state cabinet has decided on 16<sup>th</sup> June 2012 to amend the OGP Act so as to allow Gram panchayats levy property tax. The corresponding amendment is however yet to be made.*

*Following are the relevant provisions under three different laws:*

- **PESA Act, 1996:**
  - The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of

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<sup>8</sup> It was obvious as the Land Acquisition Act was made and amended when PRIs were yet to be given adequate importance. However, this colonial law has been seen as one of the major anti-people legal instruments that the government has used to acquire lands for purposes that led to displacements and sufferings of people. In view of that, a progress law was proposed in 2011 in the name of Land Acquisition, Rehabilitation, and Resettlement Bill which provides for some scope for the PRIs. Unlike the LAA, 1894 this Bill defines 'local authority' in a way incorporating the Panchayat (Section 3-s), and conforms to PESA ACT, 1996 under its section 17(2).

the projects in the Scheduled Areas shall be coordinated at the State level (Section 4-I);

- The Gram Sabha and the Panchayats at the appropriate level shall be endowed with the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe (Section 4-m-iii).

- **The Odisha Vesting of Properties (in Grama Sasan) Act, 1964**

As per this Act (Section 3) and the Rules of 1965 framed there-under the Grama Sasan (Grama Panchayat) shall be vested with the possession, management and control of orchards, tanks and trees belonging to Government in the Grama Sasan for the better management, control and utilization of such properties.

- **Odisha Grama Panchayats Act, 1964:**

- As per Section 71(4) of the OGP Act, 1964, the following properties, subject to the powers of the State Government, shall ordinarily vest in Grama Sasan and be under its management, direction and control-
  - (a) Village Roads;
  - (b) Irrigation sources;
  - (c) Ferries;
  - (d) Waste lands and communal lands;
  - (e) Protected Forests within the meaning of the Indian Forest Act, 1927 and unreserved forests within the meaning of the Madras Forest Act, 1882 in respect of management, protection and maintenance thereof for timber, fuel, fodder and other purposes;
  - (f) Markets and fairs to the extent these are located or held upon public land or on land belonging to or under the control of Government together with such land;
  - (g) All income arising or accruing from any of the items of above properties.
- As per Section 74, if a Grama Sasan requires any land for purposes covered under this Act, it should first negotiate with the concerned person having interest in the said land. If the parties fail to reach an agreement, the Grama Sasan shall apply to the Collector in prescribed manner to acquire the land. And the Collector if so satisfied may take steps to acquire the land in favour of the Grama Sasan in accordance with the existing laws. As per Section 75, the GP may with the previous approval of the Collector place under the control or management of Panchayat Samiti or Parishad any property belonging to the GP.

- Gram Panchayat to look after the construction, repair, maintenance, alteration and improvement of the public roads and their lighting, watering and cleaning as one of its obligatory functions (Section 44 -1).
- Gram Panchayat to ensure removal of unauthorised obstructions, projections and encroachments as one of its obligatory functions (Section 44 -1).
- Gram Panchayat to look after construction, maintenance and cleansing of drains and drainage works and all public latrines and urinals etc as one of its obligatory functions (Section 44 -1).
- Gram Panchayat to ensure reclamation of unhealthy spaces, removal of noxious vegetation and abatement of all nuisances as one of its obligatory functions (Section 44 -1).
- Gram Panchayat to look after establishment and management of common grazing grounds and common lands as one of its obligatory functions (Section 44 -1);
- Gram Panchayat to ensure scavenging, removal and disposal of filth, rubbish and other obnoxious polluting objects as one of its obligatory functions (Section 44 -1);
- Gram Panchayat to ensure maintenance of community assets as one of its obligatory functions (Section 44 -1);
- Gram Panchayat to ensure supervision and maintenance of village and field boundary marks and maintenance of village records as one of its obligatory functions (Section 44 -1);
- Gram Panchayat to look after management and development of co-operative societies for management of land and other village resources including diary farms as one of its discretionary functions (Section 45).

- **Odisha Zilla Parishad Act, 1991:**

In the Scheduled Areas, no acquisition of land for development projects and for resettling or rehabilitating persons affected by such projects shall be made without prior consultation with the Parishad (Section 3-6).

- **Orissa Government Land Settlement Act, 1962:**

Preparation of schemes for management and development of Gochar lands-

Notwithstanding anything to the contrary contained in any other law or in any custom, practice or usage having the force of law-

- (a) the Government may, in the prescribed manner, prepare a scheme for the management and development of Gochar lands and different schemes may be prepared in respect of Gochar lands situate in different areas;
- (b) where any such scheme has been prepared in respect of any Gochar land which vests in a Grama Sasan constituted under the Orissa Grama Panchayat Act, 1964, the concerned Grama Panchayat shall manage the gochar land in accordance with such scheme; and
- (c) the Government may, if it deems fit, take over any Gochar land for management and development in accordance with the scheme prepared in respect of such land. (Section 5-A)

- ***Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956, amended 2002:*** As a part of the duty cast on the Governor under Clause-2(a) of Fifth Schedule of the Constitution to 'prohibit or restrict the transfer of land by or among the members of the Scheduled Tribes' the Governor of Odisha had promulgated the Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation 1956. In an effort to comply with PESA ACT, 1996's directive, the said Regulation was amended in 2000 and that amendment came into force w.e.f. 4<sup>th</sup> September 2002. As a result of the amendment, certain new provisions were made in the Regulation. Firstly, any transfer of immovable property by a member of Scheduled Tribe shall be absolutely null and void, except under certain circumstances. Secondly, a member of ST shall not transfer any land if the total extent of his land remaining after the transfer will be reduced to less than two acres of irrigated land and less than five acres of un-irrigated land vide Clause 3(1-iii). Thirdly, the competent authority (Collector) may, on receiving the information received from a Grama Panchayat about a case of illegal transfer, order ejection against the illegal possessor of the property and restoration of such property to the transferor or his heirs vide Clause 3(2). Fourthly, on finalisation of the proceedings of a case, the competent authority shall make a report to the concerned GP about such orders of ejection or restoration vide Clause 3A(3). Fifthly, if any person is found to be still continuing to illegally occupy the concerned immovable property belonging to a Scheduled Tribe, he shall be punishable with rigorous imprisonment or fine or both depending upon the nature of contravention vide Clause 7.
- ***National Rehabilitation and Resettlement Policy, 2007-*** Every declaration made under paragraph 6.1 of the policy (for acquisition of land involving involuntary displacement) shall be published in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in villages or areas which are likely to be affected, and also by affixing a copy of the notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the affected area and the resettlement 'area, and/or by any other method as may be prescribed in this regard by the appropriate Government. (6.2). The draft rehabilitation and resettlement scheme or plan shall also be discussed in gram sabhas in rural areas and in public hearings in urban and rural areas where gram sabhas don't exist. ( 6.15.1). The

