CHAPTER-2
FOREST POLICY AND INDIGENOUS PEOPLE IN COLONIAL AND POST COLONIAL PERIOD

2.0 Introduction

Forest policy and management has been a subject of considerable debate and conflict ever since the British established a Forest Department and enacted legislations related to forestry in the 19th century. The imperial needs dictated the British interests in the Indian forest resources, which resulted in the establishment of control over forest resources. In the process, at least two crucial aspects of forest management were ignored. First, the well-established traditional systems of conservation and sustainable use, and second, the critical ecological and social role that forests played (Ashish Kothari 1994). The colonial system of forest management was continued even after 1947 with little modifications, emphasizing revenue generation and commercial exploitation, while its policing orientation excluded villagers who had the most longstanding claim on forest resources. The tribals especially were confronted with the vagaries of forest management that continuously eroded their life-styles and simultaneously the assertion of State primacy over natural resources deprived them of an important means of subsistence (Guha 1983).

In this context, an attempt is made to review colonial and post-colonial forest policies by examining the debate on the ownership of forests between British and Indian colonial officers, especially the officials of the Madras Presidency who happened to be more articulate at that time. The first section, deals with the relation between tribals and forests, the second section explains the evolution of State control over forest resources. The third section is on colonial forest policy and on the process of establishing colonial control over natural resources, the fourth section focuses on the forest policies of independent India and on the changes in forest management and the last section contains conclusions.
2.1. RELATION BETWEEN FORESTS AND INDIGENOUS PEOPLE

Forests play a vital role in sustaining the life supporting systems of a country's environment and the quality of its people. The livelihood activities of tribals center on the forests in which they live. The tribals get food from the forests by shifting cultivation, apart from picking varieties of edible and herbal roots, tubers, creepers, fruits, leaves (detailed descriptions of these activities are given in the chapter 4).

The major source of food production for them is shifting cultivation, which is an integral part of the economy in tribal culture. About 25 percent of India's tribals (70 million) practice shifting cultivation (Reddy 1983). The Report on Forest and Tribals (1982) indicates shifting cultivation is practised by at least 109 tribal communities in 233 blocks in 62 districts spread over 16 states. In Andhra Pradesh it covers nearly 17,000 hectares in 9 blocks, 92,000 hectares in Arunachal Pradesh, 69,000 hectares in Assam, 83,000 hectares in Manipur and 72,000 hectares in Meghalaya are under swidden cultivation (GOI 1982).

Besides this, tribals collect varieties of minor forest produce (MFP), which includes fodder and grasses, raw materials like bamboo, canes and leaves, gums, waxes, dyes and resins and several forms of food including nuts, wild fruits, and honey. National Commission on Agriculture (1976) has classified MFP as i). fibers and flosses, ii). grasses (other than oil producing), bamboo, reeds, and canes, iii). oil seeds, iv). tams and dyes, v). gums, resins and oleoresins, and vi). leaves. These often play a critical part in the livelihood of the tribal. Most of the MFP come from forests although some trees yielding MFP are found on private fields and also provide valuable assets, and subsistence and cash. Seventy percent of the MFP are collected from the five states - Maharashtra, Madhya Pradesh, Orissa and Andhra Pradesh, where 65 percent of the tribal population live (Guha 1983). On a rough estimation it has been revealed that between 10-15 per cent of income of an average tribal family is obtained from the collection of MFP (NCA 1976). The tribals collect MFP in the seasons when these were ready. For instance, *tendu* leaves are collected during April-May, *sall* seeds fall with the pre-monsoon showers and collected from under the tree and pine trees are trapped for resin.
during warm and hot weather. Thus, the activities concerning MFP are carried out almost all the year around.

As we observed during the field study, all the members of the family, including grown-up children, go to the forest in search of these products. However, we observed that the involvement of particular members of the family in the collection depended upon the nature of the product. For instance in the collection of gum, honey, bark, bamboo etc., which required more time, the male members were involved. While in the collection of leaves, seeds, flowers etc., women, folk were engaged. Tribals acquire the skill regarding collection of MFP from the elder members of the family. They learn to identify the useful species, seasons of availability, the locations and plants in which it is found.

Availability, marketability and access to the forests condition the collection of MFP. Traditionally, traders and contractors used to purchase the produce from the tribals at low rate or by barter. Latter procurement of MFP has been nationalised to protect the tribals from this exploitation.

Regarding the relationship of tribals with the forest, the Committee on Forests and Tribal in India (1982) stated that "they are not only forest dwellers but also for centuries they have evolved a way of life which, on the one hand, is woven around forest ecology and forest resources, on the other hand, ensures that the forest is protected against the degradation by man and nature" by evolving their own conservative systems. These traditional systems of conservation of resources were ensured through restrictions on using the economically useful species. These not only included a long fallow period in the rotation of shifting cultivation but also selective retention of valuable trees such as mango and mahua while felling for cultivation. There is substantial evidence that all of

The report of the NCA stated that there has been no comprehensive survey of employment in forest activities and also not easy to estimated in terms of man-days. And it is reported that present employment in the harvesting of MFP is not less than 250 million man-days. NCA considered this as alleviating seasonal unemployment and or underemployment and contributing to an increase in the income level of the households rather than be projected as full time employment for a certain member of people.
this enabled the tribals to use their resource base in a sustained manner (Mc Neely and Pitt 1985).

Thus, tribal cohesion and equitable social organisation meant possibilities of better enforcement of norms to ensure the ecological balance. Outside flows of material were largely restricted. For instance, honey and ivory were exchanged for metal. However, such exchanges were quantitatively insignificant, so that the material cycles were largely closed over the spatial scale of tribal territories. This meant that the tribal population had a real stake in the security of the resource base of their territory and evolved a number of cultural traditions to ensure its sustenance (Gadgil 1989a). Thus, they put various kinds of restrictions such as seasonal restrictions, total protection to certain areas, protection to certain valuable species, which have some religious importance etc. Most tribal communities forbade the cutting or hunting during certain periods in the year and allowed it then only on the annual day of renewal. Restrictions were put also during certain stages of life of different species. Most tribes forbade the killing of pregnant animals. In a few cases the restriction was on a few species such as fawns, doves and black bucks, while most others imposed a ban on the killing of any pregnant animal (Gadgil and Vartax 1976).

Fernandes et.al (1985) identified other restrictions on the use of species essential for survival, such as by declaring them sacred hence not to be destroyed. They could not be cut till they were mature and so long as did not yield any fruit. Precisely, because of their value, these plants, trees, creepers and animals also play an important role in their rituals and ceremonies (Deeney, 1992). In certain areas they maintain restrictions on using sickle or axe. Gupta (1981) identified three kinds of systems in Chotanagapur, such as ‘sana, aknra and season’ in such accord. And also protection was ensured by banning the use of destructive technologies. Bamboos, for example, were cut at a certain angle, a few centimeters above the ground to ensure copping (Gadgil 1989a).

So it is claimed that over centuries of living sustainable with nature, tribals have acquired a deep knowledge and understanding of ecological processes and evolved as
ideal natural resource managers (Shiva et al. 1990). "All the studies on natural resource use by the forest people show that their traditional way of life have been brilliantly conservationist. . . . Theirs' is an ecological wisdom that is intricately woven into the very fabric of their cultures; for the most part of it is not an articulate, conscious 'body of knowledge'. . . . Their way of life expresses an ecological wisdom that enables them to take care of their forest environment" (Taylor 1990).

