ON CRIMINALIZED LIVELIHOODS AND COMMUNITY FORESTRY: A CASE STUDY OF TRADITIONAL FOREST USE BY TRIBAL COMMUNITIES IN SOUTH GUJARAT, INDIA

by

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ABSTRACT

In India, the Indian Forest Acts of 1865 and 1878 transferred the ownership of all forest land and its resources to the colonial government. These were replaced by the Indian Forest Act of 1927, currently in force. Successive legislations continued to alienate resources from communities. This inadvertently criminalized the traditional forest-based livelihoods and cultural practices of local tribal communities.

Tribal communities continue to follow their local traditions, but lack the voice to protect their culture against non-local interventions. This denial of participation to tribal communities in managing forest resources has led to their alienation from the very resource they depend upon.

The Joint Forest Management (JFM) programme was promulgated in 1991 to increase local forest dwellers’ participation in forest management. The Forest Rights Act 2006 (FRA) attempted to address historical injustice meted to forest dependent communities. These policy level initiatives, de jure, could be viewed as an effort to partially restore the primacy of forests in the livelihoods of forest dwelling communities. However, JFM and the FRA continue to be subservient to the Indian Forest Act, 1927, and no substantial change is visible.

Using a case study approach and purposive sampling, four villages in Gujarat State were selected for the study. Data was collected in 1995-97 and 2011 on people’s livelihoods, cultural practices, forest access and restrictions, awareness and participation in governmental, and community forestry activities. These data were compared to ascertain changes and continuity.

Results showed that despite JFM, the basic governance of forest management remains unchanged. Forest related cultural practices and livelihoods of local tribal communities continue to be marginalized and criminalized.

The thesis argues that the restorative efforts of JFM and FRA fail to adequately uphold human rights of tribal communities. It further offers an analysis of the impact of such provisions on the well-being of the tribal community.

Based on a concept of criminalization and empirical findings, the aspect of illegitimate illegality (legitimate activities labelled as illegal) is teased out from corruption. Using elements of Aboriginal Forestry, the Classification of Decriminalization framework is developed to recognize and to respect tribal people’s cultural identities.
This dissertation is an original intellectual product of the author, Monika Singh.

All chapters were written by Monika Singh and edited with the help of Ms. Nandita Singh, Mumbai, India and Dr. John Innes, Professor at Faculty of Forestry, University of British Columbia, Vancouver. The interview schedules for carrying out fieldwork were primarily drafted by Monika Singh. In 1995, the interview schedule was prepared by Monika Singh with inputs from Dr. M. Z. Khan, Professor and Head, Department of Social Work, Jamia Millia University, New Delhi. The same interview schedule was used in 2011 with additional inputs from Dr. Innes, and Dr. Ronald Trosper, Professor at the Faculty of Forestry, University of British Columbia. Questions for group discussion and Forest Department interviews were drafted by Monika Singh. Fieldwork for chapters 3 and 4 were based on these tools.

Monika Singh identified the research problem and methodologies and developed the research design with the help of Dr. Innes, Dr. Trosper, and Dr. Hosny El-Lakany, Adjunct Professor at the Faculty of Forestry, University of British Columbia. Dr. Trosper and Dr. Gordon Christie, Associate Professor, Allard School of Law and Director, First Nation Legal studies, University of British Columbia and gave valuable direction during the course of selecting frameworks and helped improve the terminology used in Chapter 3. Monika established contacts for fieldwork, collected the data, conducted the analyses for the thesis and wrote the thesis. Photographs were taken by Monika and Mr. Ajith Chandran, PhD candidate, Faculty of Forestry, University of British Columbia.

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Abstracts based on chapter 3, 4 and 5 entitled ‘Forest legislation in contemporary forest management: A case of persisting alienation of tribal and indigenous communities’ and ‘Changing tree-worship patterns: Implications for forest management and tribal cultural identity in Gujarat, India’ have been accepted for presentation at the XIV World Forestry

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LIST OF ABBREVIATIONS

AKRSP: Aga Khan Rural Support Programme

BREB: Behavioural Research and Ethics Board

CAD: Canadian Dollar

CBNRM: Community Based Natural Resource Management

CIFOR: Centre for International Forestry Research

DRDA: District Rural Development Agencies.

FDA: Forest Development Agencies

FES: Foundation for Ecological Security

FLCS: Forest Labour Cooperative Societies

FRA: Forest Rights Act, 2006

GBM: General Body Meeting

GEER: Foundation Gujarat Ecological Education and Research Foundation

IAS: Indian Administrative Services

IFS: Indian Forest Services

IPS: Indian Police Services

JFM: Joint Forest Management

JFMC: Joint Forest Management Committees

MoEF: Ministry of Environment and Forests

NGOs: Non-Governmental Organizations

NTFP: Non-Timber Forest Products

NTGCF: National Tree Growers Cooperative Federation

NWDB: National Wasteland Development Board

PEN: Poverty Environment Network

PESA: Panchayats (Extension to Scheduled Areas) Act 1996

PRA: Participatory Rural Appraisal
PRI: Panchayati Raj Institutions

RFO: Range Forest Officers

VLO: Village Level Organisation

VVS: Van Vikas Samiti

Local words

Adhikar patra: Record of Rights.

Agyawan: Respected people in the community (elders or other important people)

Ayurveda: ancient medical practice

Bhagat: Medicine man

Bhajan mandali: religious groups

Daru: liquor

Gram sabhas: local self-government institution

Mahila Mandal: Women’s group (or cooperative group)

Melas: fairs

Ujjamani: traditional village meetings
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CHAPTER 1  

INTRODUCTION

‘आनोभद्राःक्रतवोयन्तुववश्वताः’
(Let noble thoughts come to us from every side)
-Rig Veda

Since the 16th century, forest management systems in India have led to a gradual alienation of tribal peoples and local communities (Agarwal, 2001; Singh, 1978; Trivedi, 1993). The ruling government in India has tried to expand control over forest resources through legislation while communities have insisted on their (traditional) rights to use the forests (Springate-Baginski et al., 2009). In 2006, an attempt was made in India to recognize the forest rights of tribal people and other traditional forest dwellers through the passing of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (commonly known as the Forest Rights Act 2006). However, this did not negate the existing Indian Forest Act, 1927 and the Forest Conservation Act, 1980 in which tribal rights were restricted.1 The process of involvement of people in forest management was set out in the National Forest Policy, 1988 (Government of India, 1998), but criminalization of communities using forest land in contravention of the law continued (Pillwax & Weber, 2004). The research presented in this thesis examines why the laws for management of natural resources, such as laws relating to forests and forest lands management, have led to an alienation and criminalization of tribal peoples.

1 The Forest Rights Act, 2006, s 13 states that the ‘provisions of the Act will be in addition to and not in derogation of the provisions of any other law for the time being in force’. In addition, there is no provision to drop criminal charges against forest dwellers accessing forest products (Asian Indigenous and Tribal Peoples Network (AITPN), 2006).
of India and the effects of laws on their traditional land-use rights over forest resources. The research is based on field work carried out between the period of 1995 and 2011 with tribal communities primarily in Gujarat, a Western province in India.

1.1 Tribal-forest dependence

The dependence of humans, whether urban, rural or tribal, on forests is well known. For the rural and tribal groups, the need for forest access is direct and immediate - often their survival depends on forest goods and services (Belcher & Kusters, 2004; Guha & Gadgil, 1992). Tribal peoples in India (and aboriginal peoples in different parts of the world) collect non-timber forest products and undertake forest-related livelihood activities that include socio-cultural and economic sustenance (Belcher & Kusters, 2004). There are many examples that demonstrate that tribal cultures had a symbiotic relationship with nature, including forests. There are numerous examples of sacred groves or patches of forests where local laws and traditions applied; for example, tree felling or even breaking of branches was forbidden (Chaudhuri, 2008). The existence of tribal communities and aboriginals in forest areas has even been mutually beneficial especially for forest management authorities for management (Nagendra et al, 2008; Persha et al., 2010; Wily & Mbaya, 2001; personal observation of Rajaji National Park Gujjar tribes, India, 1989). In subsistence economies, to a large extent, even modern agriculture is usually dependent on forests - directly and indirectly. Forests provide raw material for locally made agricultural implements, local housing, fodder for cattle, and also affect agriculture (Arnold, 1987). Forests regulate groundwater and help restore fertility in agroforestry systems (Sunderlin et al., 2005).
In terms of capital assets and potential expansion and development, forestry is a big 
‘public sector’ industry. It is largely labour intensive and could generate a self-
sustaining economic system, particularly for the rural poor (Belcher et al, 2003). In order 
to harness this potential, local people need to be involved as partners with the forest 
administration in reforestation and afforestation projects (Shiva et al., 1985). People will 
invest in managing forest resources if there are attractive markets and their forest 
tenures are secure (Belcher et al., 2003; Chhatre & Agrawal, 2009).

Forests are not only an economic resource but also a basis for cultural and religious 
activities. This was evident in the tribal forest use practices prior to the nationalization of 
forests in India (Chandrakanth & Romm, 1991; Roy Burman, 1986) . An examination of the 
history of most aboriginal peoples in north America, too, reveals relationships with their 
natural resources, and management systems that were interwoven in their way of life 
(Sliammon First Nation, 2005; Tsleil-Waututh Nation, 2009) .

It is also argued that, left to themselves, tribal and aboriginal communities would have 
managed forest resources and maintained the ecosystem judiciously (Schwartzman et al., 
2000; Turner, 2008). For more than 20 years, the need for community-based forest 
management in both developing and developed countries has been acknowledged 
globally, for conservation and as a means to reduce the effects of alienation (Baker & 
Kusel, 2013; Duinker et al., 1994; Krogman & Beckley, 2002; Poffenberger, 1990; Reed, 1999; 
1.2 Community involvement in forest management

Community participation in forest management has a plethora of forms (Forsyth et al., 2010), with global differences in practices of community-based forest management (Arnold, 1987; Berkes, 2004; Brendler & Carey, 1998). While there are innumerable examples of traditional management of forests by forest-dependent communities (Berkes, et al., 2000; Herrmann and Torri, 2009; Parrotta et al., 2009), there is also evidence of attempts by governments to involve communities in forest management formally, in a way that the local community works effectively with the government. In Asia, the practice of formal community-based forest management is now more than a decade old. Lessons have been documented and indicators of success examined (Arnold, 1987; Brown et al., 2005; Singh et al. 2011). It is pertinent to note that ‘success’ is dynamic and the examples listed in the studies may also undergo changes with time.

In India, community forestry was practised long before the formal version of ‘people’s participation’ was brought in, for example in the community forests of Orissa (Sundar et al., 1996). Different approaches to management, in the form of sacred groves and forests, are prevalent in most states in India (Sivaramakrishnan, 1995). The Indian government’s intention to involve people in forest management came formally through the Forest Policy of 1988 (Government of India, 1998). Prior to that, social forestry programmes were prevalent, involving trees on private and revenue lands, but not forest lands. The 1988 policy document encouraged the formal involvement of people in the management of forest lands. The next significant step in changing forest governance was the introduction of the Joint Forest Management (JFM) programme. This was formally launched in 1991, although it had been practiced informally for many years.
(Personal communication, R.S. Pathan, former Conservator of Forests, Surat district, Gujarat, India, who was practicing a version of JFM in South Gujarat prior to 1991). The aim of this was to develop the participation of local communities in forest management\(^2\). In exchange for forest protection, communities would get a share of timber from the forest and, in most cases, access to non-timber forest products. JFM arrangements referred only to sharing management of degraded forest land and excluded moderate and good\(^3\) forest areas. This was amended in 2000, when the Ministry of Forests extended the JFM programme to moderate and good forest areas (Government of India, 2000). There were (and still are) many uncertain areas in the programme regarding the decentralization and devolution of governance of forests and forest lands. Consistent with the principles of devolution and the development of access rights, and amidst much controversy, the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006* was introduced. The main aim of the Act is to recognize forest rights and occupation of forest lands by tribes and other forest-dependent communities. There are on-going discussions over the processes of implementation, including a long standing debate between the Forest Department and the Ministry of Tribal Affairs (MoTA). The MoTA has issued rules stating that FRA would take precedence over earlier legislation (as stated in the FRA rules 2012, (Vasundhara, 2012)), whereas the Forest Department insists on following the working plan of the state even though it contravenes the FRA, for example in the Banni grasslands, Gujarat and Gadchiroli district, Maharashtra (Dash & Kothari, 2010). It has taken six years for rules to

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\(^2\) Although in the JFM Government resolution, 1991, the stated aim of JFM people’s participation in forest management, actually, the communities were only involved for forest protection at the field level.

\(^3\) Good and moderate forested land has been defined in India by tree cover of canopy density of more than 70\%, and between 40\% and 70\% respectively (FSI 2009)
be formulated on the processes to be followed for implementing the FRA, yet the Forest Department continues to question these rules. The communities continue their struggle to maintain their traditional land-use practices including livelihood practices and culture that relates to forests.

1.3 Criminalization and protection of tribal traditional land use

Traditional forest use patterns of indigenous communities are often socially acceptable to local people, but are not necessarily accepted by law (Mearns, 1999). There are instances in different parts of the world where aboriginal traditional land use rights have been curtailed by imposed legislation. For example, in Canada, hunting rights of the Metis\(^4\) have been questioned despite the judgment in the Supreme Court of Canada of *R vs Powley*\(^5\) that granted them hunting rights. Despite this judgment, the Metis were charged for possessing game without a license (Bertrand et al., 2010). There are also other cases where the traditional land use has been upheld as legitimate and criminalization has been reversed, such as in the cases of *R v Sappier* and *R v Grey*\(^6\). In these cases the accused were charged with the offence of cutting crown timber - in the direction of criminalizing traditional land use. However, the Supreme Court of Canada found that they were pursuing traditional land use practices and acquitted them.

Traditional forest land use, based on traditional wisdom, has evolved through changing circumstances and changes on the land itself (Berkes, 1999).

\(^4\) Metis are people of First Nation and European ancestry. Metis were the children of First Nations women and European men. They are identified distinctly from First Nations people, Inuit and non-aboriginal people.


However, even when upheld by the law, traditional land use has suffered a narrow interpretation as in the cases of *R v Van der peet*\(^7\) and *R v Sappier and R v Grey*\(^8\). In these cases, the interpretation of traditional land use was frozen in time as the judgement did not allow for a growth and change in the culture. State authorities have often alienated people from those very forest lands that people often depend on. It is possible to reverse this process through community participation in the management of these natural resources (Lal, 1992; Poffenberger & McGean, 1996). However, there is a growing realization that such changes are possible only when backed by adequate legislation and tenure rules (Zhang & Pearse, 1997).

### 1.4 Changes in traditional land use and culture

Traditional practices and cultures evolve with the lives of people and according to the prevalent circumstances. Such changes may be forced by external pressures, or they may be the choice of the communities involved in forest management. With growing urbanization, education, access to different technologies, roads, means of communication and transportation, ways of living and belief systems undergo change.

For example, in 1995, I witnessed (and participated in) several ceremonies in tribal villages in the Surat district, Gujarat, India. However, during my later visits to the same villages in December 2009, I observed that one of the villages has stopped one of the ceremonies. This is because the land that was specifically reserved for the ceremony was given by the revenue department (Government of India) to a group of poor people in need of housing in 2009. Cement housing (uncommon in the area) has been constructed on the land and although officially the occupants are part of the village, in

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\(^7\) R. v. Van der Peet, [1996] 2 S.C.R. 507

reality they came from another area and have not been accepted as a part of the village. The ‘sacred’ patch of land is no longer available for the traditional community use. In another instance, in an interior village, almost 50 percent of the people do not participate in traditional ceremonies as they have converted to Christianity. In both the cases, outside influences were at play. In the first example, the people had no choice, whereas in the second example, the people seem to have chosen to abandon their traditions (though it is possible that they were pressured by missionaries to convert by the practice of offering to help people in times of need, but only if they converted to Christianity\textsuperscript{9}). This is evident in some poorer families that still maintain their own beliefs (interviews with household members in Kevdi village, Gujarat, India, 1996). However, these families do not participate in some of the traditional ceremonies, and instead visit the church (Personal observation in Kevdi village, 1996).