consultation with the gram sabha or the panchayats at the appropriate level in the Scheduled Areas under Schedule V of the Constitution shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (6.15.2). The concerned gram sabha or the panchayats at the appropriate level in the Scheduled Areas shall be consulted in all cases of land acquisition in such areas before issue of a notification under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force and the consultation shall be in accordance with the provisions of the PESA ACT, 1996 and other relevant laws. (7.21.2). The Rehabilitation and Resettlement Committee shall comprise as its members a representative of women residing in the affected area, a representative each of the Scheduled Castes and Scheduled Tribes residing in the affected area; a representative of a voluntary organization; and Chairperson(s) of the panchayats and municipalities located in the affected area among others. (8.1.2).

- **Odisha Resettlement and Rehabilitation Policy, 2006-** Gram Sabha or Panchayats at the appropriate level shall be consulted in scheduled areas before initiating Land Acquisition Proposal. (Section 5-g); The list of displaced families so approved will be displayed at Collectorate / Block/ Tehsil / Panchayat and other conspicuous locations for wider dissemination. (Section 5-c); Normal development programmes implemented by different agencies should be dovetailed with resettlement and rehabilitation package in resettlement habitats and made available to the displaced community on a priority basis. (Section 5-h); An identity card shall be issued to each displaced family in a manner prescribed by Government. (Section 5-i)
- Paragraph-1 of Schedule-1 to **MG-NREGA, 2005** provides for projects on land development, and rural connectivity to provide all-weather access. The construction of roads may include culverts where necessary, and within the village area culverts may be taken up along with drains. Such projects are to be executed by Gram Panchayat as the principal implementing authority. The micro-planning for such projects is to be done by concerned Gram Sabha (Section 16-1).

#### **D. Water**

- **PESA Act, 1996:**

Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level (Section 4-j).

- **Odisha Grama Panchayats Act, 1964:**

- Gram Panchayat to look after construction and maintenance of works and means of supply and storage of drinking water as one of its obligatory functions (Section 44 -1);
- Gram Panchayat to look after establishment and maintenance of ferries, as one of its obligatory functions (Section 45).

- **Odisha Zilla Parishad Act, 1991:**

In the Scheduled Areas the Parishad shall plan and manage the minor water bodies<sup>9</sup> (Section 3-6).

- **Odisha Pani Panchayat Act, 2002<sup>10</sup>:**

- “Pani Panchayat” at the primary level consists of all the water users, as constituted within a specified hydraulic boundary of a major, medium, minor (flow and lift-both surface and ground water) and creek irrigation projects funded by government (Section 2-i);
- There shall be a Pani Panchayat called by its local distinct name for every area; Every Pani Panchayat shall consist of all the water users who are land holders in the area of a Pani Panchayat; Government may, by notification nominate at least one officer each from Department of Water Resources, Department of Agriculture, Department of Revenue to be members of the Pani Panchayat without having the right to vote; Members so specified shall constitute the General Body of a Pani Panchayat and shall have the right to vote. (Section 3);
- No officer or servant of the Government of India or any State Government or of local authority shall be qualified for being elected as or for being a President or a member of the Executive Committee of a Farmers’ Organization (Section 14).
- (1) Nothing contained in this Act shall affect the rights or properties vested in a Gram Panchayat, Zilla Parishad, Panchayat Samiti, Municipality or Municipal Corporation under any law for the time being in force.

(2) Nothing contained in this Act shall apply to the minor water bodies if any, in the Schedule Areas in the State of Odisha (Section 42).

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<sup>9</sup> This term ‘minor water bodies’ been explained by the state government as ‘the projects which irrigate less than forty hectares of land’(Odisha Pani Panchayat Act, 2002; Section 42-2).

<sup>10</sup> The Pani Panchayat however is not a system under the Panchayati Raj, and hence has been even seen as an unnecessary and undue parallel body.

- **National Water Policy 2002:** *The Policy in its Chapter on Participatory Approach to Water Resources Management says, "Management of the water resources for diverse uses should incorporate a participatory approach; by involving not only the various governmental agencies but also the users and other stakeholders, in an effective and decisive manner, in various aspects of planning, design, development and management of the water resources schemes. Necessary legal and institutional changes should be made at various levels for the purpose, duly ensuring appropriate role for women. Water Users' Associations and the local bodies such as municipalities and gram panchayats should particularly be involved in the operation, maintenance and management of water infrastructures / facilities at appropriate levels progressively, with a view to eventually transfer the management of such facilities to the user groups / local bodies. (Paragraph-12).*
- **State Water Plan, 2004:**

Although planning and financing of rural water supply is provided by the "Central and State levels, responsibility for proper implementation has to be borne at the local level, by the Panchayati Raj Institutions (PRIs), with the help of organisations of the users... PRIs should be the key institutions for the convergence of drinking water supply programmes at the ground level. However, the financial and administrative authority has not been devolved to PRIs to the extent needed. Emphasis must be laid on the participation of stakeholders at all levels, from planning, design and location to implementation and management." (5.1.1, Rural Water Supply & Sanitation)

- **State Water Policy, 2007:**

In case there is any public-private participation in water resource development, care will be taken to ensure that the riparian and traditional rights of the local communities are adequately protected. Prior consultation with P.R.I.s/communities would be mandatory (Section 13.4).

- **National Rural Drinking Water Programme guidelines(2010):**

A District Water and Sanitation Mission (DWSM) shall be constituted at the district level and should function under the supervision, control and guidance of Zilla Panchayat/Parishad. States which do not have a proper PRI set up in place, as in case of 6<sup>th</sup> Schedule Area and desire to supervise the working of the DWSM through alternative mechanism, may put in place a suitable body through which the District Water Security Plan will be prepared and implemented. The village water security plans should be analyzed and consolidated at the district level by DWSM. It should prepare a district based water security plan for implementation. At the district level, convergence of all the other related programmes and funding should be ensured. Some of the major related programmes are MGNREGS, Integrated Watershed

Management projects of Department of Land Resources, Ministry of Rural Development, Central and State Finance Commission funds, NRHM, various Watershed and Irrigation schemes of the Ministry of Agriculture, various schemes of the Ministry of Water Resources etc. (Section 12.5).