Thus, tribals have a certain specific relationship with forests. They always interact for their sustenance and try to recreate the forests with their traditional conservation systems. But the progressive assertion of State monopoly rights over large areas of forests turning them into 'reserves', has resulted in large-scale eviction and uprooting of traditional tribal villages. The relationship that existed between tribal social organisation and the forest was completely upset as a result of these policies.

The reservation of tracts, which denied the tribals access to forest produce on which they had depended for many of their necessities for centuries, cut them off from their life-support system. When an area was declared a reserve forest, all the rights of tribals were extinguished, except those explicitly mentioned. For instance, in a recent study on the effects on tribals of the loss of forest areas in Orissa and of Chattisgarh in Madhya Pradesh, observed that in these areas the distance required to collect forest products is reported to have multiplied several fold (Table 2.1).

Its most significant consequence was the intensification of social conflict between the state and its subjects. Almost everywhere, and for a long period the take over of the forest was bitterly resisted by local populations for whom it represented an unacceptable infringement of their traditional rights of access and use. Hunter-gathers, shifting cultivation, peasants, pastoral nomads, artisans— for all these social groups access to forest produce is vital for economic survival, and they protested in various ways at the imposition of State control (Rangarajan, 1992). Throughout the colonial period as well as in the post-colonial period, popular resistance to state forestry has been remarkably widespread and sustained. In the post-colonial period the process of economic development implied more intensive resource use which, in the prevailing technological and institutional framework, led to widespread environmental degradation. In the forestry sector, industrial orientation became more marked, exemplified by the increase in mono-cultural plantation beginning with the early 1960s. Other development projects like dams and mines to have exerted a largely negative influence on the forests.
Numerous forestry projects have also succeeded in changing the character of the forest itself in such a way that it served exclusively commercial interests and no longer benefited original forest-dwellers. Natural mixed forests on which the tribals depended for their livelihood are being cleared and replaced by plantations of teak, eucalyptus and various coniferous trees for commercial purposes. This large scale commercial exploitation of forests not only destroyed the source of livelihood for tribals but also adversely affected the ecology of the area (Mathew 1993).

**TABLE: 2.1. DISTANCE COVERED TO COLLECT MFPS FROM FORESTS IN ORISSA AND CHATTISGARH: TWENTY YEARS AGO AND PRESENT (in km.)**

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Collection of</th>
<th>Orissa Past</th>
<th>Orissa Present</th>
<th>Chattisgarh Past</th>
<th>Chattisgarh Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Flowers</td>
<td>1.7</td>
<td>6.5</td>
<td>1.8</td>
<td>3.8</td>
</tr>
<tr>
<td>2</td>
<td>Leases</td>
<td>1.6</td>
<td>7.2</td>
<td>1.7</td>
<td>3.9</td>
</tr>
<tr>
<td>3</td>
<td>Fruits</td>
<td>1.7</td>
<td>6.2</td>
<td>2.1</td>
<td>3.5</td>
</tr>
<tr>
<td>4</td>
<td>Seeds</td>
<td>1.7</td>
<td>6.6</td>
<td>1.4</td>
<td>4.4</td>
</tr>
<tr>
<td>5</td>
<td>Fodder</td>
<td>1.3</td>
<td>7.2</td>
<td>N.A</td>
<td>N.A</td>
</tr>
<tr>
<td>6</td>
<td>Bamboo</td>
<td>2.1</td>
<td>8.9</td>
<td>1.3</td>
<td>5.5</td>
</tr>
<tr>
<td>7</td>
<td>Firewood</td>
<td>1.6</td>
<td>6.2</td>
<td>1.3</td>
<td>3.7</td>
</tr>
<tr>
<td>8</td>
<td>Average distance</td>
<td>1.7</td>
<td>7.0</td>
<td><strong>1.6</strong></td>
<td>4.1</td>
</tr>
</tbody>
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The tribals were not only denied their means of livelihood but also became victims of exploitation and harassment by petty forest officials and contractors. The alienation of tribals from the forest and the deterioration and degradation of forest due to over exploitation for profit continued and increased at a faster rate after independence. As a result the tribals were systematically dispossessed of every means of existence. In this context an attempt is made to review forest policies of colonial and post-colonial periods.
2.2. EVOLUTION OF STATE CONTROL OVER FOREST RESOURCES

2.2.1. An Overview of Ownership of Forest During Pre-colonial Period:

It is generally believed that in the pre-colonial period the rural communities seem to have enjoyed an untrammeled use of forests and wastes in their vicinity. "The waste and forest lands never…. attracted the attention of former (pre-British) Governments" [EK Paw 1896 quoted in Guha(1983)]. Similarly it was reported from Madras that the villages had traditionally owned all forests within their boundaries(Stebbing I 1926).

It was during the colonial period that for the first time proprietary claims were made over forest resources by extraneous forces. Atchi Reddy(1991) identified three main parties who claimed some rights of ownership of the forests and its produce in the Madras presidency before 1882. First were the village communities who claimed their right to cut wood, collect produce, graze the cattle and extend their cultivation in to the forestlands. The second category was that of Zamindars and other feudal landlords. And, third the Government. Community ownership of the forests in Presidency of Madras was quite old, well established and recognised by the successive local governments. Private and community ownership of landed property, including forests, was the common practice in South India (Kumar,D 1985).

Most of the villages in the Madras presidency that were located in and around the forest tracts used to have certain tracts of forests earmarked for their exclusive use. In most of the places where Government wanted to have land for its own use, it had to purchase those forest lands from their owners, often at market rates even during the 19th century(Cleghorn 1860). Board of Revenue proceedings of 5th August 1871 of Madras presidency stated that, "there is scarcely any forest in whole Presidency of Madras which is not one in which, so for as the Board can ascertain, the State asserted any rights of property until very recently. All of them, without exception, are subject to tribal or communal rights, which have existed from time immemorial and which are as difficult to define and value as they are necessary to the rural population…..Here the forests are and always have been common property"(Stebbing III 1926). Not only in the Madras Presidency but also in the entire Indian subcontinent, tribals had a free access to forests.
2.2.2. Forests During East India Company Rule:

The early days of British rule were characterised by a total indifference to the needs of forest conservancy—indeed, up to the middle of the 19th century, the Raj saw a 'fierce onslaught on India's forest' (Smythies 1925). The settled political conditions following British rule facilitated the extension of cultivation in order to augment revenue. In the name of making cultivable lands, there was a policy of encouraging destruction of forests.

Machonchie provides the earliest record of commercial exploitation of forests in 1796, for the extraction of teak in Malabar to meet the demands for shipbuilding and military purposes. In the year 1799 alone 10,000 teak trees were brought down from the Baypore river (Stebbing I, 1926), under further pressure from the 'home government' to ensure the maintenance of the future strength of the King's navy. Ships were built from the teak imported from India and in the dockyards in Goa and on the Malabar coast (Guha 1983). In this situation the East India Company looked to India as a potential source of their supplies. Thus the arrival of the British and the exploitation of India's forest resources marked a new phase in the use of forest produce in India.

The military requirement of Indian teak in the late 18th century led to an immediate proclamation declaring that the royalty right over teak trees claimed by the former Government in the South was vested in the East India Company. Though free

3 At that time interestingly, England's own forests had long been devastated. It is said that the first serious inroads occurred in Henry VIII's time when he seized church land for his own use and "turned them in cash". James I had fostered colonisation schemes, especially in Ireland, which reduced the forest area and Charles I "always in need of cash", alienated many of the crown forests. "During the Revolution beginning in 1642 and during Cromwell's reign a licentious devastation of the confiscated or mortgaged noblemen's wood took place" (Fernow 1907: 315). With oak forests vanishing in England, the need for suitable timber for the Royal Navy began to be felt. As Stebbing put it "the safety of the empire depended on its wooden walls" (Stebbing I:63). This was a period of intense rivalry between the colonial powers and Indian teak, suitable for shipbuilding, saved England during the war with Napoleon. It also helped later maritime expansion.