In other instances, roads have increased access to interior forests. In 2008, I met a group of men going deep into the forest to participate in their annual ceremonies. In 1995, they had used bullock-carts, taking three days or more, but in 2008, they were able to hire a truck as roads had been built. As a result, the men going for the ceremony reached the site in a few hours and spent just over 24 hours for the entire programme of travel and ceremony. This greatly reduced the time taken for the ceremony, with a parallel reduction in the time available for social interaction. There are two aspects to this. Firstly, it became easier for people to follow their traditions, with a change in the means of transport. Instead of having to devote three or four days to this activity, they

\textsuperscript{9} I observed that only the converted Christian families received help from the church for improvements in agriculture, for example leveling of the land. Benefits for convertees also included education and travel opportunities (these were not free and had to be paid for). In exchange the households were expected to donate to the church part of their yearly crops after harvesting (schoolteacher living in village Kevdi, 1996; Rama ben, village Kevdi, 2011).
could complete it in a single day. Conversely, this also shortened the length of time that the community members spent with each other. Social interaction in tribal communities is very important. Tribal communities live on the principles of bonding. This often forms the basis of the community and its identity. The reduction of time in village ceremonies has an unintended negative effect on tribal communities; it eventually leads to a loss of tribal identity through a loss of social bonding and the loss of quality community interactions. Less time spent in social interaction disturbs the fabric of social interaction based on mutual help and participation in each other’s activities. The culture and way of life of tribal people is intertwined (Cajete, 2000). Thus, along with developmental activities and exposure to urbanisation, there is a need to simultaneously protect the social fabric and preserve the culture of tribal communities by enabling consultation process with the communities on these aspects. Secondly, building roads also created more access to markets, education, health, and work prospects, offering different opportunities. Developmental activities carried out without giving a thought to the impact the activities would have on the social fabric of the community, risks stripping tribal communities of their identities, including changing traditions while preserving the distinct features of the communities (Trosper et al., 2012). Governments need to be cautious lest this leads to unintentional social engineering, which may take several decades to surface and impact the society.

1.5 Current research

My research looks at a part of the connection between the laws of the land associated with the management of forests and the cultural land use practices of local dwellers. The research examines the extent to which gaps in legislation and rules impinge on the
relationships that people have with the forest, and which criminalize them for following their traditional practices. My research examines the extent to which the community is required to modify and exercise restraint in practising their livelihood and cultural values so that their practices are within the established law, the extent to which these laws take into account local values and common knowledge, and how this knowledge is incorporated into forest management. Have the legislations or policies been neutral, blind, or even detrimental, to the cultural land use of tribal communities? Have the communities been able to protect their cultural land use with the help of forest legislation and policies?

Ellis defines livelihood as ‘the activities, the assets and the access the jointly determine the living gained by an individual or household’ (Ellis, 1999). Following Chambers and Conway (1992), ‘A livelihood is sustainable when it can cope with and recover from stresses and shocks, maintain or enhance its capabilities and assets, while not undermining the natural resource base.’ Livelihood needs include economic, social, cultural and spiritual needs of the community (Chambers & Conway, 1992; Guha, 2000; Johnston, 2009; Sunderlin et al., 2005). All of these are also components of human rights, which include the freedom of choice. The practice of these livelihoods is basic to the way of life of human beings. Among other things, the Millennium Ecosystem Assessment\(^{10}\) includes freedom of choice and action and secure access to natural and other resources as important constituents of human well-being. Cultural services form one of the four ecosystem services that benefit human beings (Millennium Ecosystem

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\(^{10}\) The Millennium Ecosystem Assessment was carried out by more than 1000 international experts at the behest of the United Nations Secretary General. Its main objective was to assess the consequences of ecosystem change for human well-being and the required conservation efforts and sustainable use of resources and ecosystems. (http://www.maweb.org/en/About.aspx#1---)
The concern of the Millennium Ecosystem Assessment 2005 was that gains in human well-being and economic development have come at a cost of degrading ecosystem services and exacerbating poverty for some groups of people. Degradation of the environment due to the livelihood practices of communities in the event of insecure tenure of forest lands has also been documented (Medrizzam et al., 2013). It has been shown that traditional practices for livelihood and culture of local forest-dependent communities contribute to a healthy forest ecosystem (Berkes & Davidson-Hunt, 2006; Lundberg, 2002; Turner, 2008). The Association of BC Forest Professionals (2011) also lays down resource ownership as an important principle for the protection and health of natural systems. This is further accepted by the UN Declaration of the Rights of Indigenous Peoples 2007, which gives importance to the protection and enhancement of Indigenous Peoples’ traditional land use.

I look at traditional land-use practices and distinguish these under two broad categories:

1) Economic - livelihood based

2) Cultural - Belief and value system based

Some of the cultural land-use practices were inevitably severed in the process of colonization and the freedom of the local population was curtailed (Khare et al., 2000). In some cases, such as in Latin America, Asia, North America and Australia, natives are still struggling with the impact of these processes (Heatherington, 2010). The significance of the above sections leads me to the following research questions and objectives.
1.5.1 **Objectives and research questions:**

In this section on research questions and objectives, I have used ‘people’ to mean tribal communities in India. My research focuses on findings based on field work carried out over a span of 15 years\(^{11}\) among tribal communities in South Gujarat. I focus on criminalization as it is a key to understanding how changes are forced on people, which traditional practices they are and are not ready (or able to) to give up, and their way of coping with criminalization.

1.5.2 **Research questions**

1. Was there criminalization of indigenous people due to forest laws that failed to consider local use and needs? What forestry legislation in India does not criminalise local communities for their cultural land use practices?

2. To what extent do the local forest-dependent communities have any legal rights to practice their cultural land use? To what extent do they have rights to prevent actions in the forest area that are counter to their cultural beliefs and values? How have these legal rights or their absence affected the people?

3. How has forest legislation, including policies and governmental practices, made any difference to the traditional land use practices of the people? Have these affected cultural practices? Are people now required to curtail the practices of their culture or practice these secretly?

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\(^{11}\) I conducted my fieldwork in 1995 for two years, then again in 2008, and in 2011 for a full year. In addition to these periods of fieldwork, other regular yearly visits and continuous communication with the communities was maintained. This is detailed in the methods chapter.
4. Does the legislation give more access to forest lands and resources to ‘outsiders’, for example to people not belonging to the local communities, to exploit forest resources?

1.5.3 Objectives

Objective 1: To understand how forest policies and practices affect people’s relationships with forests.

Objective 2: To examine changes in people’s cultural land use practices over time due to forest management policies and practices.

Objective 3: To develop a framework based on the fundamental elements of forest legislation in India that demonstrate that tribal people’s cultural identities are respected and are not criminalized.

The following hypotheses directed my research questions and objectives:

1.5.4 Hypotheses

- If laws for management of natural resources such as forests and forest lands are made without considering the cultural land use of natives, then criminalization of aboriginal peoples is inevitable.

- If laws do include cultural land use practices in current legislation and local policies but are designed poorly, then, they may also fall short of their objectives and fail to reverse criminalization.

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12 The objective 1 addresses the questions 1 and 2; objective 2 addresses questions 2, 3 and 4; and objective 3 addresses question 4 and attempts to develop a framework to address the issues that are established by the questions.
The basic assumption here is that local peoples’ lives and livelihoods have not been taken into consideration adequately when framing laws and policies for natural resources management. Such forest legislation can result in the criminalization of local people in some situations. Even if there have been attempts by the local people to make changes in their lives, the changes have not been long-lived or easy. Sometimes when local people have reverted to their traditional way of life and livelihoods, the local authorities have been required to ‘deal’ with the situation. They often do so themselves, compromising on laws, allowing local activities with or without a price to be borne by the locals. This only makes the local population socially vulnerable to the local authorities.

To give an example of this from my personal observation, the tribal communities in Surat district, (Gujarat, India) use firewood for cooking. They need timber to repair their houses, especially after the rains. Under the forest law, it is illegal to cut wood (it is permissible to gather fallen branches). However, families go into the forest and cut wood to fulfil their needs. The guards may look the other way in return for bribes. Sometimes the guards may apprehend them and confiscate their tools and the wood. Apart from the monetary penalty, it places a feeling of shame and wrong-doing on the part of the tribal people. So in addition to eking out their living, they also have to live in fear when trying to follow their way of life. This example is not unique to Gujarat nor isolated or unusual; I have observed this (and have been told this by other local communities) in other villages in other states as well. This is not a phenomenon unique to India. Rather it is visible in other countries where laws have been forced upon native populations during the process of colonization. For example, in Canada, a Law Commission report by the University of Alberta (2004) recounts many instances of
‘criminalization’ of First Nations in Alberta (Pillwax & Weber, 2004) for practicing their traditional activities such as hunting, fishing and others. The basic issue of proscription remains and needs to be examined in all cultures and countries where there are aboriginal and tribal peoples.

1.6 Overall background to the study country

India’s ecosystems includes alpine, humid subtropical, tropical wet and dry, wet semi-arid and arid climatic regions. Vegetation and forests differ in these regions, leading to different kinds of forest dependence. Approximately 100 million people live on forest fringes and almost three times more of these use forests as an important source of livelihood (Lynch & Talbott, 1995; Milne, 2006). Indian forests constitute almost 23 percent of India’s land area and forestry comes second in land use after agriculture. A high proportion of forest dwellers and those dependent on forests are tribal communities and they have very close economic and cultural links with the forests (Milne, 2006).

The National government of India owns most of the forest land in India. Only 8 percent of forest land is managed privately. The total forest cover in India is approximately 68.5 million hectares (World Bank Group, 2012). Pressure on India’s forests comes from various sources, such as agricultural conversions, grazing, forest fires, shifting cultivation and development projects (Bahuguna et al., 2004; Milne, 2006). 200,000 hectares were cleared for developmental projects between 2007 and 2011; and this kind of diversion of forest land seems to be increasing (IANS, 2014).

In India, forestry is both a state and a central (federal) subject. Broad policies and Acts are made at the central level. The states make their own regulations on how to
implement this national legislation. The state may also have their own government resolutions which are more localized and not necessarily followed by other states.

The National Forest Policy, 1988 for the first time talked about people’s involvement in the development and protection of forests. Prior to this, forest legislation was more concerned with the management of forests exclusively by the government. The Indian Forest Act, 1927 and the Forest Conservation Act, 1980 regulate how the forest is managed. The Forest Conservation Act, 1980 was stricter on the diversion of forest land for non-forestry purposes. Along with the Biological Diversity Act, 2002, the objectives of these acts were to protect and conserve forest and biological resources of India by keeping people out of the forests. It gave an impetus to the formation of national parks and sanctuaries dedicated towards wildlife conservation. Two other pieces of legislation that relate to forestry did not come through the Ministry of Environment and Forests. The 73rd amendment to the Indian Constitution in 1992 made it mandatory for all states to decentralize governance, with this occurring through the ‘Panchayati Raj’ institutions. Three functions related to forestry were mandated for decentralization by the ‘Panchayati Raj’ institutions. These three included social forestry, fuel wood (i.e. firewood) plantations and non-timber forest products. The most recent legislation, the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was passed by the Ministry of Tribal Affairs. This is also called the Forests Rights Act, 2006 (FRA) or the Tribal Act 2006. In this thesis, I will refer to it as the Forest Rights Act 2006 or FRA.

\[Panchayati Raj\] is a system of governance starting from the village level (which can include one or more villages), going up to the taluka, and the district level.
1.6.1 Brief history of Forest Management in India

Pre-historic manuscripts in India (namely Vedas, Upanishads and Puranas) discuss the concept of oneness with nature and human beings belonging to a category of animals (Ashraf, 2004). In the ancient times, forest management was described in detail in Kautilya’s Arthashastra\textsuperscript{14}, dating from 4th century BC. Different kinds of forests with different uses and management were described, including the use and conservation of forests (Gupta, 2004). Forests were given more importance than agriculture (Singh, 1998). Forests were worshiped and the forest goddess was given importance in rituals. Some of these practices are still visible. The scriptures of Ramayana and Mahabharata also give due importance to the role of forests in the lives of people (Rajagopalachari, 2005)\textsuperscript{15}. Innumerable tales of ‘Jataka\textsuperscript{16}, describe Buddhist stories interwoven with animals and forest-dependent communities (Cowell & Rouse, 1957). In all these, the profession of wood cutting was an acceptable occupation\textsuperscript{17}.

Kautilya’s Arthashastra gives very clear governance on forests during the Mauryan period (370-283 BC). In the following few paragraphs, I describe some of the forest-related content in the Arthashastra.

Forests were enjoyed as a retreat for the observance of chastity and for an aesthetic life. Forest products were sourced for collecting taxes and were seen as a revenue source for the kingdom. The tribes that lived in the forests were an important source of

\textsuperscript{14} The Arthashastra is an ancient Indian treatise on statecraft including economics and ethics. It was written in Sanskrit by Chanakya, more popularly known as Kautilya approximately in the 4\textsuperscript{th} Century BC. Kautilya was the guardian of the Emperor Chandragupta Maurya.

\textsuperscript{15} The Ramayana and the Mahabharata are ancient Indian epics.

\textsuperscript{16} Jatakas are ancient Buddhist folklore in six volumes, describing various incarnations of Buddha in animal and human form, translated between 1895 - 1907 by Cowell and Rouse.

\textsuperscript{17} Since the passing of the Indian Forest Act, 1927, the profession of wood cutter has no longer been legally permissible.
information for the King. Forest dwellers were also pressed into service as spies for the king.

Forests were used as a boundary, the term ‘Aranaya’, which means forest in Sanskrit, can be broken down into ‘Aa’ plus ‘ranya’ which meant the place of no war. There were different classifications of forest, such as ‘elephant forest’ that was specifically for keeping elephants, and there were forest reserves that were freed from snakes and crocodiles so that the king could move freely through them. There were specific forests for timber and elephants. The king was expected to not only maintain timber and elephant forests but was expected to set up new ones. Forests were also set aside for religious learning, performance of rituals and for education and learning. Specific forests were especially reserved for the purpose of hunting. Forest products were manufactured and processing systems was set up by the king. Store houses were built to keep forest products. The superintendent and guards of the elephant forests were expected to maintain the forests and were also expected to have in depth knowledge of the forest.

The three types of forests, namely ‘hunting forests’, ‘timber forests’ and ‘elephant forests’, each had a forest superintendent and forest guards. There was also a separate superintendent of forest products who would collect timber and other forest products and who made the rules dealing with fines and compensation from those who caused damage to these forests. The superintendent of forest products was responsible for the manufacture of all kind of articles from forest products.
It was permissible for people to cut branches and carry away fallen branches. Some animals were protected by the state, and killing them was punishable with a fine that depended on the specific animal, bird or fish. Special areas were allotted for grazing cattle herds. Pasture lands were designed to be in the valleys and in areas that were also useful for protecting the kingdom against invaders. The superintendent of pasture land was appointed to maintain the pastures and it was also his duty to protect timber and elephant forests, to protect cows, to conduct transactions with people among other things. The *Arthashastra* lists most of the species that were found and how to measure timber. The width of the roads leading to various places was specified. For example, the roads leading to gardens, groves and forests were twice the width of roads leading to elephant forests (Shamasasty, 1929).

During the Mughal period (1526 to 1857), there was some destruction of forests as it was considered everyone’s property[^18] (Ribbentrop, 1900). Some forests were converted into pastures for cattle farming and cultivation. Forests were also reserved for the Mughal emperors for hunting. Tribal communities living in and around forests continued to use forest products for their subsistence as well as for ritual and cultural purposes. Apart from hunting reserves for the rulers, there seemed to be no major restrictions to access forests (Ghosala, 1991). Rather than forestry, the Mughal rulers emphasized gardens and organized parks. Cultivation was given more importance as it was seen as a means of revenue collection. Agriculture could be taxed. Forest lands were also cleared and given as parcels or as gifts by the rulers.

[^18]: “No religious scruples prevented the Mussalman from destroying forests, which his ordinances and communistic percepts and declare to be a free gift of Nature, the property of everyone, in the same way as water.”
As in countries under the rule of colonial laws, the allocation of ownership and apportioning of natural resources associated with particular areas of land increased the complexity of the relationship that the state and tribal communities had with land, forests and other natural resources. Under the British rule, legislation developed for India, such as the *East India Company Act 1784*, the *Government of India Act 1833*, the *Government of India Act 1858*, and others transferred power from local people to the central government.

For forestry specifically, the *Indian Forest Act 1878* gave the jurisdiction and authority of managing forest lands to the British colonial government (Guha, 1983). This act was later amended in 1927 as the *Indian Forest Act, 1927* and is still in use today by the Government of India.

With the advent of British rule in India, the forest rights of the people were heavily constrained. Timber, such as teak, was much in demand for ship building and railways. There were also demands on the forest for military purposes and to supply the teak export trade (Guha, 1983). From the Memorandum for Forest Control in 1855, the Forest Acts of 1865 and 1878, to the *Indian Forest Act, 1927*, i.e., for half a century, local peoples’ rights were effectively eroded and those that were retained were termed ‘privileges’ (Mohapatra, 1997). Throughout the nineteenth century with the practice of colonial forestry, the tribal peoples of India were systematically denied their forest rights (Guha, 1983; Sarin, 2005; Tauli-Corpuz, 1992).

The local civil laws were adapted as per the perception of the British. For example all non-Muslims and non-Christians were governed by the Hindu laws (rather interpreted
as ‘Hindus’ as these came from the scriptures), all Muslims were governed by the Sharia (one sect in Muslim religion) laws, thus ignoring the other local legal systems that may have existed, such as the tribal systems (Cohn, 1996; Elizabeth, 2007). Such practices affected local communities’ cultural practices, especially in relation to natural resources.