DWSM shall be headed by Chairman of Zilla Parishad. In Districts where Zilla Parishads have not been constituted and there is no Chairman in place, the Chairman of the District Planning Committee or the District Collector/Deputy Commissioner, as may be decided by the State Water and Sanitation Mission will be the Chairperson of the DWSM. The members would include Chairperson of the Standing Committees of the Zilla Parishad(Annexure-VII-5).

The Gram Panchayats should be empowered with funds, functions and functionaries and capacity building to plan, monitor, implement and manage rural drinking water supply or schemes within their jurisdiction. Meetings of the Gram Sabha as the primary block of decentralized governance should be called in the planning, implementation and management phase of water supply schemes to decide on issues like demand, level of service delivery, type of scheme, contribution by households, concessions to SCs, STs and BPL households, user charges etc. In order to further decentralize powers and responsibilities and to give greater focus on water and sanitation issues, a Village Water and Sanitation Committee (VWSC) is to be set up in each Gram Panchayat/Village/Ward for implementation of water supply schemes to ensure the active participation of villagers. This Committee may be merged with the Village Health Committee set up under NRHM, so that water, sanitation and health issues are tackled together at the village/ward level. The membership of a VWSC may consist of about 6 to 12 persons, comprising members of Panchayat. Women, SCs, STs and poorer sections of the village should be given due representation in the VWSC. At least 50% of VWSC members should be women. This Committee shall function as a Standing Committee on Water and Sanitation of the Gram Panchayat and should be an integral part of the Village Panchayat / Block Panchayat for which, if necessary, appropriate amendments in the State Panchayati Raj Act / Rules / Byelaws may be made. The composition and functions of the VWSCs can be regulated by a set of by-laws under the State Panchayati Raj Act(Section 12.6; Annexure-VII-6).

- **JALMANI<sup>11</sup>: Guidelines on installation of Stand Alone Drinking Water Purification Systems in Rural India(2008)**

The Jalmani programme will be implemented by the State Governments through the Gram Panchayat/Village Water and Sanitation Committees/Self Help Groups including women Self Help Groups, School Committees and PTA. xxx For operating this programme, funds may be provided by the State Governments or the institutions nominated by them to the Village Panchayats for activities relating to

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<sup>11</sup> This programme of the Central government intends to provide value and quality addition to the ongoing Rural Drinking Water Supply Programme.

capacity building, awareness generation/publicity and such other activities which are necessary for the smooth implementation of the programme. xxx At the village level there will be a Committee under the Chairmanship of Sarpanch of the VP for monitoring the progress of the schemes at the village level. The Committee will have as Members, Head of the Village W&S Committee, School Principal, Head of Women Self Help Group, Ex-Servicemen if residing in the village, village Patwari or the Secretary of the Village Panchayat and such other members as decided by the Committee. The Committee should meet once every fortnight in the beginning and later on at least once every month. The ownership of these systems will be vested with the school authorities. However, it will be the direct responsibility of the Village Panchayats that the systems are run effectively and the school children get quality water in sufficient quantity. The village Panchayats may also take recourse to the funds provided to them under 12<sup>th</sup> FC grants for meeting any additional expenditure required for running the Programme(Section F).

- *Paragraph-1 Schedule-1 to MG-NREGA 2005 provides for projects on water conservation and water harvesting; irrigation canals including micro and minor irrigation works; provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes or to land beneficiaries of land reforms or that of the beneficiaries under the Indira Awas Yojana of the Government of India, renovation of traditional water bodies including desilting of tanks, and flood control and protection works including drainage in water logged areas, to be executed by Gram Panchayat as the principal implementing authority. The micro-planning for such projects is to be done by concerned Gram Sabha (Section 16-1).*

## **E. Mining**

- **PESA Act, 1996:**

- ✓ The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals in the Scheduled Areas (Section 4-k);
- ✓ The prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction (Section 4-l).

- **Odisha Zilla Parishad Act, 1991:**

In the Scheduled Areas, no prospecting license or mining lease for minor minerals or concession for the exploitation of minerals by auction shall be granted under any law except with the prior recommendation of the Parishad (Section 3-6).

- **Odisha Minor Mineral Concession Rules, 2004:**

*These Rules, originally promulgated in 1990 and amended in 2004, incorporated some provisions of PESA ACT, 1996 that was not in conformity with the corresponding amendments in the Odisha Zilla Parishad Act. OMMCR recognizes two kinds of leases: mining lease and quarry lease. Mining lease is applicable only to decorative stones whereas quarry lease is applicable to rest of the minor minerals(Sections 2-o and 2-r). Unlike the Odisha Zilla Parishad Act, it authorizes the Gram Panchayat in Scheduled Areas to play a decisive role in the mining of minor minerals, as under:*

- No prospecting license or mining/quarry lease or its renewal or auction of source shall be granted in Scheduled Areas without recommendation of the concerned Gram Panchayat [Section 4(5) ].
- No application shall be granted unless the applicant submits xxxxxx no objection of the concerned xxxx Gram Panchayat for grant of prospecting license:

Provided that the Mining Officer/Deputy Director of the respective jurisdiction shall seek a report from xxxxx the concerned Gram Panchayat in the interest of tribal development of the area before forwarding the application to the Director for his consideration:

Provided further that in case the view of xxxxx the concerned Gram Panchayat is not received within a period of two months of receipt of intimation, it would be deemed that the xxxx Gram Panchayat has no objection for grant of prospecting license [Section 10(1) ].

*The Gram Panchayat in Scheduled Areas enjoys a similar power under sections 16(1) and 27(1) regarding grant of mining lease and quarry lease, i.e. a no objection certificate is necessary for granting such a lease which means that the Gram Panchayat can say 'no' to any such proposed lease in case it considers that the mining would have serious adverse impacts on the local environment and the people.*

### What are minor minerals?

'Minor minerals' have been defined in Clause (e) of the Section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 as "building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral". As per the Indian Minerals Yearbook, 2010 published by the Indian Bureau of Mines, the list of 'minor minerals' includes : building stones, gravel, ordinary earth, ordinary clay, ordinary sand other than sand used for prescribed purposes (i.e. used for other than refractory, ceramics, metallurgical, stowing in coal mines and optical purposes, and in manufacture of silvitrete cement, sodium silicate, pottery and glass), boulder, shingle, chalcedony or impure quartz pebbles (used for ball mill purposes or filling for boreholes or for decorative purposes in buildings), limeshell, kankar, and limestone used in kilns for manufacture of lime used as building material, murrum, brick earth, fuller's earth, bentonite, road metal, rehmatti, slate and shale used for building material, stones used for household utensils, marble, quartzite and sandstone when used for purpose of building or for making road metals and household utensils and saltpetre.