4 In 1805 a dispatch was received from the Court of Directors enquiring as to what extent the King's navy was depended on permanent supply of teak timber from Malabar, in view of the growing shortage of oak in England. The demand for timber in the Royal Navy had prompted the initial imperial concern with Indian forests around 1806.
access to the forests for the people was not inhibited, a kind of defacto ownership of forests and wastelands of the country by the State had begun by these times. However, exploitation of certain species of trees were considered as the prerogative of the ruler\(^5\)(Stebbing I, 1926).

By the middle of the 19th century the depletion of the forests began to assume serious proportions in India. The British government was forced to recognise that forests in India, after all, were not inexhaustible. Various officers were deputed from time to time to report on forest areas and all of them emphasised the need for conservation and improvement\(^6\)(Saldanha 1996). In 1856, a significant year in the history of forests in India, Lord Dalhousie laid down a definite forest policy;

"... owing largely to the increasing difficulty of obtaining adequate supplies of timber for the great extension of railway lines then being undertaken, as a result of the systematic destruction of forest areas for cultivation, of uncontrolled felling and absence of all protection of forests, the Government of India were forced to take energetic steps to protect from further destruction the forests that still survived..."(Smythies 1925).

Thus, British colonial intervention is an important watershed in the ecological history of India. The critical turning point in the history of Indian forestry was the building of the railway network. The early years of railway expansion saw an unprecedented assault on the more accessible forests. Great chunks of forest were destroyed to meet the demand for railway sleepers. No supervision was exercised over the felling operations and a large number of trees were felled, whose logs could not be utilised(Stebbing I 1926). Before the coalmines of Raniganj became fully operative, railway companies also indulged in widespread use of local timber as fuel for the locomotives(Guha 1983).

\(^5\) By 1806, the Company Government established a timber monopoly throughout Malabar and Travancore to extract teak for the King's navy. With this, indigenous trade came to an end and peasants were denied their rights.

\(^6\) Captain Gathin, reported on the forest resources of Burma, in 1837 Heifer reported on those of Malbar and Gibson was appointed Conservator of Forests in Bombay in 1847.
Cleghorn (1860) gives a very vivid description of the transformation in the ecological landscape wrought by the railways in his work *The Forests and Gardens of South India*. The Melghat and North Arcot hills, formerly crowded with timber, were 'now to a considerable degree laid bare' by the insatiable demand of the railways. All around the tracks, where once there was forest, there now lay wide swathes of cleared land stripped bare of cover, and consequently of protection to wild animals. Thus the progress of the railway produced remarkable changes on the face of the country as regards to tree vegetation. In the Madras Presidency over 250,000 sleepers (or 35,000 trees) were required annually from indigenous sources. To meet this demand contractors resorted more and more to sequential over exploitation. On the one hand they cleared jungles further and further away from the railway lines, while on the other, they utilised more and more unsuitable species as those more favoured were rapidly exhausted. Although only half a dozen species were considered suitable for use as railway sleepers, more than fifty were tried out. Not surprisingly, sleepers expected to last five or six years, only lasted a third of the time. In one consignment, out of 487 sleepers supplied, 458 (or 92%) were found to be of unauthorized woods (Cleghorn 1860, quoted in Gadgil and Guha 1992).

Railway expansion continued unabated and the methods by which private enterprise was working in the forests forced the State to step in to safeguard their long term imperial interests (Sagreya 1979). The Governor - General Dalhousie called in 1862 for the establishment of a department that could ensure the sustained availability of the enormous requirements of different railway companies for sleepers (Stebbing I 1926).

Thus, the introduction of colonial forestry was not because of superior forestry knowledge and management but owing to the dominant military need and power. It was in this situation that the imperial Forest Department was formed in 1864 with the assistance of the German forester, Brandis, who attempted to establish its control over forests, by various legislations.
2.3. FOREST POLICIES DURING COLONIAL PERIOD:

2.3.1. Forest Act of 1865:

The first attempt at asserting State monopoly was through the Indian Forest Act of 1865. The Act empowered the State to declare any land covered with trees or brush-wood as state forest and to make rules regarding the management of the same by notification, provided that such notification should not abridge or affect any existing rights of individuals or communities (sec. 2). The government was empowered to prescribe punishments for the breach of provisions or for infringing rules and for the arrest of offenders. For the first time, an attempt was made to regulate the collection of forest produce by the forest dwellers. Thus, socially regulated practices of the forest people were to be restrained by law. The Act was applicable only to forests under the control of the Government and no provisions were made to cover private forests (Kulkami, 1987). Thus, in the name of "scientific management, the Act was an attempt to . . . . obliterate centuries of customary use of the forests by rural population all over India . . . ." (Guha and Gadgil 1989).

The Madras Presidency refused to have the Act of 1865 on the plea that the rights of the villagers over waste lands and jungles were considered important. This prevented the Government from making forests the exclusive property of the State. A conference of forest officers was held in 1874 that went into the defects of the 1865 Act. The task before them was to reverse a process which the British had initiated, now seen as worthless and by doing so to allow the villagers to exercise user rights unhindered. In fact, all provisions of the 1865 Act, except that pertaining to arrest, were found to be defective.

The major lacunae of the Act, as identified here, essentially related to the extent of control over forests exercised by the State. The Act provided for the protection of forests only after it had been selected and declared as Government forest. But for

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7 The debate between the Presidency and the Government of India has been analysed in a later part of this chapter.
effective control, it was argued that the State should have the power to protect any forest in anticipation of its demarcation and management. The definition of the forest, in section 2 of the 1865 Act, as "land covered with trees, brushwood and jungle" was sharply criticised as inhibiting the raising of appropriate plantations on barren land by the State. It was advised that any land whatsoever should be designated as forest, thereby coming under the provisions of the Act, if the Government so desired. Various other rules also were criticised as being inadequate. The Act provided for a series of prohibitions but nothing about the principles of managing the forest, there were no rules regarding fire protection, fencing etc. It was felt that the regulations covering the transit of forest produce were not comprehensive enough, both with respect to the means of transit (road, water or rail) and the agents of transit (merchants and owners of the produce) (Guha 1983).

There was also a considerable debate within the colonial bureaucracy itself about the 'absolute proprietary right of the State'. In the end it was decided to treat the customary use of the forest by the Indian villagers as based on 'privilege' and not on 'right'.

2.3.2. Forest Act 1878:

This Act was more comprehensive than earlier one and divided forests into reserved forests, protected forests and village forests. Persons were to be notified to record their claims over land and forest produce in the proposed reserved and protected forest. Certain activities like trespassing or pasturing of cattle were prohibited. A provision was made to impose a duty on timber. Some provisions were also made for private forests. And certain activities were declared as forest offences and imprisonment and fines were also prescribed. Thus, the 1878 Act continued and extended the Government policy of establishing control over forests.