The Indian Forest Service was constituted in 1966 under the *All India Services Act*, 1951, which brought forest management under the Federal government (IGNFA, n.d.)\(^{19}\). Prior to establishing the Ministry of Environment and Forests in 1985\(^{20}\), forestry was a part of the Ministry of Rural Development and Ministry of Agriculture. The main aim of the forest service was managing the forests for timber\(^{21}\).

### 1.7 Site selection

Gujarat State in India was purposively selected for the study. This was done on the basis of the implementation of a form of community-based forest management programme, the Joint Forest Management programme. Gujarat was one of the pioneering states for this programme. South Gujarat, where the field area is located, has villages where the Forest Department pioneered the programme. In addition, the Aga Khan Rural Support Program (AKRSP), a well-funded Non-Governmental

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\(^{19}\) http://www.ignfa.gov.in/IndianForestService/tabid/56/Default.aspx. See also http://ifs.nic.in/

\(^{20}\) The federal Department of Environment was created in 1980 which was later converted into the Ministry of Environment and Forests, in 1985.

\(^{21}\) According to the official website of IGNFA, ‘The main mandate of the service was scientific management of the forests to exploit it on a sustained basis for primarily timber products. It was during this time that large tracts of the forest were brought under state control through the process of reservation under the *Indian Forest Act*, 1927...The management of the forest went into the hands of the provincial government in 1935 and even today the Forest Departments are managing the forest of the country under the respective State governments. Since the subject of forestry was shifted to the concurrent list in the year 1977, the central government plays an important role, particularly at the policy level in the management of the forest. The main thrust of managing forests for production of timber products as in the British period continued even after the reconstitution of IFS in 1966.’

Organization (NGO), has been working in this area for a long time. The villages chosen cover examples where the JFM programme was implemented and considered reasonably successful, as well as those where no JFM programme has been implemented. The reason for taking an area with JFM is because one of the main driving forces of the JFM programme was people’s involvement and participation in forest management. The intent of JFM was to involve local forest-dependent communities to manage forests (getting resource users to manage the resource) and to thus give communities more access and control over forest lands and forest products. Under the JFM programme, the interaction with the Forest Department is greater and a forum where communities can voice their needs is present. This was envisioned to provide a platform where the local communities would be able to have a voice in decision-making, and thus have the choice to modify plans to enable any traditional land use that they would like to maintain (or even revive). The co-management structure of JFM was set up by the Government of India and has now spread to all the states in India. This enables for more generalizations to be made about India.

Gujarat is situated on the western coast of India between latitudes 20° 07’ to 24° 43’ N North and longitude 68° 10’ to 74° 29’ East (FSI, 2011a). Gujarat shares an international border with Pakistan in the Northwest and is bounded by the Arabian Sea on the western coast. It shares its borders with three other states – Rajasthan, Madhya Pradesh and Maharashtra. Its capital, Gandhinagar, is one of the few planned cities of India. Gujarat is naturally divided into three regions: Saurashtra (the peninsula) in the West, Kutch in the north east, which is mostly barren, and the Arawali hills towards the eastern side of Gujarat. All three have different kinds of vegetation and cultural
practices. My research site is located in the southern part of eastern tribal belt of Gujarat (Map-1). The area shaded in brown is the eastern tribal belt of Gujarat and the Black triangle signifies the study area. There are three basic climatic seasons - summer, winter and the monsoon season. The total population of Gujarat is almost 51 million (Registrar General, 2001). Of this, the rural population constitutes almost 63 percent. The classification of ‘Schedule Tribe’ constitutes almost 15 percent of the people, spread over eight districts in the state.

Figure 1.1 Map showing location of the study area

1.7.1 Brief History of the area

The recorded history of Gujarat dates back 3500 years. The ancient Harappa and Mohenjo-Daro civilization flourished in the state. Different parts of Gujarat have been ruled by various rulers including the Mughals, the Marathas, the Gaikwads and the British. Surat was described as a chief commercial city of India in 1514 by the
Portuguese traveller, Duarte Barbosa. The British East India Company started using Surat as a trade and transit point in 1608 and set up their first commercial outpost there in the sixteenth century. During the British era Gujarat was the part of the Bombay Presidency, being ruled from Bombay. It became a separate state in 1960, when the states were demarcated on the basis of language. Gujarat was the site of important revolts during India’s struggle for independence, including Satyagraha in Khera, Bardoli, Borsard and the salt Satyagraha. The Bardoli Satyagraha of 1928, against the increase in land revenue, was an historic event for Indian independence. The ‘Dandi’ coast is 25 miles south west of Surat. It was here that Gandhiji, after the famous ‘Dandi march’, broke the salt law. The political leanings of the elders in the villages where I carried out my field work stem from these movements and they still swear their allegiance to the ‘Gandhi family’.

In the early 1900s the tribal areas of south Gujarat witnessed the Devi movement. This movement involved most of the villages in the area chosen for my field work. The Devi transformed from a smallpox goddess to a social reform movement, discouraging the consumption of alcohol and meat (Hardiman, 1987).

Gujarat is one of India’s most industrialized states and controls some of the largest businesses. Major industrial products include fertilizers, petrochemicals, cement, petrol, textile, vegetable oils, chemicals, and soda ash, to name a few. Major agricultural products include food crops such as rice, wheat, sorghum, maize, bajra (a variety of coarse grain, tuver (a variety of lentil), groundnuts, dates, sugarcane, and non-food

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22 Talk with village elders, Gamtalav village. 2008. They incorrectly believe that the Congress party in India is headed by the decedents of Mahatma Gandhi, who ‘got India Independence’.
crops such as cotton and tobacco. Gujarat also has a history of successful animal
husbandry and dairy. It is the largest producer of milk in India and has Asia’s largest
dairy, the Amul milk cooperative federation.

Animal husbandry was not popular with tribal communities as a means of livelihood due
to the lack of infrastructure for milk marketing. However, it became viable when the
Amul federation set up the Sumul dairy in Surat. Sumul was able to reach interior
villages, making milk collection possible throughout the year. Sumul also provides
veterinary services and extension services, as well paying for milk. This has
encouraged tribal families in South Gujarat to get into animal husbandry and has
consequently enhanced their incomes.

In Gujarat, the forest lands are broadly owned by the Indian National government. The
State government is responsible for the management of the forest lands under the
direction of the National government.

Local people have little control or voice in forest management practices (unless the local
government officer consults and abides by the consultation). There are provisions for
the officers to consult and make changes accordingly\(^\text{23}\). However, these changes are
rare and disputes are common. The government officers are vested with power and are
able to use it either for the benefit of the locals\(^\text{24}\) or to their disadvantage\(^\text{25}\).

\(^{23}\) The officer will need to apply for a ‘deviation in the Working Plan’ for making any changes.
\(^{24}\) Conservator of Forests, Surat circle, Mr. R.S. Pathan, used his authority in 1988-89 to grant the villagers grass
and cutback (for firewood and small timber) available in the forests without charge in exchange of forest protection.
\(^{25}\) In 1991-92 the Forest Department (office of the Divisional Forest Officer) charged the villagers in Bharuch
district for ‘illegally’ planting trees in the forest land adjacent to their village, without permission. It took AKRSP,
the NGO working there, a year to get permission on behalf of the villagers for planting trees in the forest land.
During 1970s, the Forest Labour Cooperative Societies (FLCS) were formed in Gujarat and operated under the Forest Department to carry out labour, such as clear felling the forests (cutting trees) as per the working plan. The FLCS members were local village dwellers. They generally followed the felling plans laid out by the Forest Department. However they did not fell trees in their sacred forest patches, or those trees that they considered sacred or an abode of a deity. Planting and regeneration often did not happen as desired, and hence forest areas were denuded. As Jaggu dada of village Balethi often quoted\(^{26}\) “the once thick rich forest became like a bald men’s head”. However, the patches and trees that were left uncut are distinctly visible even today in the forest land of the area (personal observation; discussion with Magan Bhai, Gamtalav village, Kishore Bhai, Balethi Village 1996). The regeneration could not take place without social fencing; unless the local population helped in forest protection, it was not possible to revive the forests.

1.7.2 Forest cover and variables

The vegetation of Gujarat varies with the amount of rainfall. A large part of the state is desert, and it also has large areas of saline lands with salt-pans. Hills and mountain regions trap monsoon winds, encouraging the growth of forests. Broadly, the ecosystems range from desert, semi-arid, mangroves, coral reef coast, to the three main forest types – dry deciduous, moist deciduous and moist evergreen forests (Gujarat Ecology Commission, 1996).

Forest Information for Gujarat is given in table 1.1:

\(^{26}\) Jaggu dada was a village elder, village Balethi, and often told stories about changes in forests since "British times" when he used to fetch water for forest officers living in the guesthouse built in their village (Field work during 1995-96). He passed away in year 2001.
Table 1.1 Forest statistics at a glance for Gujarat

<table>
<thead>
<tr>
<th>Forest Cover</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Very Dense Forest (VDF)</td>
<td>114 km²</td>
</tr>
<tr>
<td>Moderate Dense Forest (MDF)</td>
<td>6,231 km²</td>
</tr>
<tr>
<td>Open Forest</td>
<td>8,601 km²</td>
</tr>
<tr>
<td>Total</td>
<td>14,946 km²</td>
</tr>
<tr>
<td>Of State’s Geographic Area</td>
<td>7.62%</td>
</tr>
<tr>
<td>Of Country’s Forest Cover</td>
<td>0.46%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recorded Forest Area:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserved Forest (RF)</td>
<td>14,155 km²</td>
</tr>
<tr>
<td>Protected Forest (PF)</td>
<td>395 km²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Forest Cover</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unclassed Forest (UF)</td>
<td>4,563 km²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree Cover</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Culturable Non-Forest Area (CNFA)</td>
<td>151,926 km²</td>
</tr>
<tr>
<td>No. of trees per ha of CNFA</td>
<td>14.1</td>
</tr>
<tr>
<td>Tree Cover</td>
<td>10,586 km²</td>
</tr>
<tr>
<td>Of State’s Geographic Area</td>
<td>5.40%</td>
</tr>
<tr>
<td>Of CNFA</td>
<td>6.97%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Forest &amp; Tree Cover</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Forest &amp; Tree Cover</td>
<td>25,532 km²</td>
</tr>
<tr>
<td>Of State’s Geographic Area</td>
<td>13.03%</td>
</tr>
<tr>
<td>Of Country’s Forest &amp; Tree Cover</td>
<td>3.28%</td>
</tr>
<tr>
<td>Per capita Forest &amp; Tree Cover</td>
<td>0.05 ha</td>
</tr>
</tbody>
</table>

(Source: (FSI, 2005))

South Gujarat, where the study is located, has moist deciduous forests, mostly comprising *Tectona grandis* (*Saag*), *Terminalia tomentosa* (*Sadar*), *Anogeissus latifolia*
(Dhave), Acacia catechu (Khair), Dendrocalamus strictus (Vans), Diospyros melanoxylon (Timru), Butea monosperma (Khakra) and many others. These are deciduous forests, shedding their leaves during March and April, and the under-wood and shrub cover is evergreen. The Forest Department followed a plantation pattern of ‘TKB’ i.e. teak, khair and bamboo (Tectona grandis, Acacia catechu, Dendrocalamus strictus) until recently.
There was a moratorium on clear-cutting in the 1980s, as prior to the 1980s there was massive degradation of forests due to clear-cutting and subsequent poor re-vegetation and regeneration (Poffenberger & Singh, 1992; Shiva & Bandyopadhyay, 1986; Shiva et al., 1985). The species that were left behind were either poor quality timber trees or
culturally significant trees that the local dwellers hired by the Forest Department did not cut. The poor re-growth of forests has resulted in large patches of barren land (with uncut trees left standing) in areas where plantations failed to survive and some *Eucalyptus* plantations that survived.27

The management is typical of colonial forestry, where the objective is to ensure the supply of raw materials. The system of clear-cuts and monoculture plantations gave a picture of forests as a resource for timber extraction and exploitation. Looking at local management plans – such as a working plan in Gujarat (Government of Gujarat, 1994), the main focus was forest exploitation and management by the state. The word ‘exploitation’, used in most of these forestry plans and documents, is suggestive of the outlook of the planners at that time. Since these documents have undergone few changes, the words have stuck and now the term ‘forest exploitation’ is regarded normal in India.

In Gujarat, decisions regarding the harvesting of timber lie with the Forest Department. There is hardly any community involvement, even in areas with Joint Forest Management.

1.7.3 Village context: a first-hand narrative

My field study centered on the villages of Jetpur, Kevdi, Gamtalav (Surat district, Mandvi Taluka) and Sakwa (Bharuch district, Valia Taluka) in Southern Gujarat, India.

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Jetpur and Kevdi are nestled deep in the interior forests of Southern Gujarat. They are approximately 17 km from the nearest town (Mandvi) and 87 km from the nearest big city (Surat).

A 5 km un-metalled road leads to Jetpur. Just before reaching the boundary of the Kevdi-Jetpur forests, one can see the first signs of a village ceremony - tiny earthen pots with red flags under a few trees²⁸ that are regarded as the abode of a forest deity. The location of the forest deity is not concealed. It is easy to miss the string of leaves²⁹ tied between the tops of two particular trees³⁰ marking the entrance to the village of Jetpur. The un-metalled road gives way to a mud path that transforms into a slippery stony slush during the monsoon season. Thatched mud and wooden houses are located on both sides of the path, along with small agricultural plots and forest land. Towards the end of the path, the village head man’s house stands conspicuously as the only concrete house in the village. The headman’s house doubles up as a milk collection centre for both Jetpur and Kevdi. The other concrete structure in the village, a primary school, happens to be located there, too. A total of 38 families reside here.

The same un-metalled path continues to the village of Kevdi, the entrance to which is marked by another string of leaves tied between the tops of two trees. Just before this entrance, the path forks into a metalled path leading to a Forest Department office-cum-residence to the left. The first two concrete structures visible in the village are a primary school (with a school teacher residence) and a church. The owner of the only shop in

²⁸ In this case, the tree species is *Tectona grandis*. The tree species may vary in other villages and locations.
²⁹ Most commonly the leaves used are of Mango (*Mangifera indica*) and Neem (*Azadirachta indica*) in my survey region.
³⁰ In my survey area, these were *Bombax ceiba* tree species.
the village lives in the only concrete house in the village. Some homes situated away from the main village path are connected by trails. A stream runs through the village. A concrete bridge (in need of repairs) has been built by the government. The path cuts through the village and leads to the Kevdi dam and dense forests. Beyond Kevdi, there are no other human settlements in these forests. The nearest primary health centre is located approximately 10 km away. Kevdi has 63 households.

In comparison to Jetpur and Kevdi, the village of Gamtalav is better connected by road. Located on a state highway between Mandvi and Netrang, it is only 10 km away from Mandvi and 80 km from Surat. Along this highway, one is able to see only the agricultural fields and forests of the village. The village itself is about half a kilometre away from the main highway and comprises 111 households. The highway also cuts through a portion of the village; a few fields, part of the village forest land and the secondary school are on one side of the highway, and the rest of the village is on the other side. A metalled road forks from the main highway, connecting to the village and then continues beyond the village to connect other villages. The metalled road separates the agricultural fields and settlement on the left-hand side and portion of the village forest and few agricultural fields on the right-hand side. As in the case of Jetpur and Kevdi (and other villages in the region), the entrance to Gamtalav is discernible by leaves strung between two trees. A concrete water trough for the village cattle has been constructed at the entrance of the village by the Forest Department. There is no ‘main path’ in the village. Mud and wood houses in the village are grouped in smaller hamlets, each having a mud path with houses on both sides. The village has two schools, a primary school that caters to the village and secondary school that also caters to
surrounding villages. Both school buildings are concrete structures. Forest lands are spread within the village as well as to one side. Deities revered by the community members are situated in the forest lands as well as at the base of some trees within the village. However, unlike in Jetpur and Kevdi, it is not easy for a person from outside the village to spot the deities or places of worship. I realised the reason for this during one of the ceremonies I attended. After the ceremony was over, the deities were covered with dried thorny branches and leaves to camouflage their location.

The village of Sakwa is situated at a distance of 10 km from Netrang, the nearest small town. The village is connected by a state highway for 8 km and then a stony road of 2 km. The stones are so uneven and jagged that through all my visits on a motorbike in 1995 – 97, I never got over the fear of skidding. The condition of the road had not changed in 2011. Fields on both sides of the road give way to thatched mud and wood housing on the left-hand side of the road. A small shop made of mud and thatching material was situated at the roadside. During the evenings it is common to come across huge milk cans on the side of the road waiting for the milk truck to pick them up. The community members sell milk to the co-operative milk dairy. Sakwa has 85 households most of which are scattered away from the road. As in Jetpur and Kevdi, it is typical to see a lone house surrounded by fields and forest. Patches of forest are interspersed with agricultural plots.