## F. Agriculture, Fishery & Animal Husbandry

- **State Agriculture Policy, 2008:**

- Extensive campaign would be organized with the involvement of NGOs and PRIs for motivating farmers to restore fertility by addition of green manure and through other corrective measures.
- In the changed scenario, besides the public sector agencies, agri-clinics, farmers' organizations, farmers' field schools, cooperatives, Panchayati Raj Institutions, NGOs and para-technicians will be encouraged for extension activities.
- Operational Plans to address the problems of the farmers will be prepared at the district level with involvement of all stake holders including PRIs through participatory and bottom-up planning and such District Agricultural Plans (DAPs) will be integrated into a State Agricultural Plan (SAP).

- **Odisha State Livestock Sector Policy, 2002:**

District Rural Development Agency (DRDA) / Zilla Parishad will disseminate developmental work under Animal Husbandry sector at grass root level under Panchayat Raj System(Section 3.7).

- **Odisha Reservoir Fishery Policy, 2004:**

The fishing rights of all reservoirs up to 100 acres will be transferred to respective Gram Panchayats for leasing them out to Primary Fishermen Cooperative Societies xxx. Transfer of Fishing rights to the Fisheries & ARD Department and the Gram Panchayats of the reservoirs, to be created, shall be an automatic process after impoundment. All such transfer shall be effected unless and otherwise any water body is specifically earmarked for any specific purpose by the Government.(Section 1.1)

- **Odisha Grama Panchayats Act, 1964:**

- **Obligatory functions of the Grama Panchayat:**

- ✓ Maintenance of records relating to cattle census ....(Section 44-m)
- ✓ Registration of animals sold(Section 44-n)
- ✓ Regulation & control of movement of cattle for protection of crops(Section 44-m)
- ✓ Destruction of stray & ownerless dogs<sup>12</sup>(Section 44-o)
- ✓ Supervision & maintenance of soil conservation works(Section 44-p)
- ✓ The implementation of schemes for economic development and social justice in relation to agriculture, including agricultural extension(Section 44-u)

- **Discretionary functions:**

- ✓ Improved breeding and medical treatment of cattle and prevention of cattle diseases(Section 45-c)
- ✓ Construction, maintenance and regulation of slaughter houses(Section 45-d)
- ✓ Assisting & advising agriculturists in reclaiming waste lands and cultivating fallow lands(Section 45-e)
- ✓ Organization and maintenance of agricultural and industrial exhibitions as are not managed by any other authority(Section 45-p)
- ✓ Maintenance of village agricultural bunds situated on lands belonging to or vested in state government and construction of such bunds by on any such land(Section 45-w).
- ✓ Gram Panchayat to maintain Cattle Pounds as one of its discretionary functions (Section 45).

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<sup>12</sup> This is no more being practiced as such a killing is now seen as a violation of the Prevention of Cruelty to Animals Act.

- **Zilla Parishad Act, 1991:**

- Every Parishad shall have the power to xxxxx undertake schemes or adopt measures including giving of financial assistance relating to the development of agriculture, social forestry, live-stock xxxx(Section 3-3-i)
- Every non-official member of a Parishad shall, subject to such restrictions as may be prescribed, have power to inspect and supervise xxxx agricultural farms and veterinary dispensaries xxxx situated within the jurisdiction of the Parishad and shall submit his report alongwith his suggestion to the Parishad which shall, after examining the same, advise the Government as to the course of action to be adopted (Section 3-5).

### ***G. Miscellaneous***

- Eleventh Schedule of the Constitution has enlisted 29 subjects, to be administered by Panchayats at different levels. Among the said subjects, those which are related to natural resource management are agriculture, land improvement and soil conservation, minor irrigation and water management, animal husbandry, fisheries, social and farm forestry, minor forest produce, drinking water, fuel and fodder, roads, bridges and water ways etc., non-conventional energy sources and maintenance community assets.
- A State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources (Section 4-a of PESA Act, 1996 );
- 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 (Section 4-d of PESA Act, 1996 );
- The Panchayat at the appropriate level and Gram Sabha shall be endowed with the power to control over local plans and resources for such plans including tribal sub-plans (Section 4-m-vii of PESA Act, 1996 );
- Every Gram Sabha shall (i) approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level; and (ii) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes (Section 4-e of PESA Act, 1996 );

- Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects (Section 4-f of PESA Act, 1996);
- It shall be the duty of Grama Panchayat within limits of its funds to implement schemes for economic and social justice and undertake execution of any other scheme including those in relation to the matters listed in the Eleventh Schedule of the Constitution subject to such terms and conditions as may be specified in the order (Section 44-3b, OGP Act 1964);
- Panchayat Samiti shall undertake Planning, execution and supervision of development programmes, schemes and works in the block relating to Community Development including those pertaining to 'Tribal Development Blocks' (Section 20-1-a of Odisha Panchayat Samiti Act 1959).
- In Scheduled Areas Panchayat Samiti shall prepare the local plans including tribal sub-plans for the area and exercise control over the resources for such plans (Section 20-5-ii of Odisha Panchayat Samiti Act 1959).
- In Scheduled Areas 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, consistent with relevant laws in force and in harmony with basic tenets of the Constitution and human rights. (Section 5-6, OGP Act 1964);
- In Scheduled Areas, subject to the control and supervision of the Grama Sasan, the Grama Panchayat shall exercise within its local limits, such power and perform such functions in such manner and to such extent as may be prescribed in respect of the following matters, namely (a) enforcement of prohibition or regulation or restriction of the sale and consumption of any intoxicant; (b) the ownership of minor forest produce; (c) prevention of alienation of land and restoration of any unlawfully alienated land of a Scheduled Tribe; etc. (Section 44-2 of OGP Act 1964).
- Gram Panchayat to promote Grama Swechha Sevaks for assisting its social services such as fighting natural calamities like fire or flood as one of its discretionary functions (Section 45, OGP Act 1964).
- ***Amendment to Bihar and Odisha Excise Act, 1915 in respect of Scheduled Areas:*** Bihar and Odisha Excise Act 1915 was amended in 1999 (Act 2 of 1999) by inserting Section 26-A, whereby it was provided that in a Scheduled Area no license or exclusive privilege for manufacture or sale of intoxicant shall be granted "except with the prior approval of concerned Grama Panchayat accorded with the concurrence of Grama Sasan". Further it says, if the Grama Panchayat fails to communicate its decision to the competent authority within a period of 30 days from the date of receipt of the proposal for

licensing a unit for manufacture or sale of intoxicants, "it shall be deemed that the concerned Grama Panchayat has accorded the required approval".