The Act was empowered the government to acquire land over which rights were claimed by persons. The forest settlement officer was to record such rights and there were special provisions to ensure the exercise of such right. These provisions included setting
out some other forest tracts to ensure the right of pasture or to forest produce. This altered
the limits of extent of the proposed forest so as to exclude forestland of sufficient extent
for the purpose of claimants. It also sought to ensure claimants rights in certain portions
of the proposed reserved forest (Section, l A). And the local governments were given the
right to notify any forest or land as protected forest and empowered to make rules to
regulate and prohibit certain acts in protected forests. And also given the power to assign
to any village community the right to or over any land that was constituted as a reserved
forest and all forests so assigned were to apply to village forests (section 27).

Powers given to forest officers were the same as in the previous Act 1865. The
authority to arrest was limited to offences like violating the prohibition or the quarrying
of stone or the burning of lime or charcoal or the collection or subjection to any
manufacturing process, or removal of any forest produce, in any such (i.e. protected)
forest and the breaking up or clearing for cultivation, for building, for herding cattle or
for any other purpose, any land in any such forest.

The differences between 1865 and 1878 Acts are, the 1865 Act empowered the
Government to declare any forest as Government property. But the right of the
Government, subjected to the condition that it did not affect the existing rights and
privileges enjoyed by the local community in the neighboring forest areas. This resulted
in the classification of forest as reserved and protected. The process of reserving certain
trees for the exclusive use of the Government had started much earlier. But the concept
was extended to forests as reserved and protected and surveys and settlements were
initiated in this direction after 1865. This led to the repeal of the earlier Act and
enactment of the Indian Forest Act of 1878, which formalised this distinction and also
formally recognised another category—the village forests.

8 However, no such notification was to be made unless the nature and extent of the rights of government
and private persons in and over the forest land or waste-land comprised therein have been enquired into
and recorded at a survey or settlement or in such other manner as the local government think sufficient
(section, 21).
Also this legislation - later to serve as a model for other British colonies - by one stroke of the executive pen attempted to obliterate centuries of customary use of the forest by rural populations all over India. Several officers within the colonial administration were sharply critical of the new legislation, calling it an act of confiscation and predicting widespread discontent at its application. Their objections, however, were swiftly overruled (Brandis 1878). Essentially designed to maintain strict control over forest utilisation from the perspective of strategic imperial needs, the Act also enabled the sustained working of compact blocks of forests for scientific management of the forests. But also the combined operation of law and scientific management was sharp restrictions on customary use (Guha and Gadgil 1989).

Thus, when the Colonial State asserted control over woodlands, which had earlier been in the hands of local communities and provided to work these forests for commercial timber production, it intervened in the day to day life of the Indian villages to an unprecedented degree. Guha (1990) argued that the 1865 Act has been enacted to ensure control over the forest supply for railways, and environmental issues had been neglected by not enforcing the rules (Saravanan 1998). While drafting the Forest Act 1878, the debate on ownership had taken place among the Forest Department Officials at the centre and Madras Presidency level. In this connection the Madras Presidency emerged as the most articulate spokesman for villager's interests in the controversy around the 1878 Act.

2.3.3. Ownership of the Forests

The debate over the ownership of forests emerged after the Department of Forests has been established. The Madras Presidency believed that it was impossible to distinguish between the rights of the Government and of the people in the forests of the Presidency (Stebbing III 1926).

Gadgil and Guha (1992) categorised the whole debate under three distinct positions. The first, which they call 'annexationist', held out for nothing less than total State control over all forest areas. The second one is the 'pragmatic', argued in favour of
State management of ecologically sensitive and strategically valuable forests, allowing other areas to remain under communal systems of management. And the third, termed 'Populist', completely rejects State intervention, holding that tribals and peasants must exercise sovereign rights over the woodlands.

Officials who believed in the first position argued that customary use, however widespread and enduring was exercised only at the mercy of the monarch. Baden-Powell claimed "the State had not, it is true, exercised that full right: the forests were left open to any one who chose to use them: but the right was there" (Baden-Powell 1875). The rights of use were explicitly granted by the State. Thus, Baden-Powell made a clean distinction between rights and privileges. Privileges, though not claimable as a legal right, were always granted by the Government for the convenience of the people (Board of Revenue proceedings No.37-47, Dec 1875, quoted in Gadgil and Guha 1992).

The Madras Government rejected Baden-Powell's distinction between legally proven 'rights' on the one hand and 'privileges' exercised without written sanction on the other. If this view was to be allowed, then it seemed the claim of the State was virtually non-existent. To quote remarks of Board of Revenue -

" There is scarcely a forest in the whole of the Presidency of Madras which is not within the limits of some village and there is not one in which, so far as the board can ascertain, the State asserted any rights of property unless royalties in teak, sandalwood, cardamoms and the like, can be considered as such until very recently. All of them, without exception are subject to tribal or communal rights which have existed from time immemorial and which are as difficult to define as they are necessary to the rural population........Nor can it be said that these rights are susceptible of compensation, for it innumerable cases, the right to fuel, manure and pasturage, will be as much a necessity to life to unborn generations as it is to the present.... (In Madras) the forests are, and always have been, common property...." (BOR Progs No 43-142, March 1878, quoted in Gadgil and Guha 1992).

Between these extreme positions, the Inspector General of Forests, Brandis, allowed that in certain cases the State had indisputable rights. However, he was with the
Madras Board of Revenue in disputing Baden-Powell's contention. Drawing on a cross cultural comparison, he pointed out that "the growth of forest rights in India has been analogous to the growth of similar rights of use in Europe. There are many well-known cases in which forest rights in Europe have arisen out of a specific growth and in such cases the extent of the right construed by the terms of the grant and is not necessarily restricted by the limitations adverted to. In most instances however, they have grown up out of the use by the surrounding villages of the common waste and forest. Forest rights in India have had a similar origin and development as in Europe, with that important difference that arbitrary dealings of the Native Rulers have interfered with the growth of these rights and have in many cases restricted or extinguished them."

The then conservator opposed the introduction of Forest Act 1865. Also a majority of the collectors strongly opposed the introduction of the Act and they were supported by the Board of Revenue, and expressed that "the application of the act is quite unnecessary, in as much as the penal code already provides for offences of every description. Under the heads of mischief, trespass and theft". Further, the Board opined that the Act would not in any way facilitate conservancy and no forestland could be placed within its scope, which is not absolutely the property of the Government and free from private rights of every kind. Section 2 specially enacted that its application should not abridge or affect any existing rights (BOR proceedings No.2777, 16.4.1868, 1865 Act and called for opinion from the Government of Madras on the extension of the Forest Act of 1865 to the Presidency.

With this opinion the Madras BOR wrote a letter to the Secretary of State for India in 1869 that, "we have given the papers our most careful consideration and are of opinion that the introduction of the Forest Act into the Madras Presidency is uncalled for at present, and would be inexpedient. The tenure of land in Southern India differs vastly from that of those portions of the continent where the Act is said to have been introduced with success. As observed by the BOR, however large the applicability of such an Act may prove to be for the forests of Burma and other similar localities, it could hardly be introduced into the Madras Presidency, where nearly all the jungles and forests were within village boundaries, and were subject to the prescriptive rights of the villages, without causing much popular discontent and serious risk of oppression (Rev. No.5, 22.6.1869 Madras)."
Madras). The main reasons for rejecting Brandis draft bill by the Presidency were:

1. Because, its principles, scope and purpose are inconsistent with the existing Acts of forest property and its history.
2. Secondly, even if the bill was consistent with the facts, its provisions are too arbitrary, setting the laws of property at open defiance and leaving the determination of the forest rights of the people to a department which in this presidency at all events, has always shown itself eager to destroy all first right but those of Government.
3. Lastly, because the forest bill aims at the regulation of local usage ought to be thrashed, discussed and passed by the local legislature\(^\text{11}\).