All four villages are inhabited by Chaudhri and Vasava, sub-tribes of the Bhil tribe. Most of the community members are categorised as ‘below poverty line’ in the government records. The landholdings are small and agriculture is dependent on the
vagaries of nature. Their stated\(^{31}\) yearly incomes ranged from CAD 100 to CAD 7500\(^{32}\). The main occupation of men and women is farming. The community men and women also work as agricultural labourers and as construction labourers, and often perforce migrate for labour work to cities. They prefer labour work close to their villages. Since they prefer not to migrate, governmental employment generation schemes such as road making, tree plantations, trench digging and other activities are important source of livelihood. People employed in such activities mostly depend on daily wages for their daily needs. They buy rations for cooking their meal with the money they get at the end of the day. Therefore it is important for daily wage earners to get paid at the end of each day. The concept and opportunity for having savings is relatively recent. During the last few years men and women have also begun working in textile factories near Surat. In 2011 there was a spurt of sugar/jaggery making units in the region\(^{33}\). Community members also work in these sugar/jaggery making units, but they are exploitative and an unstable source of income\(^{34}\).

Forests are an important, vibrant, living environment for the communities. The communities are linked with the forest for their livelihood and for spiritual needs. Their deities reside in the forests and/or at the base of certain tree species. So the forest takes on a higher role in their lives than simply a source of livelihood. They are linked as one community to the forests. Even if they follow different streams of religious thoughts (under Hinduism or nature worship), the deities in the forests are common for all village

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\(^{31}\) As per the incomes disclosed in the household survey, 2011.

\(^{32}\) As per conversion rate (of $1=Rs. 55.70) on August 29, 2014

\(^{33}\) Jaggery is traditional uncentrifuged sugar (It contains up to 50% sucrose, up to 20% invert sugars, and up to 20% moisture, plus other insoluble matter).

\(^{34}\) In 2011 I made a visit to a nearby jaggery unit with one woman and one man to demand payment of wages for 15 days of work they had individually done. As they had left the job the owner was refusing to pay their wages. He finally paid her in front of me and told the man to come again later to collect his dues.
members – the ceremonies are common to the entire village and there is no
discrimination or hierarchy for offering prayers to deities. Despite economic differences
between families, they all look up to, follow and have access to the same deities. The
only distinction happens if there is a change in religion, for example when some
individuals have converted to Christianity or Islam they do not pay their obeisance to
forest deities. However, they are allowed to contribute their offerings if they so wish.
This aspect differentiates these communities from other rural and urban communities
which operate on strict caste and class systems that sometimes deny access to places
and modes of worship.

The government schools in the villages were established in the late 1970s. So the
population that is literate is relatively young. The village elders missed the opportunity to
learn reading and writing. Now, with improved schooling opportunities and
transportation facilities the younger generation is mostly literate. The community
understands the importance of educating children, so even non-schooled parents send
their children to at least primary school.

All four villages are connected to the electricity grid. Electricity is provided for
agricultural purposes and a fixed amount is charged depending on the horsepower of
the electric motor used for irrigation. Most households in 2011 also had a
metered electricity connection, which was not the case in 1997. A number of
households in my survey villages (and other villages in the region that I visited) now
possess a television; earlier a radio was the major source of outside information and

35An electricity meter measures the consumption of electricity and electricity charges are calculated accordingly. In
rural and tribal areas (and slum pockets in urban areas), it is not difficult (although unsafe) to string a wire to a
transmission line and illegally access electricity without paying for it. A metered electricity connection is formal and
is not free.
news. People stay awake for a longer time (10:30 PM or even 11:00 PM) to watch popular television serials. Households that do not have a television sleep by 8:30 PM.

The town of Mandvi has undergone many changes in the last 15 years. The first Subscriber Trunk Dialing (STD) telephone shop was set up on Indian Independence Day in 1995. Prior to August 1995, I needed to travel at least 45 km to make a phone call outside Mandvi taluka. In 2011, there were more than five STD telephone shops. In 1995, there was one shop that sold newspapers (it only stocked two Gujarati dailies). It was unusual for people in the village to buy newspapers, so it catered to the town people (I did not notice any change in 2011). Mandvi has a vegetable market where farmers from the villages can sell their agricultural produce. There are three schools, two of which cater up to 12th standard. The town of Bardoli, 30 km from Mandvi, has higher education colleges. Students living in Gamtalav need to travel 40 km, and 47 km from Kevdi, to attend college in Bardoli. State bus services exist but are limited to 4 services a day. Mandvi, being the local headquarters, has a few important offices – a police station with a lock-up facility, the Tribal Development Office, the Forest Department Range Office, Gujarat State Forest Development Corporation office and godown, a timber depot, a Forest guesthouse (for Forest Department officers visiting Mandvi Ranges), a circuit house (for revenue Department officers visiting Mandvi taluka), and a government hostel for tribal children. There is one nationalised bank and one local bank in the town. There are a number of private money lenders (that offer

36 Visit to enumerator, village Gamtalav, 2011
37 Visit to households, village Makanjhar, 2011
38 Nearest town to villages of Mandvi Taluka
39 A warehouse
40 And their guests
41 And their guests
villagers easy, although exploitative and expensive, access to credit). There are no hotels in the town. One private guest house comprises four individual rooms with a common bathroom. Mandvi has a State Transport bus depot as it is considered an important junction that connects tribal areas to a big city, Surat (70 km away). There is one post office and no courier service in Mandvi; however there are people in Mandvi who are willing, for payment, to travel to Surat as a courier or to get a particular medicine that is not available in the town. There is one hospital and a number of private medical clinics in the town. People from the villages prefer to use the services of private medical clinics rather than the government hospital due to the quality of services provided. The weekly market day is on Thursday and on that day the main streets of Mandvi are full of colourful wares ranging from clips, cosmetics, toiletries, clothes, shoes to gas stoves and kitchen appliances. Most villages prefer to come on market day if they need to go to Mandvi. In 1995 there was no government LPG (Liquefied Petroleum Gas – i.e. cooking gas) shop. In 2011 the government LPG facility had been set up in Mandvi, catering to Mandvi town residents. There has been an increase in photocopy shops from one shop in 1995 to more than six in 2011.

The settlement in Mandvi is segregated into hamlets that were formed on the basis of the occupation and caste of the people living there. Caste, however, is no longer a sacrosanct criterion for living in a particular hamlet. Most houses are concrete structures, but some poorer houses are made of mud and wood with a thatched or tin roof. Mandvi received a facelift in 2010 when a new political leader rebuilt the roads in the town with a storm-water drainage system that prevents flooding in the monsoons.

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42 A government run LPG shop sells cooking gas cylinders at a lower price as it is subsidized by the Government of India.
(flooding during monsoons was an annual phenomenon). Illegal constructions (house extensions, shops) on the roads were demolished making the roads bigger and less prone to ‘traffic’ jams. A water filtration plant was also set up during this time and now cheap bottled drinking water is available to all residents of Mandvi (a 20 L bottle cost Rs.11\textsuperscript{43} in 2011). There has been an increase in the number of families that have family members settled abroad (mostly USA and Canada). And this has led to availability of ‘westernised’ clothes, food\textsuperscript{44} items and electronics that were not available in 1995. Mobile\textsuperscript{45} phones were unheard of in Mandvi in 1995. In 2011, there were more than three mobile phone shops catering to the town and nearby villages. There has also been an increase in the exposure to and usage of the Internet. It is not uncommon to see school and college children from villages visiting Internet cafes in Mandvi.

**Figure 1.3 Schematic diagram of distances between survey villages and relevant towns and cities**

\textsuperscript{43}Rs. 11 = 20 cents (as per conversion rate INR to CAD on August 28, 2014).

\textsuperscript{44}Another change that I personally experienced is the availability of non-local foodstuff – in 2011 I decided to buy a birthday cake and enquired in the best shop in town and was told that the shopkeeper had for the first time decided to get cake – and I was the first person to buy cake in Mandvi!

\textsuperscript{45}In India cell phones are called mobile phones.
1.8 Criminalization and protection of tribal traditional land use in India

Successive rulers led to successive rules and legislation that were conducive to the state in power. State control or regulation over forest resources has been prevalent since ancient times. These rules changed with each change in ruler. In India, we see forest jurisprudence make the traditional 'land-use practices' of forest-dependent communities tread a fine line of legality. Sometimes this line is not clearly defined, making interpretation more difficult for both the forest-dependent community and the law keepers. This situation is not unique to tribal communities in India. Examples of similar situations exist in other countries (Pillwax & Weber, 2004).

Laws and policies that criminalize the livelihood of forest-dependent communities, primarily affect the poorer sections of society. For example, communities dependent on forest resources, even if restricted from using forest resources, could not automatically give up using them without adequate alternatives, and continued despite legislation categorising the activities as illegal. Another standpoint is to see if the practices are deemed illegal in terms of the “national interest”, or if it is a symptom of state corruption. For example small patches of agriculture in forest land is termed encroachment and is therefore illegal under state law. However large corporations are able to clear forest for large-scale mining or other projects, despite this being against the law (Mahan Coal Ltd, while clearly flouting the FRA, was allowed to clear forest46 (Staff correspondent, 2013;...

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Sethi, 2013) for mining in one of the oldest deciduous forest areas in India, affecting 54 villages (Sanjai, 2014).

On the one hand the reason for the criminalization of tribal livelihoods is given as protection and conservation of the forest and the environment, so that the resource being used is under check and within reasonable limits. On the other hand the tribal communities do not have clear rights that would enable them to protect the forests and forest resources from outside destruction. There are numerous examples of protests to stop big projects that destroy large areas of forest lands, such as the Narmada dam in Madhya Pradesh, Maharashtra and Gujarat, the Mapithel Dam in Manipur, a major mining project in Odhisa, and the Mahan coal blocks in Madhya Pradesh. In the first three months of 2013, more than 1500 hectares were sanctioned for the diversion of forest land, with the rate of diversion increasing (Kumar, 2014).

As these projects are sanctioned, tribal culture and livelihoods are lost along with the forests. With loss of access to the resources and lands or resettlement of entire communities, the tribal communities are unable to carry out their traditional practices. In Canada for example, there are 27 Acts at the federal level that in some form or the other have a clause to protect aboriginal culture. In addition, there are more such Acts at different provincial levels. While searching for similar laws in the Indian context, it was

47 http://www livemint com/Industry/RN7ohjYPuEydgk98gAsC1K/Essar Energy gets mining clearance for Mahan coal block.html Last accessed February 19, 2014


49 http://www law ualberta ca/research/aboriginalcultural heritage/Canadian Legislation pdf Last accessed July 4th, 2014. For example Copyright Act 1985, Cultural property Export and Import Act 1985, First Nations Land Management Act 1999, Historical Sites and Monument Act 1985 and many more. There are also acts that are directly related to particular First Nation or territories.
difficult to find such laws that specifically target the cultural protection of tribal communities.

The fifth of the seven fundamental rights guaranteed by the Constitution of India states “Cultural and educational rights preserving right of any section of citizens to conserve their culture, language or script and right of minorities to establish and administer educational institution of their choice”. Despite this being enshrined in the Indian constitution it does not automatically translate into action. The closest I came to an Act that professes protection of tribal culture in India is the *Forest Rights Act* of 2006. The FRA is not explicit on how it would be done but it is a starting point in acknowledging the importance of tribal culture and traditional land-use practices.

### 1.9 Significant policies

The *Forest Act, 1927* was passed to enable the conservation of the forests of India. The *Forest Act* places restrictions on the use, access and control of forests in the country. The state governments are able to decide on the rights that are awarded to the forest-dependent communities. The Act clearly states that no new right will be granted, unless done so by the State, and all rights would be extinguished unless they were awarded at the time of passing the Act (1927). The Act forbids any activity by anyone without the permission of the Forest Department. The Act lays down rules on how to demarcate forest areas, conversion of wasteland and other village land to forest land, village forests, officers and their roles, power and authority.

The *Indian Forest Act, 1927* was passed prior to India’s Independence from the United Kingdom in 1947. The Act was cosmetically amended in 1951 i.e., the rules and
regulations laid down in the Act prior to 1947 remain unchanged and only certain terms were deleted or included, for example ‘provincial government’ was replaced by ‘State government’. The other Acts mentioned below were passed post-independence. However, all the post-1947 Acts maintained the sanctity of the *Forest Act*, 1927; consequently there were no major shifts in the processes that were set pre-1947.

The *Forest Conservation Act*, 1980 restricts the use of forest and de-reservation of forests and forest land for non-forestry purposes. This was amended in 1988, in which it was clarified that some livelihood rights (*nistar*) of forest dwellers as recognized in the working plan of the area, for example harvesting of fodder grasses, legumes etc., without removal of tree growth, were permissible. The rights, concessions and privileges of forest dwellers were allowed as long as there was no felling of trees or breaking up of the forest floor. No mechanization of forest products collection including transport was allowed. This concession on the removal of forest products is not applicable for national parks and sanctuaries. The stated encroachments prior to 1980 were regularized after verification and inspection, and encroachments that took place after 1980 were ordered to be evicted. The Forest Conservation rules, dating from 2000 and 2004, deal with detailed procedures for diversion of forest land for non-forestry purposes. This is more relevant for development projects such as mining, power projects and other developmental projects. The rules detail different procedures to be followed for areas less than 40 hectares and 100 hectares of forest land, in the years 2000 and 2004.

Compensatory afforestation is an important condition laid down by the rules for diversion of forest land. Different projects such as mining, transmission lines and
irrigation projects have different parameters for evaluation of forest loss and environmental degradation.

1.10 Joint Forest Management

Following on from the National Policy of 1988 that mentioned the involvement of people in forest management, the Government of India came out with a Government Resolution (GR) on Joint Forest Management (JFM) in 1990. The JFM Government Resolution was the guideline for the states to involve people in managing degraded forest areas by sharing benefits from the forest lands. Gujarat, West Bengal and Haryana were the three pioneer states that adopted the Joint Forest Management programme. The Gujarat government issued the JFM government resolution in 1991 for Joint Forest Management to be implemented in Gujarat state. This was the first policy move to involve communities officially in forest management. Apart from non-timber forest products, a share of the timber was also promised to the communities. The Deputy Conservator of Forest or the Divisional Forest Officer (DFO) was the signing authority for the Memorandum of Understanding between the village and the Forest Department. The DFO has the final authority to make a judgment on the performance of the village participation in protecting and regenerating forest. Every MOU (Adhikar Patra) clearly states that the DFO may at any time withdraw the programme if the performance is found unsatisfactory by the department. This decision can be appealed to the Conservator of Forest, where the conservator would be the final decision maker.

The Forest Right Act 2006 was passed to recognize and vest the forest rights and occupation of forest land in forest-dwelling schedule tribes and other traditional forest dwellers (GOI, 2014; Ministry of Law and Justice, GOI, 2006; MoTA, 2012). The aim was to
undo the historical injustice towards these communities whose forest rights had not been recorded and recognized. It states that the rights on the ancestral land of these forest dwellers were not adequately recognized during the time of consolidation of state forests during the colonial period as well as independent India. The Act recognizes that forest-dwelling tribes would strengthen the conservation regime of forests while ensuring their own livelihood and food security. The Act acknowledges that the long-term insecurity of tenure and access rights of forest-dependent communities needs to be addressed. It describes and recognizes various rights, stating that these shall be free from all encumbrances and procedural requirements, and lays down the authority and basic procedure for vesting these rights. It mentions offences and penalties and has a miscellaneous section that lists various provisions, such as that the Act shall not be in derogation of any other Act, that there would be no legal proceedings against any authority mentioned in the Act for anything that is done in good faith, and it also states that the central government would need to make rules for carrying out the provisions of this Act\(^5\).

The Forest Rights Act Rules are specifically for procedural details concerning the implementation of the procedures specified in this Act, for receiving claims, verification, regarding the level of officers to be appointed in the various committees and any other matter that the government deems fit. The FRA by itself was the first step towards the recognition of the rights of forest and other local dwellers dependent on forests. Without the FRA Rules not much could be achieved as these rules specified implementation processes and steps that were missing in the Forest Rights Act. The first set of rules

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\(^5\) Forest Rights Act 2006, s 13, 14
came out a year later, in 2007, and then in 2013 further, more explicit, rules followed, dealing especially with the procedures to be followed.

To make policies that are sensitive to people’s needs, it is important to understand the relationship between people and forests. A forest policy gives a definite course or method of action and ways to achieve goals and objectives (Ministry of Forests and Range, 2008). Law, on the other hand, is a rule of conduct or procedure established by custom, agreement, or authority and is a piece of enacted legislation (Hart, 2012). Not following the policy need not be an issue in court, while disobeying a law can bring about punitive action against the violator. Forest management is described as the practice of forestry for different purposes including business (Recknagel & Bentley, 1919) using a forest management plan (Ministry of Forests and Range, 2008). Policy and law direct the management of forests. Therefore, a space in the policies is required to bring about changes and modifications in forms of management.