- **Disaster Management Act, 2005-** As per the Section 2(h) the term 'Local Authorities' includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zilla Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area. The Chapter VI of the Act deals with LOCAL AUTHORITIES. The Functions of Local Authorities as mentioned in Section 41(1) are as follows: Subject to the directions of the District Authority, a local authority shall- (a) ensure that its officers and employees are trained for disaster management; (b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster; (c) ensure all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disasters and mitigation by the National Authority, State Authority and the District Authority; (d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the State Plan and the District Plan. As per Section 41(2) the local authority may take such other measures as may be necessary for the disaster management.
- **Odisha Disaster Management Policy, 2005-** The Government of Odisha in the Revenue Department took a resolution dated the 4<sup>th</sup> March,, 2005 on State Disaster Management Policy with a focus on total risk management and vulnerability reduction by strengthening the physical infrastructure as well as bio-physical, psychological, social and economic status of the people and to make the people increasingly disaster resilient as well. An important principle that informed this policy was to decentralise management of disasters to the Block, Gram Panchayat / Municipality levels and strengthen their institutional and functional capacities to be effective as the first responders to disaster events. The policy emphasizes coordinated efforts of the stakeholders including the community affected/ vulnerable to disasters, Volunteer based organisations such as NSS, NCC, Indian Red Cross, Civil Defence, Scouts and Guides, Nehru Yuva Kendra, etc, Civil Society Organizations including Community-based Organizations and Panchayati Raj Institutions and Urban Local Bodies. Specifically, as regards the Role of local self-government, the Policy says,:"Being closest to the people, the role of the local self-government institutions assumes greater importance in disaster management. They will be the first responders in emergencies. Emphasis will be given to strengthen and empower these institutions and their functionaries, to effectively discharge their functions. (Para 3.2.8). The Policy aims at building up a detailed inventory of resources, both human and material, available with all stakeholders required for emergency management functions at the State, District, Block and GP/ Municipality levels.

- **KBK Development Plan** – The RLTA (Revised Long Term Action Plan) covering 8 districts, Koraput, Nabarangpur, Raygada, Malkangiri, Sonepur, Bolangir, Kalahandi and Nuapada has been working since 1995-96, the salient features of which are (i) drought proofing, (ii) poverty alleviation, and (iii) improved quality of life for the local people. In order to achieve these objectives, certain strategies have been adopted. One such strategy is the Chief Administrator, KBK, Deputy Chief Administrators, all senior officers have been requested to hold public hearings in the KBK districts, hear grievances of local people and help redress their grievances including irregularities, if any, committed in programme implementation. With a view to increasing direct interaction with local people at Gram Panchayat and Block levels, Gramsat pilot project has been launched in the KBK districts. This initiative has also helped video-conferencing with rural people of the region. The Special Rapporteur, NHRC and representatives of the Planning Commission and Prime Minister's Office shall be periodically involved in appraising the performance of the RLTA.
- **WORLP (Western Odisha Rural Livelihoods Project)**- It works in four districts of the State of Odisha. The project was inaugurated in August 2000 but the full-scale field implementation activities began in October 2001. The four project districts; Bargarh, Balangir, Kalahandi and Nuapara are among the poorest in India. Health indicators are poor, there is a shortage of safe drinking water and drought recurs regularly. Inequitable social structures, distorted land distribution, indebtedness, and gender and other inequities contribute to the widespread poverty in western Odisha and impede access by poor and marginalised people to resources. Supporting new patterns of rural development, WORLP contributes to reducing poverty by promoting livelihoods initiatives for the poorest. The livelihoods approach adopted by WORLP focuses on building, and working with, people's existing strengths and resources. The approach is about informing, enabling, initiating and empowering appropriate choices for long-term well being. It involves all sections of rural society across caste, class, gender and other divides. WORLP, a Government of Odisha initiative, is managed by the Odisha Watershed Development Mission. It is a joint venture of the Government of Odisha and DFID.
- **Odisha Relief Code, 1980**- The official committees, formed under this Code to mitigate disasters may or may not consult the Panchayatiraj representatives while taking decisions (Para-19 of Code).
- **Integrated Coastal Zone Management Project<sup>13</sup> (Communication Strategy)**- It is envisaged that in 3 States (West Bengal, Odisha and Gujarat) external communications

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<sup>13</sup> The Integrated Coastal Zone Management project is being implemented in three states with the support of World Bank. What we have incorporated in this report about the scope for PRIs in this project is based on Rai, Usha *et al* (Undated). Integrated Coastal Zone Management Project: Communications strategy for national level and three pilot states of West Bengal, Orissa and Gujarat. Accessed on 16<sup>th</sup> June 2012 at <http://www.geciczmp.com/Data/Sites/1/docs/communication->

at the state level can be improved along with internal communication for all sections of the community to be involved in the project. Ownership of the project by all stake holders including industries, fishermen, representatives of tourism and NGOs is important for its success. This can be done by the project directors, communications and capacity building managers to the SPMUs in all three states through mass media campaigns and consultations with stakeholders. NGOs, Gram Panchayat leaders, CBOs, SHGs, FPCs and representatives of fisheries, tourism, and industry should be brought on board and kept informed about the importance of saving lives and livelihoods while protecting the coasts.

- **Integrated Coastal Zone Management (Capacity Building)-** Capacity building of all those involved in implementing the ICZMP is vital as the project is large as well as diverse. Training workshops on ICZM principles, communications, documentation and use of the Right to Information Act should be conducted by the principal secretaries for environment and forests in all three states. The participants should be CBOs, panchayati raj institutions, Self Help Groups and Forest Protection Committees. Their knowledge of ICZMP would be enhanced through national and international examples of good practices on ICZM principles and an update on laws enacted for the management and protection of coast and coastal communities.
- **Integrated Coastal Zone Management Project (Vital Role of Gram Sabhas)-** At the grassroots level, the nodal officers of PIAs (Project Implementation Agencies) must increase the understanding of the Gram sabha about the ICZMP. If the Gram sabha understands the importance of the ICZM project it will be able to get the support of the entire village. So through meetings of the Gram sabha, audio visual presentations, posters and pamphlets, wall notice boards, souvenirs such as T-shirts, bags, caps etc the message 'save lives and livelihood, save the coasts' has to be communicated. In addition to the gram sabhas, fishermen, CBOs and others who have a stake in coastal conservation should be told about activities like hazard mapping, delineation of ESAs, securing livelihoods through priority investments chosen for the three states that create opportunities for economic improvement.
- **Integrated Coastal Zone Management Project (Grievance Box at Suitable Locations)** -While at the national and state level there should be provision for putting complaints on a project website, at the PIAs level there should be a grievance box at the panchayat office. All grievances should be addressed by a senior officer within a fortnight of receiving a complaint. For those unable to access the web site or use internet, there should be Grievance Box conveniently located at places which the common man can reach and put in his complaint or ask for information. Grievances received have to be addressed by a designated senior officer of the SPMU within fortnight of receiving the complaint.