However, at the central level, the emphasis was on controlling the forest by the State, whereas at the Madras Presidency level, the emphasis was on the protection of rights of the local people for access to forests. Ultimately, the Madras Presidency had to yield to the imperial pressure and had to bring about the Madras Forest Act in 1882. The Act was extended in phases and the northern Andhra districts, which consisted of the agency areas, were brought under the fold of the Act during 1885 and 1906.

2.3.4. Forest Policy **Resolution-1894:**

The Government of India brought out a comprehensive forest policy in 1894 that

\(^{11}\) Even the 1878 Act was passed and introduced into other provinces, the Madras Government was under considerable pressure to accept its provisions. It was chastised by the Secretary of State for its "laxity with respect to the forest rights of Government". Forcing its hand, Fort William then proposed to send Baden-Powell himself to supervise forest settlement operations in the Madras Presidency. This proposal was dropped when Fort. St.George wrote to the Secretary of state that it would draft its own forest legislation. In 1875, the Madras Government had constituted a committee to draft a fresh bill for the Presidency with three Indian members. The Presidency forwarded a draft forest bill to the Governor General in March 1879. But this bill was criticised by Boden-Powell, pointing out that no legal or other difficulty ever arises from leaving in undefined and criticised the bill for not banning shifting cultivation, for allowing villagers right even in reserved forests. When the Governor General, basing himself on Baden-Powell's memorandum, conveyed his disapproval, the Madras Presidency formed a committee to draft a fresh bill with Brandis, Inspector General of forests (Gadgil and Gugha 1992).
clearly spelt out the supremacy of the State's interest over that of people's interest. By the resolution, forests were divided into four classes: (a) forests, the preservation of which was essential on climatic or physical grounds; (b) forests which afforded a supply of valuable timbers for commercial purposes; (c) minor forest; and (d) pasture lands. The above mentioned classification was applicable only to forests under the management of the State. The essence of the policy is well summed up by Elwin(1962) as:

"the sole object with which State forests are administered is the public benefit. In some cases the public to be benefited is the whole body of tax-payers, in others, the people of the tract within which the forest is installed: but in almost all cases the contribution and preservation of a forest involve, in greater or lesser degree, the regulation of rights and the restriction of privileges of users in the forest area which may have previously been enjoyed by the inhabitants of its immediate neighbourhood. These regulations and restrictions are justified only when the advantage to be gained by the public is great, and the cardinal principle to be observed is that rights and privileges of individuals must be limited, otherwise for their own benefit, only in such degree as is obviously necessary to secure that advantage" (quoted in Narasimha Reddy:1995).

Then the Government gradually increased its control over the forests and the forest department was strengthened from time to time with a view to regulate people's rights over forestlands and produce. For this purpose the Government of India passed another Act in 1927.

2.3.5. Forest Act-1927:

The India Forest Act of 1878 was modified in the past by different Acts of local Governments. It was later on replaced by a very comprehensive Act called the Indian Forest Act, 1927. This was an attempt to codify all the practices of the forest officials and to regulate further people's rights over forest lands and produce. The Forests were classified into reserved, protected and village forests and elaborate provisions were made to extend State control over forests.

The Act deleted the reference to communities' rights over forests, which were made in the 1878 Act. Persons were expected to put in their claims over forest lands and
forest produce before the Forest Settlement Officer who was to enquire into their claims. Rights in respect of which no claims were preferred were to be extinguished, unless the person claiming them satisfied the Forest Settlement Officer that he had sufficient cause for not preferring the claim in the specified time (sec. 9).

This Act has put some control on the shifting cultivation with certain special provisions. The forest Settlement Officer was supposed to record the claims relating to the practice of shifting cultivation and to inform the state government together with his opinion as to the permissibility or otherwise of the practice. The state government was finally to decide on the issue of permission or prohibition. If the state government permitted the practice wholly or in part, the Forest Settlement Officer was to arrange for the apportionment of land for such practice. In the Act it was specifically mentioned that the practice of shifting cultivation was in all cases deemed to be a privilege subject to control, restriction and abolition by the state government (sec. 10).

The provisions made in respect of the protected forests and the power of arrest without warrant, same as in the earlier Act and limited to certain offences, which included disobeying the prohibition of quarrying of stones, burning of lime or charcoal, the collection or subjection to any manufacturing process, or removal of any forest produce in any such forest and the breaking up or clearing for cultivation, for building and for herding cattle.

This was an Act to consolidate the law relating to forests, the transit of forest produce and the duty leviable on timber and other forest product. Thus, there was a clear emphasis on the revenue yielding aspects of forests. The subject of forest was included in the provincial legislative list under Government of India Act of 1935. Thereafter several provinces made their own laws to regulate forests. Most of these laws did not affect the framework laid down in the 1927 Act.

However, the most serious consequence of colonial forestry working on commercial and imperial interest, was one corollary, i.e., the diminution of customary
rights as well as the decline in traditional conservation and management systems. The curtailment of communal ownership of forests by the State severely undermined the subsistence economy of the forest people.

Shifting cultivation was one major, traditional subsistence activity that got banned from the reserved forests (Sivaramakrishnan 1995). The restriction of shifting cultivation to small and demarcated areas forced the tribals to shorten fallow cycle or to prolong cultivation on designated patch until deterioration set in (Haimendorf 1943). As observed by Fernandez, et.al(1985) in Orissa, in the last thirty years, that in the early 1950s it was a 15-18 years cycle and in the 1940s it was 18-25 years. And now it has narrowed down to six years in most areas and in some cases even to three years(Fernandez et.al. 1985). Like wise the population of shifting cultivators in one taluk of Nasik declined by 24 per cent in a single year-1874 and migrated to neighbouring princely states due to the restriction of shifting cultivation(quoted in Gadgil and Guha 1992). In the case of Koya tribe of Bhadrachalam, who were accustomed to shifting cultivation were forced to follow a type of fallow cultivation as a result of the felling of trees in the forests of the area starting in the last quarter of the 19th century. Finally they lost their lands to either to the moneylenders and became tenants or else sold out their land outright in the market and some of them became the annual farm servants to the same parties while many of them restored to the casual labour market(Atchi Reddy 1991).

Thus shifting cultivation was discouraged without any appropriate alternative scheme. As Sengupta(1988) observed to compensate for the loss of source of livelihood tribals have been forced to explore alternative avenues of engagements. In Jharkhand tribals migrate to different parts of India supplying cheap labour for rich farmers in Punjab, road contractors in Himachel Pradesh and contract labour in mines and factories all over(Sengupta 1988).

The other rights enumerated included grazing and pasture, grass cutting, lopping boughs and gathering leaves, wood rights and hunting(Troup 1940). For instance, the forest and game laws affected the Chenchus of Hyderabad by making their hunting activities illegal and by questioning or even denying their existing monopoly over forest produce other than timber rapidly losing their autonomy, most of them were forced into a relation of serfdom with more powerful cultivating caste. Further south the Chenchus of Kurnool, almost in desperation turned to banditry frequently holding up pilgrims to the major Hindu temple of Srisailam(Haimendorf 1943; Aiyappan 1948).
Due to the restrictions on grazing some of the tribals groups who were involved in herding the cattle lost their subsistence. For instance the Suhala tribals of Nallamala forests who used to get herds of cows from the adjoining coastal districts for grazing in the winter season had slowly lost their occupation due to the dwindling grazing grounds (Atchi Reddy 1991).