1.11 JFM and criminalization

Creating a space for communities to be involved in designing forest management along with the forest department would help in facilitating to bring in aspects that are important to the community for their livelihood and lifestyle. It seemed that Joint Forest Management (JFM) created that space. Not only was the community involved in protection of forests but it was also a part of making the micro plan that would be implemented for forest management51. However it did not work ideally in practice. Issues ranged from the boundary of the forest requiring protection, inter-village

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51 Forest Department seeks community participation in ‘afforesting and regenerating the degraded forests through micro-plans preparation’ ((Murali et al., 2002). It is explained in more details in section 3.3.4.
disputes, and the working plan preceding the micro plan unless the Forest Department sanctioned it (i.e., there was no objective system or method to determine if the working plan or micro plan would be implemented). In addition, even the micro-plans were made under the framework of the Forest Department, with the role of the community being reduced to answering questions put forth by the Forest Department (personal observation Balethi village micro plan 1996). There was no change in the world view. The secretary of the JFM committee (JFMC) is a Forest Department employee, often the Forester. So any decision made by the JFMC is already influenced by the presence of the Forest Department. Often, villagers also look up to the Forest Department for decisions, as it is seen to hold power. After the *Panchayats (Extension to Scheduled Areas) Act* 1996 and the Government Order for funds to be directed through the *Panchayat* \(^{52}\) and *Sarpanch* \(^{53}\), power in the villages was often polarized into two camps (the *Sarpanch* and the JFMC). An example can be seen in Gamtalav village where there was a split in the leadership based on forest and village development related funds. This led to skirmishes within the village as to who should control forest resources, the JFMC or the Village *Panchayat*.

In the case of villages in North Bengal, namely the North Khairbari forest villages, the forest department was supported by the JFMC against the *Gram Sabhas* \(^{54}\) for clear-felling the forest. The *Gram Sabha* members fought with their own JFMC to protect and save the forest from being felled \(^{55}\). Felling would provide revenue to the Forest Department and the JFMC members would get a share from the harvest. The premise

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52 Local self-governing institution at village or town level.
53 The political head of a village or group of village, depending on the Panchayat size.
54 The village body comprising every member of the village
of JFM benefit sharing is that at the time of harvest they get a share of the timber. The JFM “success” is seen as per the Forest Department, often protecting the forests from being used by their own village members. JFM thus aided the Forest Department in managing the forests in the manner the Forest Department deems fit. The possible reduction in criminalization is due to better policing and not due to change in forest management decisions by the community\(^\text{56}\).

The Forest Department and conservation NGO’s opposed the FRA bill and passing of the Act, as they felt it would encourage the conversion of forests to agriculture\(^\text{57}\). The basic difference between the FRA and JFM is that while the JFM operates under the Forest Department the FRA vests a certain amount of power with the village *Gram Sabhas*. The Vedanta - Niyamgiri case\(^\text{58}\) is a clear example where the mining project (for bauxite) obtained all the forest clearances from the Forest Department. The *Gram Sabhas* protested against the destruction that the project would bring and halted the project to protect their sacred hill. A JFMC would not have had the power to make this decision, against the Forest Department decision. I do not delve deeply into the FRA as little has changed as a result of the FRA in my field area. Since the Surat district has been a stronghold of JFM, I examine how Forest Department policies affect lives and livelihoods of tribal communities, as most of these communities are forest-dependent.

The communities also have respect for the Forest Department and feel it is important to

\(^{56}\) Women in Bharada village, Bharuch district, complained how they had difficulty because the men decided to close the forest and did not allow them to collect fire wood. So, they had to go to other village forests for fire wood collection. Fieldwork 1996

\(^{57}\) *Bombay Natural History Society and Ors Vs Union of India and Ors*, Writ petition 50/2008

\(^{58}\) *Orissa Mining Corporation. Vs. MoEF and Ors* Indian Supreme Court judgement dated 18/04/2013 in W.P. © No. 180/2011
have the Forest Department to conserve forests. It is important to work with the Forest Department to reverse the process of criminalization.

The focus of the thesis is then to look at the control of forest management practices by the communities; especially whether they are losing or gaining control over traditional land use practices related to forests. I examine these through the lens of criminalization/decriminalization. I find criminalization to be a fundamental problem obstructing the non-discriminatory and respectful existence of forest dependent communities. I examine criminalization of cultural and traditional practices in two sections:


2. Culture-based livelihood – relating to beliefs and values including ceremonies (Chapter 4): deals with failure of the State to recognize local tribal traditional and cultural practices.

I discuss my findings about the criminalization of tribal communities due to traditional land-use practices of forests and forest use in chapter 3 (objective 1). Apart from policy I find the community relationship with the Forest Department and forest personnel attitudes are important elements in criminalization/non-criminalization of tribal livelihood. JFM does not give adequate control to the communities, required to decriminalize their traditional land use practices. I find that despite having a mandate for greater participation in forest management, it is permissible for state authorities to take decisions arbitrarily and unilaterally. In chapter 4, I examine the changes that have occurred in a 15 year period in traditional land use practices relating to forests in the

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59 Discussion with Kishore Bhai, Balethi village, 2011
same villages (objective 2). The field work undertaken in two different time periods (1995-96 and 2011) is compared. I find that there is a need to have legislation to protect tribal culture as part of their traditional land use. My premise is that there is danger of cultural erosion due to outside forces and interventions. Not all changes are welcomed in the villages by the inhabitants and losses have occurred due to powerlessness of the local communities, not by choice. In chapter 5, I develop a classification of decriminalization of local forest dwellers’ livelihoods based on Wyatt’s Aboriginal Forestry framework (objective 3).
CHAPTER 2  METHODOLOGY

"- Your analysis of right and wrong should be unbiased and not specific to a particular set of people
- You should organize together to help everyone enhance their health, knowledge and prosperity
- Your minds should be devoid of hatred and you should see progress and happiness of all as one’s own progress and happiness and you should only act for enhancement of happiness of all based on truth
- Work together to eradicate falsehood and discover truth
- Never ever deviate from the path of truth and unity"

Rigveda 10.161.3

2.1  Introduction

In 1995, a research project “Joint Forest Management agreements” was launched in four states of India. As a research assistant working on this project in the state of Gujarat, I acquired first-hand experience of the implementation of the Joint Forest Management programme with tribal communities. Re-visiting these areas a few years later I realized that there were glaring anomalies between the objectives of the programme as I had known it, its implementation and the consequences. Thus began my journey to uncover the patterns of criminalization of traditional forest use practices and its effect on people’s livelihoods and culture. My motivation towards this endeavor was to verify the existence, if at all, of criminalization of traditional forest use for the local communities’ basic livelihood needs (economic, social and cultural needs). Many
research questions came up during my experiences at work with tribal communities in Gujarat.

This chapter outlines the process I followed during this research. But first, some information on my own background is essential.

2.2 Background information

In 1991, having completed my Masters in social work, I joined an NGO, Vikram Sarabhai Centre for Development Interaction (VIKSAT), based in Ahmedabad, Gujarat, India. At that time, VIKSAT was working on Joint Forest Management (JFM) in the tribal areas of northern Gujarat. The JFM programme had been officially launched in 1991, in Gujarat. During my work, I was exposed to the initial challenges in the programme, as well as the introduction of the concept of participatory management by the Forest Department. Three NGOs had begun work on JFM in Gujarat in 1991: VIKSAT, the Aga Khan Rural Support Program (AKRSP) and N. M. Sadguru Water and Development Foundation (commonly known as Sadguru), each working in different parts of Gujarat. During the course of my work, I was able to visit activities undertaken by all these NGOs as well as the areas in which the Forest Department had initiated the programme. I was also able to visit\(^6\) a few self-initiated groups of villages that had joined the programme. Later, in 1995, I joined a research project entitled “Joint Forest Management agreements in India” undertaken by the University of Edinburgh, United Kingdom. This study was conducted in four states, Gujarat, Madhya Pradesh, Andhra Pradesh and Orissa (now known as Odhisa). I had another opportunity to visit the region as I, along

\(^6\) I visited the field area where an NGO named Sarthi (Social Action for Rural & Tribal In-Habitants of India) was working with self-initiated forest management groups. This was in Panchmahals, the Eastern regions of Gujarat.
with a team mate, was assigned to undertake research in Gujarat. We lived in the village of Rupan, Mandvi, Gujarat during this research, which lasted from 1995 to 1997. This gave me first-hand experience of living in a village in the region. The entire team (of eight research assistants, the research coordinator, and four faculty members from the University of Edinburgh) was able to visit most of the research sites in the different states i.e. Gujarat, Madhya Pradesh, Andhra Pradesh and Orissa. I was able to visit all four sites, which allowed me to develop insights into different aspects of the JFM programme implemented in different states with tribal communities, barring one. It was apparent that each state varied in the way it was implementing JFM. The JFM programme implementation depended on local differences among the tribal communities and on the different forms of participation practices of the Forest Department personnel (Sundar et al, 2001).

During the years that I spent working on and interacting with communities and practitioners in the JFM programme, I observed that some of the basic aspects of livelihoods, especially those relating to traditional forest use practices, remained un-addressed. For example while protecting forests, the affected households and individuals were not necessarily consulted for solutions and alternatives to collecting firewood, grazing and other forest-related activities. The JFM process at the village level followed a similar pattern in Surat district, South Gujarat. In the event that no NGO was

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61 I also lived in Kevdi and Sakwa as these villages were far and it was difficult to commute on a daily basis, during part of my field work.
62 In Madhya Pradesh, the research field site also included non-tribal areas that were implementing JFM. But in the other states, all areas of JFM program included tribal communities.
63 I participated in all annual JFM workshops from 1992 to 1997. These were attended by NGOs and Forest Department personnel (sometimes academicians) from different states. Case studies, challenges, solutions and other experiences on the JFM program were shared and discussed in these forums. Most times the funding for these annual JFM workshops came from Ford Foundation that worked very keenly on JFM in India.
involved, the Forester would approach the village with a proposal to form a JFM Samiti\(^64\). After vetting it with the village leaders, a village meeting would be held. In the meeting the Forester (and sometimes the Range Forest Officer (RFO) if he decided to attend) would describe the JFM programme\(^65\). This would be followed by the creation of a JFM committee of which the Forester would be the secretary. Subsequent meetings would be held to decide on the mode of forest protection and entry point activity\(^66\) by the Forest Department. All these decisions were made orally. The written agreement, if there even was one, could take several years\(^67\). Following the meeting that decided the forest protection process, the villagers would start protecting the forests. Except where an NGO was involved, the meetings were only attended by men. The decision on forest protection would normally be to stop grazing cattle and cutting wood. Protection of the forest could be done either by patrolling the forest area in a group of 2 – 3 individuals by turns or a watchman would be employed and would be paid a salary by an agreed contribution from each household in the village. There was no monetary contribution by the Forest Department. The village patrols/watchmen were not recruited or paid by the Forest Department; it was voluntary (in the case of village patrols) or based on a contribution paid by the entire village (if a watchman was hired). The powers of the Forest Department to apprehend and fine forest offenders were informally\(^68\) transferred

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\(^{64}\) A village group

\(^{65}\) Basically this comprised of information about importance of forests, responsibility of Forest protection, and benefits that the village would get by participating in the program (normally including fodder, firewood and 50% sharing of harvested timber).

\(^{66}\) Under the JFM programme, the Forest Department has a budget sanctioned for development projects in the initial phase of JFM. It is called the entry point activity. The entry point activity need not be directly related to forests, but should be useful to the village development.

\(^{67}\) In villages Kevedi and Makanjhar, the written agreement was given to the village three years after the village had agreed and started forest protection.

\(^{68}\) There was no actual transfer of powers from the Forest Department to the village. If the offenders were not from the village, only the Forest Department could take the decision to fine or apprehend the offender.
to the village patrol. As the agreement had been reached in a village meeting, members of the village community adhered to it. Thus the same process of restricting forest use by community members continued under the JFM programme. But this time instead of the Forest Department personnel, it was the villagers themselves who were preventing individuals from collecting forest products and imposing fines. This led to an increase in inter-village and intra-village disputes based on forest protection\textsuperscript{69}. There was no substantial change in either rules or regulations, or in traditional forest use practices as a result of the JFM programme. The responsibilities were merely distributed by the Forest Department to community members participating in the JFM programme without transfer of political power, even to the extent of successfully implementing the responsibilities.

My research questions and objectives are largely based on my experiences, observations, and interactions with practitioners (NGOs and Forest Department personnel) and communities. Thus, my research largely has an inductive approach. Further, since an in-depth study of the circumstances was required, I followed the appropriate ethnographic case study approach (Berg, 2004) to help answer my research questions, while focusing on contemporary situations (Yin, 2013), with the flexibility of using mixed-methods (Creswell, 2009; Poteete et al. 2010). Apart from observations and interactions with community members, NGO and Forest Department officials, I supplemented my data with village surveys.

\textsuperscript{69} A number of villages where AKRSP was working: Barada, Tabada, Soliya, Pingot, and many more, to name a few villages. 1995 observations.
2.3 Site selection

Given my work experience and background, it was natural for me to locate my study in the state of Gujarat, India, and revisit the same villages. As mentioned earlier, the site selection in India was done on the basis\(^{70}\) of the implementation of the Joint Forest Management (JFM) programme. Gujarat had been one of the pioneering states for this community-based forest management programme (Raju, 1992). South Gujarat, where the field area is located, has villages where the Forest Department pioneered the programme. In addition, the Aga Khan Rural Support Program (AKRSP) had been working in Gujarat since 1985. The villages chosen cover examples of successful implementation of the JFM programme as well as areas where there was no JFM programme implemented. This approach is close to what Yin (2011) describes as ‘Rival explanations’ for strengthening the validity of a study. Another reason for choosing an area with JFM was because one of the main driving forces of the programme was people’s involvement and participation in forest management. JFM is meant to involve communities in forest management. This co-management structure was established by the Government of India and has now spread to most states in India (Singh et al., 2011).

2.3.1 Selecting the forest range

Primary data collection was limited to Surat circle\(^{71}\) - based at Mandvi South Range\(^{72}\) in Surat district and Netrang Range in Bharuch district. This was completed over two time...
periods, in 1995-97 and in 2011 (described in this chapter). I also made several visits in the intervening 15 years and kept in touch with the communities, as well as apprising myself of changes and developments in the communities. These visits included keeping in touch with the Forest Department and a Non-Governmental Organization (NGO) working in the area, namely the Aga Khan Rural Support Program (AKRSP).

2.3.2 Village selection

In the late 1980s, the Conservator of Forests initiated sharing and working together with the communities within the Surat circle. The communities were promised grass for their cattle from the forest lands (instead of the grass being auctioned off by the Forest Department) in exchange for protection of the forest area. Following a period of turmoil and violent fighting between the communities and Forest Department over forest resources issues, this initiative by the Conservator of Forests marked a major change. It led to the building of a good relationship between the Forest Department and communities. The communities continue to hold high regard for the particular officer, the then Conservator of Forests (Mr. R. S. Pathan), as he kept his word throughout the period that he was in service. Even in 2011, the communities would remember him for the steps he took for community betterment, holding meetings with villagers and mingling with them, granting them the resources that they required, and being approachable in case of issues. It was possible for the villagers to meet him in his

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72 A ‘Range’ is an administrative unit within a ‘circle’. It coincides with a ‘Taluka’, a Revenue Department area unit.
73 Personal communication, Mr. R. S. Pathan, 1996; Maganbhai, Gamtalav village, 1995; Jaggu Dada and Kishorebhai, Balethi village, 1995; Trikombhrai, Makenjhar village, 1995; Gomi ben, village Titoi, 1995, and number of other villagers in different villages that I did not specifically write down.
74 Ibid.
75 Villagers in Gamtalav, Makhenjar, Balethi, Lakhigam, Sarkui. 2009, 2011.
office to discuss problems related to the forest as well as to employment\textsuperscript{76}. At that time, it was of great significance to the villagers that a forest officer in such a high position could be so approachable and genuinely address village level problems\textsuperscript{77}. With this kind of relationship and trust, the communities were willing to discuss and resolve issues they faced regarding the use of forest lands.

The Mandvi Range is an example of the positive work of the Forest Department (starting from late 1980s with Mr. Pathan’s initiatives, until 1995-97) - building trust, protection of forest lands by the people, cooperation between the Forest Department personnel and communities, and participatory processes. This South Gujarat area attracted many researchers and organizations to conduct case studies of cooperation between the Forest Department and communities (Pathan, 1989; Poffenberger et al., 1992b). Organizations such as the Ford Foundation\textsuperscript{78} not only supported participatory processes in the area but also helped the Forest Department in the development of these processes (Poffenberger et al., 1992b). Thus Mandvi was a natural choice for field work in 1995.