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[documents/communication-strategy%20for%20gujarat-%20orissa-westbengal.pdf](#) . Although the communication strategy is not exactly a legal framework or policy guideline, its reference to using the potential of PRIs is significant.

- **Integrated Coastal Zone Management Project (Using Panchayat Computers for transparency)**- Since information is key to knowledge and empowerment of communities, the panchayat computers should have project details uploaded in the local languages. The computers can be linked with SPMU and NPMU through a tie up with existing e-chaupals in the states through broadband connections (wherever available) so that there is a chain of transparency and accountability right up to the state and national level.
- **Environment Impact Assessment Notification 2006**- The Ministry of Environment and Forests, Govt of India announced a Notification dated 14<sup>th</sup> September, 2006 on the new guidelines for Environment Impact Assessment and Public Hearing in superseding of earlier notifications in this regard. "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means. After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP.

As regards the PROCEDURE FOR CONDUCT OF PUBLIC HEARING, the above Notification maintained that the Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity by the concerned State Pollution Control Board (SPCB).

The Applicant shall make available the hard copies and also soft (electronic) copies of the draft EIA Report including the Summary Environment Impact Assessment report in English and in the local language, prepared strictly in accordance with the given Terms of Reference. Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the Summary EIA report to certain authorities or offices, within whose jurisdiction the project will be located, that include Zilla Parishad or Municipal Corporation among others. On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.

*The SPCB shall also make similar arrangements for giving publicity about the project within the State and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) for inspection in select offices or public libraries or panchayats etc. The Member-Secretary of the concerned SPCB shall finalize the date, time and exact venue for the conduct of public hearing and advertise the same in one major National Daily and one Regional vernacular Daily. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;*

*The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing.*

*The SPCB shall arrange to video-film the entire proceedings. The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings. Every person present at the venue shall be granted the opportunity to seek information or clarifications on the project from the Applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB and read over to the audience at the end of the proceedings explaining the contents in the vernacular language. A Statement of the issues raised by the public and the comments of the Applicant shall also be prepared in the local language and in English and annexed to the proceedings.—The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchyats within whose jurisdiction the project is located, office of the concerned Zila Parishad, District Magistrate, and the SPCB. The SPCB shall also display the proceedings on its website for general information. Comments, if any, on the proceedings which may be sent directly to the concerned regulatory authorities and the Applicant concerned.*

Annexure-1

ELEVENTH SCHEDULE

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.

19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

(Source: <http://indiacode.nic.in/coiweb/amend/amend73.htm> )

## Annexure-2

### NRM - related Activity Mapping of PRIs in Orissa

(Note: The Panchayati Raj Department, Government of Orissa published in 2007 a booklet on the activity mapping of various PRIs in the state which mandates their respective responsibilities. The following tables are based on the same, but only activities relevant to this publication have been mentioned here thereby excluding other activities incorporated in the original booklet published by the GoO.)

### AGRICULTURE

#### DEPARTMENT: COOPERATION

Focus	Zilla Panchayat	Panchayat Samiti	Gram Panchayat
Credit	1.Prepare credit plan 2. Ensure timely credit availability and linkage between agriculture development and credit institutions and credit mobilisation.	1.Assist in preparing credit plan 2. Ensure timely credit from formal institutions. 3. Minor credit delivery system.	1.Assist in assessing credit needs of various groups of farmers and crops 2. Exercise social control and regulate interest areas and recovery of loans from formal and informal credit institutions. 3. Help in formation of self help groups.
Risk management		1. Assist in providing benefits from crop insurance schemes. 2. Prepare and operate contingency agricultural plan.	1. Motivate and help in identifying farmers to take up crop insurance schemes. 2. Assist in the implementation

**LAND  
DEPARTMENT : PANCHAYATI RAJ**

Roads, Culverts, Bridges, Ferries, Waterways and other means of communication	
<b>Focus</b>	<b>Panchayat Samiti</b>
Development of road network and accessibility	Acquire land, assess and grant compensation

<b>Poverty Alleviation Programmes</b>			
<b>Focus</b>	<b>Zilla Panchayat</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>
Planning and implementation of poverty alleviation programme	Supervise and review implementation of different poverty alleviation programmes.  Review schemes implemented in Drought Prone Areas.	Draw action plans, get technical approvals and funds allocated under land development scheme.	Assist the PS in preparation of plans for land development schemes coming within PSs purview.

**DEPARTMENT : SC & ST DEVELOPMENT**

Welfare of the Weaker Section and in particular, of the Scheduled Caste & the Scheduled Tribes			
Focus	Zilla Panchayat	Panchayat Samiti	Gram Panchayat
Curbing Atrocity against SC/ST			Ensuring protection of the crops raised by the SCs/STs, assisting in ensuring physical possession of the lands distributed to the SCs/STs under the ceiling surplus law especially.