These restrictions on hunting led to precipitous fall in the population of Birhor tribe in Chotanagpur from 2340 in 1911 to 1610 in 1921 (Roy 1925; Ehrenfeld 1952). Out migration of all tribals communities from the Chotanagpur alone was 330,000 in 1891, 707,000 in 1911 and 947,000 in 1921. Tribal went out to work in the tea gardens, on plantations, as industrial labour and labourers in the region's peripheral to their homelands (Singh, K.S 1976). And also the area under reserve forest was therefore progressively increased at the cost of the area of set aside to meet the needs of the village population. For instance, the area of minor forest meant to meet these purposes in Uttar Kannada district was from 780,288 hectares in 1880, 718,592 hectares in 1890, 256,000 hectares in 1900 to 35,325 hectares in 1910 (Mansur 1918 quoted in Gadgil 1989).

So the reservation of the forests resulted in considerable hardship to the indigenous communities as their sustenance from the forests was sharply reduced (Singh 1986; Anderson and Hubner 1988; Guha 1989; Nadkarni 1989). Nadkarni (1989) has estimated the forest dependency of poor peasants at 25 per cent of family income. He traced the local population's decline in the period of 1850 to 1900 to the abrogation of forest rights (Nadkarni 1989).

2.4. POST- COLONIAL FOREST POLICIES

2.4.1. Forest Policy of 1952:

Colonial forest policy was simply extended with renewed vigour by the State in Independent India. The need for the realisation of maximum annual revenue from forests' was considered a vital national need. The relevance of forests to meet the needs of defence, reconstruction schemes such as river valley projects, development of industries
and communications was asserted by the first national forest policy of Independent India in 1952 based on national interest.

The forest policy of 1952 which owes its origin to the 1894 policy is summed up as follows:

"Village communities in the neighbourhood of a forest will naturally make greater use of its products for the satisfaction of their domestic and agricultural needs, such use, however, should in no event be permitted at the cost of national interests. The accident of village situated close to a forest does not prejudice the right of the country as whole to receive the benefits of national asset. The scientific conservation of a forest inevitably involved the regulation of rights and the restriction of privilege of user depending upon the value and importance of the forest, however irksome such restraint may be to the neighbouring areas, while therefore, the needs of the local population must be met to a reasonable extent, national interests should not be sacrificed because they are not directly discernible, nor should the rights and interests of future generations be subordinated to the improvidence of present generations (Elwin 1962 quoted in Narasimha Reddy 1995).

In the 1894 policy, the villager's needs of cultivation of certain lands with some safeguards were recognised and also the needs of the villagers could be met from the neighbouring forests. Under the new policy, however, emphasis was laid on raising village forests exclusively for the purpose. The private forests of tribals that were not touched in the old policy were subjected to controls under the new one. Free grazing was recognised under the old policy but a fee was imposed on it in the new one. A concession is given relating to shifting cultivation, by the provision that should be curbed not by coercion as earlier but by persuasion.

Though the 1952 Forest Policy was formed within the framework of the policy of 1894, it went beyond the latter in infringing on the privileges of the tribals. First, the old policy envisaged the release of forestland for cultivation, subject to certain safeguards. The new policy withdrew this concession. Second, the old policy had left a margin for the supply of the villager's needs from the outlying areas of the reserved
forests, but the new policy decided that there should be village forests for this purpose. Third, the old policy didn't touch the private forests of the tribals while the new one applied some controls to them. Fourth, the old policy didn't touch free grazing in forests. The new policy sought to bring it under control. Fees were introduced and grazing was to be kept to the minimum.

As mentioned earlier, the new policy made one important concession regarding shifting cultivation. It admitted that while it was empathetically opposed to shifting cultivation, persuasive and not coercive measures should be used in a sort of missionary rather than in an authoritarian manner to wean the tribals away from their traditional methods of shifting cultivation.

Though the policy had its origin in the colonial policy, in effect it proved worse. It is well known that not more than ten per cent of the forest wood stock was used by the indigenous people and the village communities (Gadgil 1989). The new forest policy, in the name of protecting the national interests\textsuperscript{12}, the State promoted the interest of the forest 'contractor class' and in the name of 'individual interests' deprived access to the sources of livelihood of the poor communities. State intervention combined with the so-called scientific management and silvicultural practices ushered in monoculture, made the destruction of the forests and the environs complete. The provisions of the policy not only denied the communal property rights of the people but also aided and abated those classes whose interests were inimical to the sustainable development of forests and their environs. The forest policy of 1952 of free India was \textit{worse} than its colonial predecessor of 1894, particularly in its concern for the indigenous people (Narsimha Reddy 1995).

The President of India appointed the Scheduled Area and Scheduled Tribes Commission in 1960 under the chairmanship of U.N. Dhebar. The report of the

\textsuperscript{12} In actual practice the concept of national interest was interpreted \textbf{in} a very narrow sense. The destruction of forests for the construction of roads, buildings of \textit{irrigation} and hydro-electricity projects, ammunition factories and other projects were justified \textbf{in} the name of national interest where, as tribals living near forests were discouraged from using their forests. The Forest Policy of 1952 tightened the stranglehold of the state on the poor.
Commission analyses forest policy and its impact on tribal communities. The Commission underscored the importance of forests in the life of the tribal people in providing them with all kinds of food, wild game and fish, wood for construction of houses and even income from the sale of forest produce besides fuel. It criticised the gradual extension of Government authority over forests to the detriment of tribal life and economy. It noted the changes in the rights of the tribal communities over the forests. The traditional rights of the tribals were no longer recognised as rights. In 1894, they became 'rights' and 'privileges' and in 1952 they became 'rights' and 'concession', which remained there thereafter (GOI 1960).

The Commission recommended that the policy of 1952 should be reconsidered and that, subject to safeguards, tribals should be allowed to cultivate forest lands and that their needs should be met from out lying areas in the reserve forests and that their requirements for grazing and shifting cultivation should be conceded. They were also of the view that the Forest Department should be deemed to be a branch of the Government, with the responsibility of participating in the betterment of the tribals side by side with the development of the forests. They desired that a time schedule should be prepared by the Forest Departments in consultation with agriculture, industries and development departments in each region with the intention of providing work to tribals through out the year. The Commission also mentioned the reluctance of forest officials to allow the exercise of tribal rights over forestlands and produce even when there were no trees on such lands.

2.4.2. NCA Report on Forests:

Another important commission was the 'National Commission on Agriculture' of 1976, which advocated commercialisation of forests at all costs and with disregard to the sustenance of forest people derived from the forests. The Commission recommended the regularisation of forest dwellers' rights over forest produce. The report has a chapter on forests which states that "the production of industrial wood should be the raison d'être for the existence of forests. Actually it is in this value that many other values that have been claimed or caressed for forests so far can be absorbed' (NCA 1976).
The Commission recommended the strengthening of forestry legislation for effective implementation of forest policy and enactment for the revision of all Indian forest acts and drastic reduction in people's rights over forests. It was stated, "free supply of forest produce to the population and their rights and privileges have brought destruction to the forests and so it is necessary to sever the process. The rural people have not contributed much towards the maintenance or regeneration of the forests. Having over exploited the resources they can not in all fairness expect that some body else will take the trouble of providing them with forest produce free of change"(NCA 1976). And stated that the revised national forest policy of India should rest on two pivotal points. One is the requirements of goods i.e. industrial wood for forest-based industries, defence, communications and other public purposes and small timber fuel wood and fodder for the rural community. Second is to the satisfaction of present and future demands for protective and recreative functions of the forests.