Further selection of specific villages was based on the recommendation of the Forest Department, the consent of the villagers to carry out the research, the presence of village forest land and a JFM programme, a logistically approachable village, and the absence of acute political problems and conflicts (that would hinder frequent village visits). I visited 15 villages\textsuperscript{79} that were part of the Mandvi Range and among them I chose Gamtalav as one of my study villages for my research. I visited the villages and

\textsuperscript{76} Personal observation during a visit to his office as a VIKSAT employee, 1991-92.
\textsuperscript{77} This was a general sentiment that echoed in the villages till 2011.
\textsuperscript{78} VIKSAT, AKRSP, Sadguru, IBRAD, University of California, to name a few.
\textsuperscript{79} The selection of the villages was part of the research project with the University of Edinburgh in 1995 – 97.
assessed the feasibility of carrying out the study, and also gauged the interest of the community. I followed a similar process in selecting a village with an NGO intervention. The Programme Officer and the Programme Assistant, Forestry in Aga Khan Rural Support Program (AKRSP), helped me to choose an example of a JFM programme implemented by them. I visited six villages before choosing Sakwa. Sakwa was the first village where AKRSP (Netrang office) had been instrumental in ensuring firewood benefit to a participating village under the JFM programme in the AKRSP. Community members from Sakwa carried out a silvicultural operation (cutback operation) with permission from the Forest Department and collectively harvested firewood under the programme.

For comparison, I sought a village that did not have JFM and that was less accessible, and so logically would have been subjected to less influence from the outside world. Very few ‘revenue’ villages were in the interior forest area, cut off from roads. Kevdi was chosen on the basis of being the furthest revenue village from the road while being situated completely within a forest area. In 1995, Kevdi had a fairly equal mix of the Vasava and the Chaudhari communities (Vasava and Chaudhari are sub-castes of the Bhil tribe), whereas Gamtalav was dominated by the Chaudhari and Sakwa was dominated by the Vasava community. In 2011, there were a few changes in the field situation. Kevdi, had joined the JFM programme, AKRSP was no longer actively

80 There are two kinds of administrative systems according to the responsible department. The ‘revenue villages’ are under the jurisdiction of the Indian Administrative Service that is responsible for the welfare of the people. The ‘forest villages’ fall under the jurisdiction of the Forest Department, who are responsible for the welfare of the forests. These villages were settled villages when the Forest Department required labour to maintain forests. In some states they are also known as ‘tongiya’ villages. The welfare of the villages is differently decided and administered as compared to the revenue villages.
81 In 1995, it was the furthest revenue village from the road. However, now there are changes and there is a move to convert all forest villages also to revenue villages. This had not happened till 2011. So the criteria held good even for the second period of data collection.
working on JFM (and therefore no longer supporting Sakwa for the JFM programme), and Gamtalav had been gradually\(^{82}\) losing trust in the Forest Department and was no longer protecting the forest as in 1995. I added another village to my survey, Jetpur. Jetpur is a neighbouring village of Kevdi, almost a twin village. The Forest Department decided that since both Jetpur and Kevdi are small and adjoining villages, they need only one JFM committee between them. This meant that the JFM programme is combined for the two villages. Some residents from Kevdi are not happy about it as the leadership of Jetpur is much stronger and they feel that Kevdi will not be treated as an equal partner\(^{83}\). Apart from adding Jetpur village for my survey, I chose to not change the other villages as keeping the same villages for my survey would enable a better comparison over time. In addition having conducted the survey and having lived in the villages earlier I had a much better relationship and the consent of the community for the research\(^{84}\).

### 2.3.2.1 Approaching Villages

To obtain participation in my data collection, I conducted village meetings to explain my research and get an overall idea about the villages. I first met the village leaders, explained my objectives and programme for the research, and requested a village meeting. During the village meeting I obtained basic information about the village through basic rural appraisal techniques of village mapping, dependence on forests and

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\(^{82}\) During the years 2007 and 2008 I had made visits and met the communities. Most of the villages that I visited informed me that the Forest Department was going back on its word and did not permit bamboo harvest even for house building and repairing. They also informed me in 2008 that the Forest Department did not cooperate in apprehending offenders who came from outside to cut timber; when villagers apprehended offenders, the Forest Department let them go without fine or punishment. They said that the forests that they had helped build was being cut and taken away by outsiders. Villages Gamtalav and Sakwa.

\(^{83}\) Discussion with Rema Ben, Mohan Bhai, Machla Bhai, Kevdi village, 2011.

\(^{84}\) Prior to starting data collection in 2011, I renewed my permission to carry on my research from the village leaders of Gamtalav, Kevdi and Sakwa.
seasonality. This gave me an idea about the village and gave the community an idea about my research. This process was followed in the villages that I visited prior to finalizing the village for data collection.

The next step was to generate a household list for the entire village at a village meeting. The households in the villages were selected randomly from this list. Every household that I approached for data collection had the choice to not participate.

2.4 Data collection tools

My data collection tools included discussions with key individuals in the villages in Mandvi and Netrang forest ranges, semi-structured interviews with Forest Department personnel and NGO personnel; group discussions at the village level; and structured pre-coded interview schedules, administered at the village household level. Having lived in the area for two years (1995-97) and for shorter time periods in subsequent visits, I had access to a series of my own detailed field notes made during these visits. These include participation in village meetings, social gatherings, ceremonies and spontaneous interactions with numerous individuals. In 2011, I was able to video record
some of the ceremonies as well as the group discussions held in the villages. I transcribed these video recordings as part of my data.

The pre-coded interview schedule focused on the use and access to forest resources, cultural practices relating to forests, restrictions placed on the use of the forest by local people and how the local people deal with the restrictions, sections on background information, awareness and participation in Joint Forest Management activities, Forest Department activities, NGO activities, other developmental government programmes, and village activities (appendix A.1). The interview schedule was developed in English, translated into Gujarati and pre-tested in 1995. During my pre-testing of the interview schedules, I also received inputs from Forest Department officials for the interviews in the communities. Some sensitive questions about the experiences of respondents concerning the behavior of the Forest Department were suggested by a Divisional Forest Officer from Vyara district. After finalizing the interview schedule, I completed the first set of data collection in 1997. The same interview schedule was approved by my committee with some additions in 2011. It was also approved by the UBC Behavioural Ethics Board. The interview guide with the Forest Department and NGO personnel included background, information on traditional village practices, activities conducted by their own Departments, violations of Forest land use and views on Forest policy (appendix A.2).

2.4.1 Village level data collection

This section describes the data collection at the village level.
2.4.1.1 Interviews

In 1995-97, interviews were conducted with 195 households. Households were defined as they are in the village – a kitchen. Households were permitted to self-identify. If there was a family where parents and their offspring shared resources, but lived separately and identified themselves as different households, they were considered a separate household. Anyone who was knowledgeable about the lifestyle in the household was able to participate in the interview, and interviews were not restricted to the heads of households. Often, there would be more than one person present during the interview. They would often ‘contribute’ answers to the questions. This kind of participatory exercise is part of the culture in the area and it would have been seen by villagers as improper to conduct interviews with the household heads in private. The technique proved to be quite effective as the other household members and neighbours would sometimes ‘correct’ information being provided. This was especially useful when the respondent was the daughter-in-law or the son-in-law of the house and was occasionally unsure of the information.

Most individuals in the village were able to converse in Gujarati and/or Hindi. I was fluent in Hindi and was fairly good in conversational Gujarati. I conducted the interviews in 1995-97 without local assistance. I was often accompanied by children from the village as I went from house to house. Since they learnt Gujarati and Hindi in school, they were able to assist me with the translation of difficult words that some older individuals or women were unable to translate from the tribal dialect to Gujarati or Hindi. I lived at the school teacher’s residence in Kevdi and at an elder’s residence in Sakwa while carrying out part of my data collection (interview schedules) and when some
specific village ceremonies or programmes would take place\textsuperscript{85} in Kevdi and Sakwa. For data collection in Gamtalav, I commuted from the village of Rupan, as it was close enough and I was able to commute daily.

In 2011, I hired a local female enumerator in each village. I selected the person based on their willingness to conduct interviews and their basic level of literacy. An additional crucial criterion was their acceptability among the villagers and their ability to mingle and communicate with them. I trained them to conduct the interviews and to fill in the interview questions. As there were relatively few open-ended questions, it was possible for them to administer the interviews. I also sat with them while they conducted the interviews so that I could monitor the process and results of the interviews. This is a significant part of the process to transfer skills to local community member. By being a part of the research team, the enumerators also saw themselves in a position of competence (Community toolbox, 2013). I checked every interview form for ‘incorrect’ or misinterpreted information. When there were clear mistakes or the answers were incomplete, the respondent was contacted to clarify their responses.

\textsuperscript{85} I also stayed in other villages (for example Bharada in Bharuch district), when I was invited to attend a particular village program that required me to stay for long hours (and then it would not be possible for me to commute back to my home at village Rupan).
Oral consent was obtained in both time periods. In each interview, I explained the purpose of the study. During interviews, people often mistakenly thought that the questions were linked to a scheme from which they might benefit. I therefore took care to inform participants that the interviews were solely for my research and unconnected to any welfare scheme of the government. In addition to the oral consent, in 2011 I also obtained the written consent of the village leader to conduct the interviews. It must be noted here that written consent is viewed with suspicion by villagers, especially by those unable to read. Papers that need to be signed generally denote a monetary transaction of an asset (sale or purchase of land, obtaining a loan from a money lender or a bank)
or even giving up a right. In all cases, the village leaders could read and write. To obtain the written consent of each village leader, the letter was read out loud in Gujarati. A copy was given to them to keep in their village records. As per the requirement of the UBC Behavioural Review Ethics Board, the consent form also contained my contact details as well as the UBC Behavioural Review Ethics Board phone number.

### 2.4.1.1 Overview of interviews

<table>
<thead>
<tr>
<th>Source</th>
<th>Number</th>
<th>Basis for selection</th>
</tr>
</thead>
<tbody>
<tr>
<td>State: Gujarat</td>
<td>1</td>
<td>Purposive</td>
</tr>
<tr>
<td>District: Surat and Bharuch</td>
<td>2</td>
<td>Purposive</td>
</tr>
<tr>
<td>Forest ranges: Mandvi South and Netrang</td>
<td>2</td>
<td>Purposive</td>
</tr>
<tr>
<td>Villages: Gamtalav, Kevdi, Sakwa And Jetpur</td>
<td>3 (1995) 4 (2011)</td>
<td>Purposive (Jetpur was added in 2011)</td>
</tr>
<tr>
<td>Forest Department personnel</td>
<td>6 (2011)</td>
<td>Consent</td>
</tr>
<tr>
<td>NGO personnel</td>
<td>2 (2011)</td>
<td>Consent</td>
</tr>
</tbody>
</table>

### 2.4.1.2 Group Discussions

Group discussions were carried out in Gamtalav and Kevdi. The participants for the group discussions were primarily decided by the village elders. I requested that individuals knowledgeable about traditional ceremonies and practices should attend. I also invited the village elders to participate. I did not prevent any person from attending the group discussion if they chose to come and participate. I received help from a
consultant\textsuperscript{86} well versed in conducting group discussions and the language, who also facilitated the discussion with me. The discussions were recorded on video\textsuperscript{87}, with the permission of the participants. Group discussions were undertaken to document traditional ceremonies and practices taking place in the forest and/or are related to natural resources. Reasons for changes in traditional ceremonies and practices, if any, were discussed and documented. The number of people in the focus groups differed between villages. Each group discussion had five to seven members, except in one women’s group in Gamtalav, where there were 11 women. The time, date and location of the group discussions were decided a few days in advance in consultation with the group. The day before the group discussions, I visited each village and confirmed the details once more, so that any last minute changes could be accommodated. In the villages, the timing of the meeting was either before their work day started or after their work day ended. This was done so that the daily work of participants was impacted as little as possible.

Separate consultations were held with women and men in the villages in the form of interviews, meetings, and group discussions. This was to ensure that the potentially different perspectives of women and men could be included. This also took care of the possibility of women not speaking freely in the presence of men. There are also some cultural practices where the roles of women and men differ (Agarwal, 2001). Undeniably, the perspective of both women and men is important (Sarin, 2001).

\textsuperscript{86} Dr. Anandi Mehra had worked in the JFM cell conducting village meetings, discussions, street plays and other such activities for communicating about the JFM program in Gujarat in 1998 – 99

\textsuperscript{87} Mr. Ajith Chandran, Ph.D. candidate, UBC did the video recording and took photographs.
2.4.2 Forest Department and NGO personnel: semi-structured interviews

Consultations with Forest Department and NGO personnel were done on the basis of the semi-structured interview guides that I developed. These were designed to enable a conversation with a focus on the subject. Often, there were official restrictions for ‘interviews’, but focused meetings were far more permissible. It was much easier to conduct the interviews in 2011 as no Forest Department officials asked for evidence that there was ‘permission from Gandhinagar’. By 2011, most officials were familiar with my visits to the area and were willing to talk with me. I had maintained a continued amicable contact with the Forest Department personnel in Gujarat since 1995. Despite the frequent transfers of more senior officers, I kept in touch with the officers posted in

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88 Gandhinagar is the capital of Gujarat. All the highest officials in the state are situated in Gandhinagar. The State government rules, regulations and any government order is passed from there.
the area. I also met a few Forest Department staff in Gujarat in 2011 who had been posted in Mandvi, Gujarat, in 1995 and spoke to them. Most of the field level Forest Department personnel (Range forest officers, Foresters and beat guards) were new in 2011. One Range Forest Officer was reluctant to be interviewed and so was not included.

The meetings with Forest Department personnel included questions on the activities undertaken by the Forest Department in the villages, local traditional practices that they were aware of, restrictions imposed by the Forest Department for forest use, and extent of violations of the restrictions.

It was not feasible to interview staff from all levels in the Aga Khan Rural Support Program (AKRSP) as there had been a large turnover of staff over the past 15 years. The AKRSP had been working on forestry issues when I first arrived in the area in 1995, but had changed its focus by 2011. I conducted a few informal interviews with AKRSP staff to learn about the changes and the reasons for those changes in organizational focus. The forestry work related to the villages was no longer their focus and this was confirmed by the villagers, who were feeling the impact of the lack of NGO support in forestry matters. I was able to meet with another NGO, the Foundation for Ecological Security (FES), which was working on issues associated with the forest rights of people. The FES did not work in the same district as the communities with which I worked with, but dealt with similar issues elsewhere in Gujarat. The conversation with the Executive Director of FES was broad-based regarding forest rights of the local communities.

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89 On each of my visit I would meet the newly appointed officers. In some cases I also kept in touch with some of the officers who were posted out of the area.
Consent forms for the Forest Department and the NGO personnel were only used in 2011, as required by the Behavioural Review Ethics Board, UBC. Interviews in 1995-97 were based on oral consent from the higher officers in the Gujarat Forest Department for interviewing the Forest Department personnel in the state for my research.

### 2.5 Analysis: Framework used and data handling

The central theme of my research is legitimate access, use and control of forest resources by local forest dependent communities; preserving and enhancing traditional forest use practices sustainably. In Canada, “Aboriginal forestry” has been used to illustrate the growing role of First Nations communities in forest management. Wyatt’s (2008) framework of Aboriginal forestry corresponds to my overarching theme (Wyatt,
Although Wyatt’s Aboriginal forestry framework is located in Canada, the broad principles can be used in other geographical regions where forest-dependent communities have a close connection to forest lands.

Wyatt (2008) describes five scenarios based on Canadian experiences. These are:

1. Forestry excluding First Nations
2. Forestry by First Nations
3. Forestry for First Nations
4. Forestry with First Nations
5. Aboriginal forestry

These scenarios are listed in order of increased control and participation over forest management according to seven criteria; aboriginal rights and government forestry regimes, economic participation, consultation, impact assessment and certification, traditional knowledge and institutions, co-management, and differing paradigms. In the first scenario, “forestry excluding First Nations”, there was no involvement of First Nations in forest management and decision-making, although they may have worked in the forest industry. In “forestry by First Nations”, First Nation members are more involved to gain economic benefits however do not have opportunity for making changes according to their goals and values. The “Forestry for First Nations” scenario depicts some modification in the existing government regulations and tenure by including forest values important for First Nations and acknowledging traditional knowledge that supports Western science. “Forestry with First Nations” allows for forest
management to reflect Aboriginal rights. Substantial consultation is reflected in modifications to the existing forestry regime, reflecting equal significance of traditional knowledge and western science for forest management. In this scenario, there are no changes in the regulatory framework. “Aboriginal forestry” is characterized by the dominance of First Nation interests and values in the forest management system. In a co-management arrangement under Aboriginal forestry, First Nations retain the final right to approve decisions.