**FISHERIES & ANIMAL RESOURCE DEVELOPMENT**

<b>Animal Husbandry: Dairy and Poultry</b>			
<b>Focus</b>	<b>Zilla Panchayat</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>
Development of livestock	1. Assess the need and formulate projects for the establishment, improvement and maintenance of breeding farms for	Propagate improved breed to livestock among farmers	1. Assist in identification of beneficiaries under various programmes 2. Motivate people to maintain quality breeds and adopt modern methods of maintaining

	cattle, sheep, goats and hatcheries. 2. Funding shall be arranged by the Zilla Parishad from their own resources.		livestock
Veterinary services	<ol style="list-style-type: none"> <li>1. Monitor the functions of veterinary services.</li> <li>2. The necessity for establishment of Veterinary Mobile Health Clinics.</li> <li>3. Strengthening of infrastructure of Veterinary Service Institutions are to be simultaneously taken care of by Zilla Parishad along with monitoring of veterinary services.</li> </ol>	<ol style="list-style-type: none"> <li>1. Organise SHG co-operative for fodder production and provide financial assistance.</li> <li>2. Propagate improved variety of fodder seeds</li> <li>3. Propagate modern methods of feeding including stall feeding to improve livestock productivity.</li> <li>4. supply fodder during droughts.</li> </ol>	<ol style="list-style-type: none"> <li>1. Supervise the functioning of Live Stock Centre and AI service centres.</li> <li>2. Report out-break of diseases and epidemics.</li> </ol>
Feedings and fodder including support during droughts	Propagate production of nutritive fodder and promote proper feeding of animals	Supply fodder during droughts	<ol style="list-style-type: none"> <li>1. Allocate community land for fodder production under Utkal Sabuja Banani (?) Jojana</li> <li>2. Control grazing and improve grazing and pasture lands except forest land.</li> </ol>
<b>Fisheries</b>			
<b>Focus</b>	<b>Zilla Panchayat</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>
Developing of inland fisheries	1. Formulate projects for fisheries development	1. Select beneficiaries for fisheries	<ol style="list-style-type: none"> <li>1. Develop village pond for fisheries</li> <li>2. Identify beneficiaries</li> </ol>

	<p>2. Technically appraise and approve projects for development of inland water bodies for fisheries</p> <p>3. promote and encourage fish seed production farms</p> <p>4. Arrange training of fishermen in modern management techniques for fish production</p> <p>5. Procure and supply fishing equipment for distribution among selected fishermen's co-operatives and beneficiaries.</p>	<p>training</p> <p>2. Organise fishermen's co-operatives</p> <p>3. Monitor, supervise and report progress</p> <p>4. Long term and short term credit plan.</p>	<p>for assistance under various programmes and assist the min organising fishermen's co-operatives</p> <p>3. Assist PSs in the distribution of boats, nets and other equipment</p> <p>4. Supervise and report progress to PSs</p> <p>5. Execute fishpond and tank improvement projects</p> <p>6. Lease village ponds to fishermen's co-operatives, SHGs,, and eligible bidders.</p> <p>7.Utilisation of irrigation/drainage canal/dead river for pisciculture.</p>
Development of Marine fisheries	<p>1. Procure and supply motorised and modern Develop brackish water fisheries</p>	<p>1. Select sites for marine aquaculture and brackish water fishing</p> <p>2. Organise fishermen's co-operatives</p> <p>3. Monitor impact of marine aquaculture on environment</p> <p>4. Monitor the impact of marine aquaculture on village environment and initiate impart mitigation measures.</p>	<p>1. Identify beneficiaries and assist them in organising into fishermen's co-operatives</p> <p>2. Select beneficiaries for assistance</p> <p>3. Create awareness for and adopt safety measures during rough weather</p>

		5. Assisting operation of early warning system.	
Development of marketing processing infrastructure	1. Encourage private entrepreneurs to establish processing, packaging and storage facilities 2. Assist in establishing other marketing infrastructure	1. Organise and train fishermen in processing, packaging and preservation of fish and fish products. 2. Develop tie-up arrangements between fishermen and processing units	
Welfare measures	Promote group insurance schemes for fishermen		Encourage fishermen to take up insurance schemes

## WATER

### DEPARTMENT : WATER RESOURCES

Minor Irrigation			
Focus	Zilla Panchayat	Panchayat Samiti	Gram Panchayat
Development of MI (Ayacut up to 100 Acres) system, drainage system, water harvesting structures and water management	<ol style="list-style-type: none"> <li>1. Formulate dist plan for MI projects.</li> <li>2. Assign projects to PS and GP</li> <li>3. Development of drainage system in water logged areas.</li> <li>4. Suggest projects for percolation tanks, check dams and land leveling.</li> <li>5. Supervise, monitor and review of the</li> </ol>	<ol style="list-style-type: none"> <li>1. Identify and formulate MI projects</li> <li>2. Execute and maintain MI projects included in PS plan.</li> <li>3. Execute MI projects assigned by ZP.</li> <li>4. Construct percolation tanks and check dams (outside GP Plan)</li> <li>5. Supervision, monitoring and</li> </ol>	<ol style="list-style-type: none"> <li>1. Assist in formulation of MI projects and ratification by Grama Sabha</li> <li>2. Identify locations for projects</li> <li>3. Execute MI Projects under supervision of PS.</li> <li>4. Identify beneficiaries under various programmes for MI projects and constitute user</li> </ol>

	<p>progress and quality of works by the subject committee.</p> <p>6. Co-ordinate between various departments and agencies funding MI projects.</p>	<p>review of the progress, and quality of works.</p> <p>6. Co-ordinate between various line departments/agencies funding for MI projects.</p> <p>7. Execute community MI projects and M.I projects belonging to PS.</p>	<p>committee.</p> <p>5. Supervise, monitor and review progress, quality of work.</p>
Water management	<p>1. Propagate modern water management delivery methods through Pani Panchayats, WALMI and other agencies.</p> <p>2. Propagate use of sprinkler and drip irrigation in drought prone/water scarce area through Pani Panchayats, WALMI and other agencies.</p>	<p>1. Guide and motivate people to adopt modern methods of irrigation, on-farm development and proper maintenance of field channels etc.</p> <p>2. Select beneficiaries for subsidized sprinklers, drip irrigation equipment and delivery system and supply them, including providing technical guidance to beneficiaries.</p> <p>3. Organise farm demonstration for modern water management</p>	<p>1. Identify beneficiaries through Identify beneficiaries through Gram Sabhas for subsidized sprinkler and drip irrigation system.</p> <p>2. Constitute users committee for proper utilization of water including use for drinking purposes.</p> <p>3. Encourage farmers for on farm development and development of field channels/delivery system for proper utilization of water.</p>

		techniques.	
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**FOREST  
DEPARTMENT : PANCHAYATI RAJ**

<b>Minor Forest Produce</b>			
<b>Focus</b>	<b>Zilla Parishad</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>
Regeneration of MFP species	<ol style="list-style-type: none"> <li>1. Plan raising MFP plantation in concentrated blocks to facilitate collection and marketing.</li> <li>2. Encourage cultivation of MFP in existing forest, degraded forest lands, barren and uncultivable area, and community wastelands.</li> <li>3. Encourage plantation of MFP such as gum, resin, medicinal plants, aromatic plants, leaves, oil seeds, tans and dyes, grasses, seeds, canes, bamboo, etc., particularly in tribal areas.</li> <li>4. Promoting plantation of MFP species in drought prone, desert areas and under social forestry activity under JGSY, particularly in tribal areas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Establish MFP nurseries for propagation of MFP species.</li> <li>2. Fixation of prices of MFPs</li> </ol>	<ol style="list-style-type: none"> <li>1. Assist in identification of families willing to plant MFP species.</li> <li>2. Distribute MFP seedlings for plantation.</li> <li>3. Take up plantation on land leased out by Collector in favour of GP.</li> </ol>