The Committee recommended uniform forest laws so that incompatibility in forest laws among the states is removed and there is no multiplicity of legally sanctioned authorities concerned with forestry matters. It recognised the need of stringent, preventive and punitive provisions, so that resources are not wasted, when allocated for development in a certain direction and tackling specific problems in different parts of the country through subsidiary rules and regulations. It also recommended that functionally all forest lands should be classified into protected forests, productive forests and social forests.

In 1976 itself a major change took place in that the subject of forests was transferred from the state list to the concurrent list through the 42nd amendment of the Constitution. This resulted in the diminution of the State's powers and the enhancement of the centre's power over forests.

13 Protected forests include forests on hill slopes and other localities vulnerable to erosion and degradation. Productive forests are those which are essentially commercial forests comprising valuable or potentially valuable timber bearings strands indispensable for the development of the country and for meeting the diverse requirements of the national economy. Social forests on wastelands are for meeting the needs of the rural community.
2.4.3. Forest Draft Bill-1980:

Based on the recommendations of the NCA a draft forest bill was circulated in 1980. Provisions were made in the bill to reduce people's rights over forestlands and produce. The Government was empowered to declare any land what so ever to be forestland for the purpose of the Act. The Act prohibited the state governments from declaring any reserve forest or any portion as unreserved and also from allotting any forestland for any purpose without prior permission of the central government. And also made several provisions against the rights of the forest people. The bill attained criticism from the state governments as well as activist groups.

The Central Board of Forestry convened a meeting of forest ministers from all the states in 1982 to discuss the points of criticism raised against the bill. It was decided to withdraw the draft forest bill and to appoint a committee to reconsider the then forest policy. It was resolved that instead of being planned in isolation, the development of forests have to form an integral part of the comprehensive plans of Integrated Tribal Development. And recommended to constitute better organised labour co-operatives to undertake all forest operations by replacing intermediaries the Forest within a time bound programme of 2-3 years and recognised tribal's rights of collection of Minor Forest Produce and remunerative price should be ensured for its marketing. And also proposed that the forest villages were to be abolished and be converted into revenue villages and recommended to appoint a committee on forests and tribals.

2.4.4. Committee on Forests and Tribals:

With a view to achieve a co-ordinated policy, the Government of India constituted a Committee in 1982 to suggest guidelines for the re-orientation of forest policy under the chairmanship of Dr. B.K. Roy Burman. The Committee felt that a national forest policy, should recognise the positive role of the people in maintaining their forest and environment in unambiguous terms and not merely in its implication. It was convinced that community involvement was the only long-run solution to the question of afforestation, preservation, production and management of lands outside the reserve forest area, particularly in and around human settlements.
Committee made the following recommendations regarding forests and tribals:

A). Regarding afforestation as a concern, it was felt that little attention had so far been paid to grass-root planning in respect of technology to be adopted, areas to be covered, species to be included. Further it held that a time frame of long range and short range objectives should be made and fitted into the State's over-all context of afforestation programmes. In concrete terms the Committee recommended that the existing 10 per cent forest area of the country, measures for protection, conservation and regulated working should be stringent; restocking of the existing 13 per cent degraded forest area should be quickened; and afforestation of 10 per cent of the country's waste land scattered as well as in strips along side roads, railway lines, canals, river banks should be put under forestry with public participation.

B). Forest villages may be converted into normal revenue villages.

C). Regarding the forest based industries, Committee made the following recommendations:

i). As far as possible, a forest-based industry should be a joint venture of three-parties i.e., the concerned corporation, the entrepreneur and the tribal producer and collector of raw materials;

ii). Tribals should be encouraged in the context of comprehensive land use planning to grow in the marginal farm and waste land, raw material for the forest-based industry; and the industry should give an assurance to take over the raw materials grown by the tribals;

iii). Industry-linked plantations should not be located close to tribal habitations and the location should be determined by the local officers after discussions with the concerned local tribals;

iv). Support activities such as establishment of fuel-wood small timber and bamboo depots, grain-banks etc. should be undertaken to enable the provision of basic needs of tribals.
D). Plantation of MFP should be taken up on an individual or community basis in individual or communal land by associating tribals in management and protection under the technical guidance and supervision of the forest department. In Government land it could be taken upon the basis of right of usufruct in favour of tribals. The Committee urged exemption of MFP from royalty particularly in respect of the items, which fall in the co-operation sphere.

E). Administrative, legislative and scientific actions need to be taken by the Government of India and by the state governments to speedily establish the biosphere reserves.

Later, in 1985, the Department of Forest was transferred from the Ministry of Agriculture to the newly constituted Ministry of Environment and Forests. It was the Ministry of Environment and Forests that drafted the National Forests Policy Resolutions approved by Parliament in December 1988.

2.4.5. Forest Act-1988:

The Resolution stated the basic objectives of forest policy as follows: "the principal aim of forest policy must be to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all life forms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim".

The policy statement asserts that existing forests and forestlands should be fully protected and their productivity improved. Minor forest produce should be protected and improved, so as to continue to provide sustenance to the tribal population. The national good should be to have a minimum of one-third of the total area in the country under forest or tree cover. A massive need-based and time-bound programme of afforestation and tree planting should be undertaken. The other important features of the Act were:

i. The government has been encouraging Joint Forest Management, giving
usufruct rights\textsuperscript{14} to those who protect forests.

ii. The act was laid down that the state governments empower to permit the practice of shifting cultivation for a period not exceeding three years. By which time the practice of shifting cultivation is extinguished and alternatives to be imposed for rehabilitating the families that may have been practicing shifting cultivation are to be laid down.

iii. Special provisions have been made to prevent encroachments on lands in the reserve forests. The Forest Officers are empowered to confiscate the crops on the encroached lands.

iv. State governments are empowered to constitute village forests over any land (except land under reserve forests) over which it has proprietary rights. Any land at the disposal of the village community or to which the village community has access by way of any right, concession or privilege, with a view to conserve or develop such land for the collective benefit to the community.

v. The act empowered state government also to assign government land to individuals for the purpose of afforestation. However, the government can not assign any land from reserved and protected forests. The assignee shall be entitled to usufruct right from the plantation raised by him and also to the final harvest.

vi. Provisions are made to regulate trespassing of cattle in reserved, protected and village forests and penalties for such offences have been made very severe.

\textsuperscript{14}Usufruct mean; forest produce that may be obtained from dead plants, or the produce of harvest from living plants including grasses, seed, forbes, herbs, creepers, vines, shrubs and trees, without their uprooting, felling, coppicing, pollarding or destroying, or otherwise debarking or damaging in such a manner so as to hamper or impair their natural growth or to threaten their survival(section I(29)).
The Resolution has a special article on tribal people and forests. It is stated that having regard to the symbiotic relationship between the tribal people and forests, all agencies responsible for forest management should see that the tribal people are closely associated in the protection, regeneration and development of forests so as to provide them gainful employment (Hiremath et al. 1994).

One may find that a major difference in the post-1947 situation has been the rapid expansion of forest-based industry. The demands of the commercial industrial sector have replaced strategic imperial needs as the cornerstone of forest policy and management. The industrial orientation of the forest policy, since 1947, can be seen through the four distinct phases (Guha and Gadgil 1992).

At the first stage, foresters' relied exclusively on traditional 'sustained yield' selection methods to meet growing commercial demand. Under this regime a proportion of the more mature trees were selectively extracted at some fixed time interval, such as thirty years. A powerful incentive to industrial expansion was provided in the shape of handsome state subsidies in the supply of forest new materials.