I take support from Arnstein’s (1969) ‘ladder of participation’ that lists eight levels of participation from non-participation to citizen power (Figure 2.5). The bottom rungs of the ladder, Manipulation and Therapy, depict non-participation. In this case there are more ‘awareness’ and ‘education’ programmes for the community to ‘learn’, rather than giving the community a voice about what they would prefer. In the next three levels, Informing, Consultation and Placation, the community can hear and is given a voice to be heard. However, there is no guarantee that their voice will be heard. The power-holders retain the right to decide, though they may take the advice of the community. This is seen only as a token participation. The top three rungs - Partnership, Delegated Power and Citizen represent a truer picture of participation, with increasing level of power and control to make decisions. The gradations in this vary from bargaining power to complete governance power. The entire ladder is broadly divided into three levels – Non-participation, Tokenism, and Citizen Power. (Arnstein, 1969)
The definition of Aboriginal forestry incorporates the culture of Aboriginal people, including cultural goals and paradigms in forest management. It incorporates the unique perspective of forestry according to Aboriginal cultural, spiritual and material needs changing over time. With a capacity for economic self-sufficiency, Aboriginal forestry brings in traditional knowledge and values with a traditional cultural worldview to guide forest use and forest management. (Parsons & Prest, 2003)

Studies have demonstrated that local forest-dependent peoples are able to manage forests into culturally and ecologically prescribed manner if they have secured land base and autonomy over decision-making (Gill et al., 2009; Stevens et al., 2014). If both these elements of land security and autonomy are missing, then even Aboriginal peoples that have strong cultural ties to the land may be unable to carry out sustainable forest management (Curran & M’gonigle, 1999).
In the process of functional Aboriginal forestry, involvement of Aboriginal peoples, values and beliefs systems in forest management is the prime focus. Aboriginal forestry can be understood as “ideal” participation in the form of citizen power. The extent of control that local forest-dependent communities are able to exert over use, access and management of forest resources is dependent on the level of participation allowed to the communities by the state. Therefore, the concept of Aboriginal forestry along with people’s participation is suitable for my study.

2.5.1 Handling data

The household survey: Data on proscription of tribal communities due to traditional forest land use practices for livelihood were analyzed separately for 2011 (Chapter 3). This analysis included data on access and use of forest, restrictions on the use of and access to forest resources, developmental activities by outside agencies (government, NGOs) and traditional practices for livelihood. Most questions in the interview schedule were pre-coded and the code book was prepared prior to data collection. Some open-ended questions were coded during data entry. These new codes were added in the code book.

Some of the data points were grouped to form new variables, such as income (combining various incomes from different sources) and expenditure (combining expenditure from different sources). Education was split into ‘education level of the household’ and ‘highest education received in the household’. A cultural score was constructed by combining the responses at the household level on the following

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90 Included in appendix A.1
traditional practices: belief in nature, worshipping deities, participation in a pilgrimage, specific prayers before sowing and harvesting.

Data cleaning was carried out in two phases, initially by examining the data tables and looking for errors using frequencies and scatter plots; and then comparing the data with the interview schedule for making the corrections.

As most data variables were nominal, I conducted simple univariate and bivariate statistical tests, mostly descriptive in nature, using SAS JMP software (JMP version 10.0.2, 2012). The Chi-square test was used to find relationships between variables (Agresti & Finlay, 2009).

I corroborated the information on violations of forest use and being caught for forest use by checking Forest Department records at the local Range level, and compared it to the data from the survey. Direct comparison (i.e., village level comparison of forest offences) was not possible as the data from the Forest Department were based on forest land and not village boundaries. It comprised forest offences for the entire range. So, while the discrepancy between the data from the Range office and the data from the household survey was clear, it was not possible for me to ascertain the extent of the discrepancy (see Chapter 3).

The household data on changes in traditional land use practices and culture relating to forests were compared between the two time periods of 1995-97 and 2011 (Chapter 4) using IBM SPSS Statistics (version 22). Data from 155 households was compared for changes in cultural and traditional forest use practices in years 1995-97 to 2011 (as these were the common households interviewed in both the time periods). The data
being nominal, and comparison of the same households was seen in two groups (periods of time – 1995-97 and 2011), McNemar’s test was used to examine statistical significance.

Transcribed notes from the meetings, group discussions, and observation field notes from 1995 to 2011 were examined and tabulated in addition to the data from the household survey. The group discussion and the discussions with community members were used to triangulate the data findings. The main focus was to look at the traditional practices related to forests, restrictions imposed by forest legislation on traditional practices, changes that have occurred in people’s forest use practices and what they consider desirable and undesirable.

2.6 Methodological assumptions and probable limitations

- I administered the interview schedules in 1995-1997 but hired field assistants to do the same in 2011. Therefore the data collection technique was not identical in both the time periods. However, I took care to train each person individually and checked every interview schedule for possible mistakes. When I found mistakes, the respondent for the interview schedule was contacted again for correction and/or clarification.

- Few sensitive questions were included in the interview schedule administered at the village level. Information about legal violations, or being caught by the government officers (Forest Department) for any activity deemed illegal, is normally not pleasant to share with others. I anticipated that there would be some hesitation in sharing this information. To overcome this issue, I asked questions
regarding forest offences several times. For example, while listing uses of the
different forest products there was a question on general difficulties and specific
trouble with Forest Department personnel, and about others in the village. In
addition, I had a separate question on trouble with the Forest Department
personnel. During the time that I conducted the interviews, I established sufficient
rapport with the participants for them to be comfortable in sharing this
information. In instances when they seemed uncomfortable, I would ask this
question towards the end of the interview. If for any reason they chose not to
answer a question, I did not insist that they did. In 2011, the person administering
the interview schedule was from the village. She had insight into information on
forest offences, reducing the discomfort. I also instructed the enumerators not to
insist on answers that the participants were uncomfortable in sharing.

- To triangulate data on forest use violations and fines, apart from the household
  survey, I referred to office records maintained with the Forest Department. There
  were discrepancies in the data collected from the two sources (Chapter 3). I was
  not able to clarify this discrepancy with the Forest Department, and have stated it
  upfront as a discrepancy.

- I assumed that an interior village would have very little influence from the outside
  world. During the course of my research and fieldwork, I realised that this was
  not totally correct as Christian missionaries had been working in interior villages
  and had influenced the local community’s traditional cultures and practices. This
  has a bearing on my research as I was focusing on traditional cultures and
practices related to forest use, which was thus influenced to some extent in Kevdi and Jetpur, two villages that I chose for the study.

2.7 Ethical considerations

The interview schedule administered at the village level was cleared by the UBC Behavioural Review Ethics Board. In addition to permission from the village leaders for data collection, I obtained oral consent from every participant prior to the interview. Since some of the information (for example forest use is considered illegal) is sensitive, I have only used this information as an aggregated data set and I have removed individual names from the analysis. Similarly, I used the same practice while interviewing Forest Department personnel so as to not incriminate any particular person. The issue of corruption within the government is beyond this research, and I have tried not to highlight any personnel indulging in bribery. I attempted to use participatory techniques at all times, with the communities as well as with the Forest Department. Although this was not participatory action research, I did feel compelled to share some of the forest resource access issues in the villages that could be resolved by the Forest Department officials.

2.8 Conclusion

This research attempted to adopt a participatory approach. Spending a considerable time in the communities prior to starting the PhD research, and keeping track of changes in the communities over a period of 17 years, helped enormously in understanding the social changes in the study villages and the surrounding areas in South Gujarat. I attempted to transfer survey skills to villagers during my research. It
was greatly satisfying to witness the perceptible changes in the self-confidence\textsuperscript{91} of the women conducting the surveys and leading the discussions. I regard this as another step forward in empowering the women in the region of my research.

In the next chapter I examine the local communities’ forest use for livelihood with reference to forest laws and regulatory mechanisms prevalent in the region and within Wyatt’s (2008) aboriginal forestry framework.

\textsuperscript{91} It was a moment of great personal satisfaction when one of the female assistants for my research, told me that when the once-in-10-years Government of India census was happening in the village, she wished that she had been contacted as she had gained sufficient skill and confidence to have easily carried out the survey.
CHAPTER 3 CRIMINALIZATION OF TRIBAL LIVELIHOODS

“Would you or the Forest Department work for forest protection if you were not paid for it? Why only expect it (forest protection) from us?” Kanti bhai, village leader, Malekpur village, Sabarkantha District, Gujarat, India 1991

3.1 Introduction

In this chapter I give a description about the communities with whom I interacted for my research. The communities belong to the Chaudhari and Vasava sub-castes of the Bhil tribal community in South Gujarat. I describe their way of life and examine the legal system and governance they are subjected to, through the framework of Wyatt’s Aboriginal forestry (2008).

I examine local communities’ use, control and access of the forest resources and how that is affected by prevalent forest polices (objective 1). I find that the criminalization of the tribal communities for following their traditional land use continues and attempts through changed policies (FRA) and programs (JFM) to reverse criminalization of these communities for following their traditional land use has not succeeded. I list out the forest legislation and policies that restricted forest use in India and in Gujarat that gradually criminalized forest use. I find that sometimes bonafide forest use by communities is also restricted by authorities. I term this illegitimate illegality. I describe
the operation of Joint Forest Management as it happened in South Gujarat and that too failed to make significant changes for decriminalization of local use of forest resources.

3.2 Traditional forest-related practices of the local population

The importance of local forest resources vis-a-vis livelihood and culture is spelt out in the way of life of the Chaudhari and Vasavas – the forest-dependent communities of the South Gujarat region. The Chaudhari and the Vasavas use the forest resources for their daily livelihood needs, which are based on the traditional way of life. Some of these are regular and non-negotiable needs (unless there are viable, accessible and affordable alternatives), for example the requirements for firewood, timber, fodder and mud. Even though there are restrictions on the use of these forest products, the communities need to and do use these forest resources as part of their daily lives.

There are other forest products that are used and collected intermittently for consumption and sale, for example fruits, gums, honey, certain leaves and flowers. These are sold to supplement income, especially in the lean months when income from other sources is reduced, such as during the low agricultural season or during the time the cattle are not producing milk. Households where at least one member has a regular government job or which have a stable income rarely collect forest products for subsistence use.

Forests also fulfill the spiritual needs of the forest-dependent communities. Various traditional ceremonies involve forest resources and forest areas. For example, prayer

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92 Historical timeline of at least 12 villages in the area, in 1995, including the survey villages. Plus (Bahuguna, 2004)
ceremonies for good crops, well-being of their cattle and the village as a whole, honoring and taking the blessings of ancestors, and important life-ceremonies including marriage and death, all involve forest areas and specific vegetation found in forests\textsuperscript{94}.

However, from the perspective of the country’s governance and legislation, not all use of the forest by the communities is seen as bona-fide. Restrictions on forest use were imposed by the Indian Forest Act which came into being in 1927. Subsequently there have been other National Acts and policies to restrict forest use (\textit{Forest Policy} 1952, \textit{The Forest Conservation Act} 1980, \textit{The MFP Trade Nationalisation Act} 1979, etc.). It is only the most recent Act – \textit{The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act} 2006 (also commonly known as \textit{Forest Rights Act}, 2006) that specifies that its main purpose is to undo historical injustice to the forest-dwelling communities.

\textbf{3.2.1 The context of the local people}

My research was located in the tribal belt of South Gujarat. The area is mostly inhabited by the Bhil tribes and their sub-tribes. The South Gujarat tribal belt comprises a number of sub-tribes i.e., Chaudhari, Vasava, Gamit, Tadvi, Dhodia, etc. (Kumar Suresh Singh, 1994). My research was located in the Surat and Bharuch districts and the villages surveyed primarily comprised the Chaudhari and the Vasava sub-tribes. The villages are homogenous, i.e. the entire villages comprise Chaudharis and Vasavas (apart from any government personnel living there, such as teachers or Forest Department employees who may or may not be a Chaudhari or Vasava).

The Chaudharis and Vasavas consider themselves equivalent\(^95\). There are differences in some of their traditional ceremonies\(^96\), but general belief systems are similar.

### 3.2.1.1 Occupation

The communities predominantly identify themselves as farmers or state their primary occupation as agriculture (even if their income from cattle may be higher in monetary terms)\(^97\). Forests are important even if households have some land. Only 40% of respondents gave information about their landholdings. Of these 9% did not own land. Almost 90% of respondents own less than a quarter of a hectare\(^98\) of land. They also practice agriculture on rented land; so they rent-in and rent-out their agricultural lands.

All the agricultural lands they cultivate need not be in the same place. In fact, as women commonly inherit agricultural lands, they cultivate land they own in the village where they live, as well as land in their parental village. In the event a man moves to live with his wife in her maternal village, he may retain possession of land in his paternal village\(^99\). In some cases the men stated that they did not own any land and it is the woman of the household who owned land.

The other main sources of income\(^100\) include animal husbandry (including income from livestock and poultry), labour (agricultural labour, construction labour, forest labour, labour work under *Panchayats* and other employment guarantee and welfare

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\(^95\) Data from the survey 1995 and 2011; interactions with villagers belonging to Vasava and Chaudhri tribes

\(^96\) For example, ancestor worship ceremonies, marriage ceremonies etc.

\(^97\) For example, ancestor worship ceremonies, marriage ceremonies etc.

\(^98\) Almost 70% of survey respondents stated their main occupation to be agriculture and agricultural labour.

\(^99\) This is not very common as it was observed that generally men moved to their wife’s village if she was inheriting a land and he did not have land inheritance.

\(^100\) Agriculture and agricultural labour accounted for 69%, service was 11%, labour (not including agricultural labour) was 15%, and animal husbandry was 5%. Although these were main occupations, normally a combination of occupations is used in a family.
programmes), and service (government jobs, for example teaching, working in nearby factories, driving etc). While income from forestry (including forest labour and income from sale of forest products such as leaves, flowers, fruits, gums, honey, firewood and timber) is seen as important, it is not considered to be the main source of income\textsuperscript{101} as it is seasonal. Forest products such as *Timru* leaves, *Mahuwa* flowers and seeds are collected during the summer months, which are lean months for agricultural activities. Community members gather fruits, roots and tubers for self-consumption\textsuperscript{102}. In some instances fruits are also sold in small quantities\textsuperscript{103}.

### 3.2.1.2 Land holding

The land holdings are generally small, i.e. less than one hectare. Land holdings can range from less than 0.4 hectare\textsuperscript{104} to 4.4 hectares. These include both irrigated and unirrigated land. Approximately 30% of the agricultural land in my survey villages was irrigated\textsuperscript{105}. Irrigation was mostly done by digging wells in the fields. In one village site (Kevdi), the seepage of a dam is the source of irrigation for a few land holdings, along with a seasonal stream. An electric or diesel motor is required to pump water from the well or the stream. The source of irrigation (for example a well), and the means of irrigation (for example a motor to pump water), are not necessarily owned. Both of these can be borrowed or rented. 8% of the respondents use a rented well for irrigating their

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\textsuperscript{101}Household income from forest products ranged from less than 1% to 65%.
\textsuperscript{102}Woman in village Kevdi, 2011
\textsuperscript{103}Woman in village Gamtalav, 2011
\textsuperscript{104}1 acre equals 0.4 ha
\textsuperscript{105}Dry land farming is also practiced in unirrigated land. But the number and types of crops possible in a year are fewer – leading to less income. Having irrigated land gives more number and types of crops and better income with different cash crops.
agricultural fields. 25% of the respondents mentioned they owned the wells for irrigating their fields.

3.2.1.3 Cropping

The main crops grown in the area are rice, shourgum (*juvaar*), pigeon pea (*tuvar*), maize, black gram (*Urad*), groundnut (*moongfali*), green gram (*moong*), sugarcane, cotton, and vegetables including tomato, chilies, okra, bitter gourd, potato, onion, eggplant, *khati bhendi* (a vegetable mostly found in forests, and some people also grow it in their fields or their field boundaries) and few other local vegetables.

Intercropping is very common. For example shourgum and pigeon pea are grown together – one row of pigeon pea is interspersed with two rows of shourgum. Much of the agriculture is rain-fed and most cropping patterns reflect dry-land farming. With an increase in irrigation, there has been an increase in sugarcane farming. Though rice requires water, there are varieties that do not require excessive water, and these are being used. With more access to water and less dependence on rains, they also utilize water-intensive paddies. After Gujarat started a major export trade in vegetables, the communities started selling their produce directly to bigger markets\(^\text{106}\), receiving income directly\(^\text{107}\). There has been an increase in cultivating vegetables for the market. They are now also able to invest in agriculture, with an increase in income that seems steady. The villages are no longer dependent on the vegetable vendor cartels that forced the

\(^{106}\) Discussions with villagers during fieldwork, 2011

\(^{107}\) A woman from village Gamtalav, showed a receipt there she had got payment for the vegetables directly from the vegetable vendor's in Surat, a big-city 80 km away, 2011
farmers to either sell their produce at a lower cost or risk no sales. The wholesale vendors now send tempos to the village to collect the produce and pay a better price upfront (with a receipt) to the farmer. They are now able to get a better price without having to transport their produce, or the fear of being cheated.