MFP	<ol style="list-style-type: none"> <li>1. Monitor MFP collection activities in forest ranges.</li> <li>2. Timely payment of collection</li> </ol>	<ol style="list-style-type: none"> <li>1. Organise item-wise MFP co-operatives like Kendu leaf.</li> <li>2. Fix support prices for MFP procurement</li> </ol>	Implementation of OGP (MFP Administration) Rule, 2002.
Processing, and market price	<ol style="list-style-type: none"> <li>1. Establishment of small processing units for value addition of MFPs.</li> <li>2. Establishment of godowns for storage of MFPs.</li> <li>3. Strengthening market demand and extension of market</li> </ol>	<ol style="list-style-type: none"> <li>1. Liaisoning with the Forest Department for formation of the JFM committee for the collection, processing and marketing of MFPs.</li> <li>2. Ensure value addition of MFPs.</li> </ol>	<ol style="list-style-type: none"> <li>1. Encourage the primary processing and value addition of MFPs before their sale.</li> <li>2. Ensure adequate and timely payment of the procurement price of MFPs to the primary collectors.</li> </ol>

## NON-CONVENTIONAL ENERGY

### DEPARTMENT : PANCHAYATIRAJ

Focus	Zilla Panchayat	Panchayat Samiti	Gram Panchayat
Assessment of district's energy requirement	Consolidate PSs plans for energy requirement and supply through non-conventional means	<ol style="list-style-type: none"> <li>1. Formulate projects for use of non-conventional sources of energy in the PS</li> <li>2. Implement projects for creation of non-conventional energy.</li> </ol>	<ol style="list-style-type: none"> <li>1. Assist PS in identification of potential sources of non-conventional energy devices requirement such as gobar gas, bio-mass, solar energy and wind energy.</li> <li>2. Implement projects for creation of non-conventional energy under the guidance of Panchayat Samiti.</li> </ol>
Promoting non-conventional sources of energy which includes installations of solar panels, wind	<ol style="list-style-type: none"> <li>1. Promote non-conventional energy devices and sources</li> <li>2. Promote and popularise energy saving devices</li> </ol>	<ol style="list-style-type: none"> <li>1. Train users in the maintenance of non-conventional energy devices</li> <li>2. Monitor and supervise the operation and functioning of</li> </ol>	<ol style="list-style-type: none"> <li>1. Assist in identification of beneficiary for individual biogas plants and other devices</li> <li>2. Organise beneficiary training</li> <li>3. Monitor functioning of NCE devices.</li> <li>4. Procure and supply material and equipment for the projects.</li> <li>5. Assist in identifying suitably</li> </ol>

mills and gobar gas plants and extension education.	2. Co-ordinate different agencies including NGOs for promotion of alternative sources of energy.	the projects.	locations and select individual beneficiaries for installation of community and private sources of energy.
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(Source: Letter No. 1PS- 06/06 3637 /PR, dtd. 5/5/2006, of the Director, Special Projects, Department of Panchayatiraj, Odisha )

As detailed in the Odisha government's e-document 'Panchayati Raj Institutions & Achievements under 11th Finance Commission Award' (<http://www.orissa.gov.in/panchayat/pgs1-36.pdf> ) the 21 subjects(under 11 departments) transferred to PRIs include(department-wise), apart from other subjects, Agriculture(Khariff & Rabi programme, soil conservation, horticulture, and watershed), Fishery & Animal Resource Development(Dairy & Fishery), Rural Development(drinking water & sanitation), Panchayati Raj(MFP, road, maintenance of community assets), and Water Resources(minor irrigation projects upto 100 acres). District Level officers, Block Level Officers and Village Level functionaries of the said 11 departments will remain "accountable" to Zilla Parishad, Panchayat Samiti and Grama Panchayat respectively for implementation of subject/schemes transferred to PRIs but they will continue as the employees of their respective Departments. The District Level, Block Level and Grama Panchayat Level functionaries of different Departments will attend the meeting of Zilla Parishad, Panchayat Samiti and Grama Panchayat respectively. They shall place plan and schemes for discussion and approval in the meeting of the respective level of PRIs. The President, Zilla Parishad, Chairman, Panchayat Samiti and Sarpanch of Grama Panchayat can supervise the work and function of Government functionaries at respective level. They can call for information and report from time to time. They can submit proposal to appropriate level about indiscipline, irregularities and other shortcomings. President, Zilla Parishad Chairman, Panchayat Samiti and Sarpanch Grama Panchayat have been delegated with the power to sanction casual leave of head of office/institution of 11 Departments working at the respective level.

Thus, the District Agriculture Officer, District Soil Conservation Officer, and District Horticulture Officer will remain accountable to the President, Zilla Parishad whereas the Junior Agriculture Officer will be accountable to the Chairperson, Panchayat Samiti. The Village Agriculture Worker(VAW) is accountable to the Sarpanch, and has to attend GP meetings whereas the Sarpanch shall visit VAW centre and report about performance of duties to BDO and the Chairperson, PS[State Institute for Rural Development(undated), Transparency & Accountability, p.22].

Following four subjects have been transferred to PRIs but functionaries have not been brought under the control of PRIs as has been done in respect of 21 subjects mentioned earlier:

- i) Social Forestry and Farm forestry of Forest & Environment Department.
- ii) Khadi and village & Cottage Industries of Industries Department.
- iii) Fuel and fodder of Forest & Environment Department.
- iv) Libraries of Culture Department.

As regards transfer of funds, it has been done only for few subjects like sanitation.

It is interesting to note that while the letter No. I-PS-2/2003 of the Chief Secretary, Odisha, dtd. 4<sup>th</sup> July 2003 mentions transfer of the agricultural subjects like khariff & rabi programme, to the PRIs, the activity mapping that was published in Odia by the Panchayati Raj Department in 2007 doesn't mention this. This also reminds of the media reports in 2003 that owing to political compulsions the government was unable to take decision regarding the transfer of rest 8 subjects (as the respective authorities/ ministers were hesitating for such a transfer).

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