The second phase was marked by clear felling of natural forests and replacing the natural strands by plantation of fast growing species like eucalyptus. The third phase comprised farm forestry on private lands of mostly absentee landlords as part of 'Social Forestry' schemes. The species most promoted was eucalyptus and the Forest Department supplied seedlings, technical help and soft loom, all under the so called "social forestry" which was anything but social. In the last import and captive exotic plantation under joint sector was promoted (Table 2.2).

2.5. CONCLUSION

The entry of the Colonial State into forests, catering to external markets has been an important factor in the development of State control over natural resources. Provisions for declaring forests as reserved by extinguishing the rights of the local people, were contained in the Forest Act of 1865 and modified and re-enacted in 1878 and then in
It was clear that, commercial interests were the primary consideration in declaring forests reserved. Since forest-based industries such as pulp, paper and plywood were established by the end 1952, that the demands of these industries for raw material became an important basis for the 1952 forest policy. This policy gave priority to defense, communication and vital industries in the name of national interest. Consequently, the requirements of forest-based industries, motivated by commercial profits and almost entirely in the private sector, received total priority (Kannan 1982).

**TABLE: 2.2. FOUR STAGES OF INDUSTRIAL ORIENTATION OF FORESTRY**

<table>
<thead>
<tr>
<th>Period</th>
<th>Method</th>
<th>Species</th>
<th>Agency</th>
<th>Prime Beneficiary</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Selection felling</td>
<td>Indigenous commercial</td>
<td>Forest Dept.</td>
<td>Industry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>species</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1960-75</td>
<td>Clear felling and mono-cultural plantations</td>
<td>Chiefly exotics</td>
<td>Forest Dept.</td>
<td>Industry</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>Farm forestry</td>
<td>Chiefly exotics</td>
<td>Commercial</td>
<td>Commercial</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>fanners</td>
<td>farmers &amp; Industry</td>
</tr>
<tr>
<td>1985</td>
<td>Import and captive plantations</td>
<td>Exotics</td>
<td>Joint Sector</td>
<td>Industry Importers</td>
</tr>
</tbody>
</table>


The Forest Bill of 1980, which was prepared based on the NCA recommendations, was a sequel to the ever-increasing impact of forest-based industries on forest management. There was increasing diversion of natural resource from the subsistence economy to market-oriented production in the name of development that alienated people whose subsistence was based on forests. This attitude reflects the tolerance shown to large-scale destruction of forest by clear felling of natural forests for settling up hydel and irrigation projects and thus opening up areas for encroachments by powerful vested interest. Illegal logging, clear felling of natural forests for raising mono specie plantations such as eucalyptus, teak, hardly suited for the tropical climate, were accommodated for supply of raw material for forest-based industries.
So it can be seen that between 1860 and 1947 forests were a strategic raw material crucial for imperial interests—such as railway expansion and the world war—and since independence the commercial-industrial sector has been the prime beneficiary of state forest management. While the ends may be different, the means to achieve these ends have been very similar in the two periods. This continuity between colonial and post-colonial forestry regimes is most clearly manifest in the system of ownership. The State has contrived to uphold its monopoly over forest ownership, which may have a drastic impact on forest people and their subsistence economy and forest-tribal relation.

With this background of the evolution of State property over forests resources in India, an attempt is made in the next chapter to review the experience of such change with specific reference to the Rampa country, the forest-tribal belt of East Godavari District in Andhra Pradesh.
### ANNEXURE I

**IMPORTANT FEATURES OF COLONIAL AND POST-COLONIAL FOREST POLICIES**

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Policy</th>
<th>Important Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Forest Policy 1865</td>
<td>• Empowered the state to declare any land covered with trees or brush-wood as state forest and to make rules regarding the management of the same by notification, provided that such notification should not abridge or affect any existing rights of individuals or community.</td>
</tr>
</tbody>
</table>
| 2.    | Forest Act 1874 | • Classified forests into reserved, protected and village forests.  
• The government was empowered to acquire land over which rights claimed by persons.  
• Local governments were given right to notify forest or land as protected forest and also to make rules to regulate and prohibit certain acts in protected forests.  
• Local governments were also given power to assign to any village community right to or over any land which was constituted as a reserve forest and all forests so assign were apply to village forest.  
• Activities like trespassing or pasturing of cattle were prohibited.  
• The authority to arrest was limited to offences- violating the prohibition or the quarrying the stone or the burning of lime or charcoal or the removal of any forest produce, in any protected forests and the breaking or clearing for cultivation, for building, for herding cattle or for any other purpose. |
| 3.    | Forest Policy Resolution 1894 | • Forests were divided into four classes: a). Forests- the preservation of which was essential on climatic or physical grounds, b). Forests- which afforded to supply of timber for commercial purposes, c). Minor forests, d). Pasture lands.  
• Policy envisaged the release of forestland for cultivation, subjected to certain safeguards.  
• The policy had left a margin of outlying areas of reserved forests for the supply of the villager's needs. |
| 4.    | Forest Act 1927 | • Consolidated the law relating to forests, the transit of forest produce and duty livable on timber and other products. And also given emphasis on the revenue yielding aspects of forests.  
• Forests were classified as reserved, protected and village forests.  
• Certain special provisions were made about the shifting cultivation. The Forest Settlement Officer was supposed to record the claims relating to the practice of shifting cultivation and to inform the state government together with his opinion as to the permissibility or otherwise of the practice. The state government was finally to decide on the issue of permission or prohibition.  
• The practice of shifting cultivation was in all cases deemed to be a privilege subject to control, restriction and abolition by the state government. |
| 5.    | Forest Policy 1952 | • Policy withdrew the concession of release of forestland for cultivation.  
• Decided that there should be village forests for the needs of the villagers as against the provision of allowing into the outlying areas of reserve forests given in Forest Policy Resolution 1894.  
• Applied some controls also on private lands.  
• **Imposed** fee on grazing. |
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<th>Forest Draft Bill 1980</th>
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| • The Bill was mainly on the recommendations of NCA and classified forests as reserved, protected and social forests.  
• Terms like forest and cattle were defined widely.  
• Forest Officers were given powers of arrest and seizure of property to deal with the offences suspected to be committed in respect of forests.  
• Strengthened the control of central government on forests by Prohibiting state governments from declaring any reserve forests or any portion thereof, as non-reserve without the prior approval of the central government from allotting any forestland or any portion thereof, for any non-forest purposes.  
• Derivation of economic benefit is subordinated to the aim that to ensure environmental stability and maintenance of ecological balance.  
• The government has been encouraged Joint Forest Management by giving usufruct rights to those who protect forests.  
• About the shifting cultivation- state government can permit the practice of shifting cultivation for a period of not exceeding three years, by which time the practice is to extinguished and alternatives to be improved for rehabilitating the families are to be laid down.  
• Special provisions were made to prevent encroachments on lands in reserved forests. The Forest Officers are empowered to confiscate the crops on the encroached lands.  
• State governments are empowered to constitute village forests over any land (except land under reserve forests) over which it has proprietary rights or any land at the disposal of the village community has access by way of any right, concession or privilege.  
• Village forests are to be managed through the village community and guidelines for such management have been laid down.  
• State governments are empowered to assign government lands to individuals for the purposes of afforestation. However, the government can not assign any land from reserved or protected forests.  
• Made provisions to regulate trespassing of cattle in reserved, protected and village forests, penalties for such offences have been made very severe.  
• Forest Officers or Police Officers or Revenue Officers can arrest the offenders and detain in custody. |