3.2.1.4 Education

The communities find it important to send their children to school. Even the poorest households send children to primary school. Mid-day meals are provided in primary schools, encouraging attendance. In secondary school, a number of students are given government scholarships to attend school. Approximately 35% of the population in the villages where I conducted the survey is reported to be illiterate. With better education facilities in the past decades, the younger generation is better educated than the older generation. The survey revealed that individuals in the age group of 40 years or less have a greater tendency to have finished high school (till 12th standard). Individuals above the age of 50 years were more likely to be illiterate. About 33% finished middle school, and 18% finished high school. About 11% of the population reported higher education including Bachelor's degree and higher. Currently, more than

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108 In 1996, interactions with villagers revealed that farmers used to sell their vegetable produce in the Mandvi vegetable Mandi (Mandvi vegetable market). Very few farmers (handful richer ones) were able to afford to take it to Surat. Mandvi Vegetable Mandi had vegetable traders that offered very low prices. Sometimes the price was barely enough to cover costs. If the farmers demanded more prices, the vegetable traders threatened not to buy the produce at all. Often they were made to wait for the entire day. If the vegetables would not be sold, the cost for transporting it back home would result in loss and the vegetables would rot. There was no assurance that it would be sold the next day.

109 A kind of small truck with three wheels.

110 Conversations with women farmers, village Gamtalav and Makhanjar, 2011

111 The scholarship is small, but it would generally cover books and uniform of the students.

112 Normally communities do not have much control on the formally recognized education system. Government schools are controlled by the State. There are also missionary schools which are recognized by the State and controlled by the Church. Schools run by the Church have an element of Christianity embedded in the school. Having formal education increases prospects of better jobs in the future and so families are keen to send the children to school.
90% of children are sent to school (this figure for the population of children includes children below the age of five years; so the actual percentage of school-going children is higher). Equal importance is given to boys and girls to attend school. It is not considered strange for the woman of the household to be more educated than her husband\textsuperscript{113}. Having a State government programme to provide vocational training and to have a teachers training professional course after completing 10\textsuperscript{th} standard has encouraged more students to opt for a teaching stream. I have seen a change in the situation from 1995 to 2011. Earlier, the ‘professional’ courses only gave training for trades that were not necessarily well paying and were seen at a more menial level, for example carpentry, car mechanics or tailoring. These were normally not only less well-paid, but also did not address the issue of ‘job stability’. The new programme that offers training for higher paying and more stable jobs (for example school teaching) has brought in more income for families that have someone employed in a regular and secure job.

3.2.1.5 Dwelling types

There has been a visible change in house building from 1995 to 2011. Earlier, except for the forest personnel homes and any other government officers’ homes, there were no houses constructed with cement\textsuperscript{114} (in India, a house constructed with cement is considered “progressive”). A typical home in tribal villages, in Gujarat, is made of wood, bamboo, mud, thatch, cow-dung and earthen tiles. The earthen tiles can be made or

\textsuperscript{113} There were many instances where the women had completed college education (bachelor’s degree) and the men had not completed school education.

\textsuperscript{114} There were the ‘Indira Awas’ houses that were sponsored by the State government for the poor that had cement walls and tin roofs, but were not used. They were not seen to be suitable for living and people preferred to use whatever materials they could get from it to make their own houses.
bought\textsuperscript{115}. All the materials, barring tiles and cow-dung, are forest products. These are collected from the forest or an individual’s own land. Until the end of my survey in 2011, there was a requirement to get a Forest Department permit for harvesting timber and bamboo\textsuperscript{116}, even from an individual’s private lands. In recent years\textsuperscript{117}, a village has one or two concrete houses, owned by individual households belonging to the community. These are owned by the richer households in the village. However, most people still prefer to live in wooden houses, even if they can afford to build a concrete house, as the wood and thatch house is considered more comfortable\textsuperscript{118}. Even in the case of a traditional dwelling, the size of the house is generally proportional to the size, status and affluence of the family. The reason is generally on account of the wood requirement that often needs to be bought, whether from ‘legal’ or ‘illegal’ sources. The main structural supports and the other wood in the house can be used for more than 20 years and there are instances when they are passed on as part of the inheritance.

The walls are made of a combination of substances and may be constructed with forest resources and agricultural residue. Most common is a basic lining of bamboo (sliced very thin) or karava (a reed that grows in the forest) and plastered with a combination of hay, mud and cow-dung. If the house is small, the lining can also be made with tuver

\textsuperscript{115} There are two specific varieties – one that can easily be prepared locally (and can also be bought), is cheaper, lasts for lesser time and is cylindrical in shape. The other one is rectangular in shape, is made in Morvi, a town famous for preparing these tiles in south Gujarat. These are called Morvi tiles, and are more expensive and last for longer time. There is also a variety that is made of glass, so if a ‘skylight’ is required, glass tiles can be used.
\textsuperscript{116} There is a change in the rules now regarding bamboo. However, it will take some time for it to get translated to the villages.
\textsuperscript{117} My observation in this aspect has been since 2010.
\textsuperscript{118} A family in Gantalav, has built a cement house, but has retained the older wooden house for use as it is more comfortable. Same is the case for two families in Makenjar village. In Jetpur, one family had a concrete house prior to 1995 and lives there. The reason that cement houses are less comfortable is because in the summer season, the cement houses become hot and in the winter season, the houses stay cold – unlike the traditional dwellings.
stalks (agricultural residue from yellow lentil crop) which are quite hard and not fed to the cattle.

The roof structure is set with small timber (poles) and then covered with earthen tiles or thatch or both. The thatching material is usually palm leaves or grass, and sometimes even *tuver* stalks, or a combination of all of the above.

3.2.1.6 Livestock

An important asset for the household is livestock. This normally includes cows, buffaloes, bulls, and goats. As the milk cooperative movement developed\textsuperscript{119}, the State government introduced more programmes to increase milk production, such as loans and subsidies for high milk yielding cattle. While cattle-rearing is a relatively reliable source of income, it seems to conflict with forest use\textsuperscript{120}. Cattle feed is also supplied by the dairy, but it is not sufficient to take care of all the food needs of the livestock. During different seasons, cattle are stall-fed with fodder collected from forest and agricultural lands, and are taken for grazing in the forests and village commons. While it is permissible to cut and carry fodder from the forest areas, grazing is not encouraged by the Forest Department. This is especially so in areas that are freshly planted. Also large herds of cattle are viewed by the Forest Department as bad for the ground, compacting the soil and forest floor. In villages that have Joint Forest Management agreements, the villagers are allowed to set the boundaries for grazing, i.e. the area and location of the forest that is open for grazing and for how long. A period and area would be set aside to

\textsuperscript{119} The Amul milk cooperative started in 1946 in Khaira district of Gujarat and later spread to other districts and the country under the program of “operation flood” in the late 1960s and early 1970. The communities derive benefit from this successful milk cooperative movement that continues till today. The milk cooperatives came to the villages in this area in 1978 (historical mapping, village Makenjar, 1995).

\textsuperscript{120} Discussions with forest personnel, ranging from Forester to PCCF; Forest Department complained about harmful effects of cattle rearing on forests and forest protection.
stop grazing; this enabled village communities to carry out collective harvesting of fodder.\textsuperscript{121}

3.2.2 Traditional forest use: livelihood practices

Figure 3.1 Traditional forest use by local people for their livelihood

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<tbody>
<tr>
<td>Fodder collection. Village Kevdi 2011</td>
<td>Fodder collection from forest land under JFM. Village Makhanjar 1997</td>
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\textsuperscript{121} This arrangement was disadvantageous to villagers who were not ‘members’ of the JFM society, even if they were part of the village as they were also forbidden to collect fodder even if they did not get the benefits from the collective harvesting.
3.2.2.1 Cooking material

Firewood is used for cooking, heating water, and on very cold days, heating to keep warm. Most families do not own nor can afford cooking gas (Liquefied Petroleum Gas). In cases where they can afford it (with higher income), it is difficult to procure gas due to access and availability issues\textsuperscript{122}. Liquefied Petroleum Gas (LPG) is an alternative to firewood. Some people have got LPG connections or a working Bio-gas plant. But these are supplementary rather than a replacement for firewood. Kerosene oil is also difficult to procure and expensive. Firewood is the most readily and cheaply\textsuperscript{123} available cooking fuel.

Along with firewood, other materials are used to make the firewood last for a longer time. Agricultural waste/residue and dried leaves are used along with firewood. Prepared dung cakes (cattle dung mixed with hay, and dried in the sun) are important supplements for cooking fuel.

Comparing data collected from 155 households in 1995-97 and in 2011, reveals a statistically significant reduction in number of households collecting firewood from the forest (p value= .006 (McNemar’s test); Valid percent = 99.4% (N=154)). Of the 154 respondents, there was no change in firewood collection practice in 127 households. 6 households that did not collect firewood in 1995-97 changed to collecting firewood by 2011. 21 households that collected firewood stopped doing so by 2011. There are a

\textsuperscript{122} Personal experience for procuring cooking gas, 1995 – 97 and in 2011. LPG is sold only from Mandvi Town which is 10 km away from Gamtalav and 17 km from Kevdi, transportation to the villages being additional cost and inconvenience. In addition the family needs to be registered with the LPG distributing shop and specific quota is allotted for each family.

\textsuperscript{123} It is seen as ‘free’ resource as people do not put a monetary value on the time taken to collect the firewood. In some cases, women who have a job and do not have time to regularly go for firewood collection pay someone in the village to get firewood for them.
number of households that prefer to not collect firewood from the forests\textsuperscript{124} and there is a gradual shift to grow trees for firewood on their agricultural field boundaries\textsuperscript{125}.

Firewood is gathered from forest lands, private agricultural lands and/or village commons. While there are no restrictions for gathering or cutting firewood from private lands, there are restrictions to cutting firewood from forest lands. These restrictions differ between states as well as for differently designated forest lands. For example, in a National Park, even the gathering of fallen twigs is forbidden, whereas in a reserved forest, local communities are permitted to collect twigs and fallen branches, but not allowed to cut them from trees. For enforcement purposes, it translates in the field as a rule barring the local communities from carrying an axe or sickle into the forest.

\textbf{3.2.2.2 Cattle feed}

Grazing of cattle is a common activity that has been practiced for generations in these areas. This is an activity in which the older members (and often children) of the household partake. Collective fodder harvesting from the forest took place for a limited time only (approximately five years) during the JFM programme\textsuperscript{126}. Collective fodder harvesting was done in areas that were denuded, but these have now been planted, and the tree plantation areas are closed for grazing. Harvesting the grass prevents fuel buildup and provides fodder in the village. The villagers harvest the grass without wages and are allowed to take the grass for their animals. This grass is precious as it is dry and important for the cattle, especially during the early monsoon period. It is important

\begin{itemize}
  \item \textsuperscript{124} Village members told me that it is unpleasant to get caught by the beat guard and simpler to just either buy the firewood or grow it in own field. However, everyone is unable to do that.
  \item \textsuperscript{125} Village members, Gamtalav, Kevdi, 2009, 2011.
  \item \textsuperscript{126} Discussions were in villages of Gamtalav, Sakwa, Makanjhar, Balethi, Kalibel etc, 1995 – 97
\end{itemize}
for the cattle to eat dry grass along with the green grasses that sprout in the first few
days of the monsoon, as these are harmful to the cattle’s health and may be fatal\textsuperscript{127}.

Prior to the collective fodder collection, fodder was also collected at an individual level.
From the data of 155 households, McNemar’s test suggests no statistically significant
change in fodder collection by the households in year 1995-97 and 2011 {p value = .350; Valid percent = 99.4%; N=154}. These data include group as well as individually
collected fodder.

The amount of grass growing in the forest decreases in about five years. There are two
reasons for this – first, as the trees become bigger, they create shade. This restricts the
growth of grass. Second, as the trees have grown in that area, it is no longer closed for
grazing. Once grazing is permitted, the protection stops, which contributes to a
reduction in grass. Allowing grazing is important and useful for those households that
are more dependent on income from livestock, and those who are not members of the
village JFM. Therefore, both, permitting and restricting grazing have pros and cons. As
a traditional forest use practice, this did not have the current local sanctions. The
traditional sanctions took into account the differences in the village, and the benefits
were not membership based. The strictness of the deterrent was based on the situation
of the community member. The sanctions were less strict for a poor person; it was
considered benevolent to let the poor off without strict fine or punishment\textsuperscript{128}. However,
this flexibility was also abused by a few community members who became powerful in
the village\textsuperscript{129}.

\textsuperscript{127} Village elder, village Makanjhar, 1996.
\textsuperscript{128} Village elders, villages Gamtalav, Makanjhar, Balethi. 2008
\textsuperscript{129} Villager from village Kevdi, in context of Village Jetpur. 2011
3.2.2.3 Timber

Timber plays an important part in the construction of the dwellings in these communities. Traditionally, the restrictions on timber collection from the forest were based on the specific trees where the village or household deities resided. These restrictions were followed even when the Forest Labour Cooperative Societies (FLCS) were directed by the Forest Department to clear-fell forests\textsuperscript{130}. The FLCS members were mostly local tribal men hired for tree felling, prior to the ban on clear-felling\textsuperscript{131} in forest lands. While entire forests were denuded at the time the Forest Department practiced clear-felling, the specific trees that the people revered\textsuperscript{132} were left standing\textsuperscript{133}, untouched.

Current restrictions do not allow any timber to be felled, except with the permission of the Forest Department. The permission can take years to be issued, and it may not be possible for the family to wait that long to repair their home. Therefore, it is easier for them to get timber from the forest and then pay a fine if they are caught. From the data of 155 households, McNemar’s test suggests no statistically significant change in timber collection by the households in year 1995-97 and 2011 {p value = .077; Valid percent = 93.5%; N=145}. Even when they are willing to pay for it, they do not have access to the

\textsuperscript{130} Discussions with villagers 1995-97
\textsuperscript{131} Clear felling was banned in the entire country in 1980 and only dead, dying and diseased trees were permitted to be harvested from forest lands.
\textsuperscript{132} The local bhagats (village priests) inform the village of the presence of a deity. The presence of the deity is also determined by an unusual incident. For example, in village Gamtalav, a particular stone could not be moved for building the village road. The villagers conducted a ceremony and “took permission from the stone” to transport that stone to another place. This incident made the villagers believe that a deity lived in that stone.
\textsuperscript{133} Observations in 1995-97
timber that they require\textsuperscript{134}. Given a choice, they would rather buy ‘legal’ timber as ‘illegal’ timber is far more expensive.

3.2.2.4 Non-Timber Forest Products (NTFP)

Non-timber forest products\textsuperscript{135} were initially known as ‘Minor Forest Produce’ by the Indian Forest Department. NTFP included *Timru* and *Bili* leaves, *Mahuwa* flowers, honey, gum, resin, other seeds etc. The terminology signified that timber was the ‘major’ forest product that was important economically. Forest-dependent communities, especially those that were poor, used NTFPs as an important source of livelihood, especially during the time when other incomes were not significant enough to make their ends meet.

In the surveyed villages, community members specifically go to the forests to collect *Timru* leaf, *Bili* leaves, *Mahuwa* flowers and seeds, mud, and thatching material. They also collect fruits, gums, and honey when they take their cattle for grazing, as and when they find it. Nationalized NTFPs such as *Timru* leaf, *Mahuwa* flowers and seeds, and other NTFPs can only be sold to the Gujarat State Forest Development Corporation (GSFDC). The Forest Department has set up the Gujarat State Forest Development Corporation, a quasi-government agency, which is responsible for marketing NTFPs. Selling NTFPs to private traders is deemed illegal\textsuperscript{136} and is monitored by the Forest Department. However, some forest products can be sold privately, such as fruits and *Bili* leaves.

\textsuperscript{134} Village interview, village Gamtalav, 2011
\textsuperscript{135} The terms "produce" and "products" in the context of forest resources in India have been used interchangeably. The official convention however has been to use the word "produce" for example the *Indian Forest Act 1927* etc. In common parlance both words have similar connotation to denote non-timber forest resources in India.
\textsuperscript{136} The *Gujarat Minor Forest Produce Trade Nationalisation Act, 1979*
In India, Forest Development Corporations (FDC) were set up for each state to ensure a Minimum Support Price (MSP) to the collectors, thereby avoiding exploitation at the hands of money lenders that bought these products at very low prices and made a profit retailing them. It was set up to be a protection mechanism, especially in the tribal pockets of the country.

The effort of the government to develop NTFPs was restricted to setting up such cooperative and marketing mechanisms (Saxena, 2003). The Forest Department made substantial income by marketing NTFPs on behalf of the gatherers of forest products. State governments made their own rules restricting the private sale of NTFPs. For example, one of the largest revenue earners, Timru leaves (also known as bidi leaves and used for making Indian cigarettes), cannot be sold directly to the market\(^\text{137}\). Although it started out with good intentions, the monopolistic trade of NTFPs for the tribal communities has proved to be exploitative in its current form. The private traders offer a much higher price for NTFPs compared to what is offered by FDCs across the country. Saxena’s (1999) report on NTFPs lists some of the huge differences in prices between different states, revealing the exploitative nature of these state-owned corporations\(^\text{138}\) in different states, including Gujarat.

\(^{137}\) There is a change in this rule at a National level with the introduction of the Forest Rights Act, 2006. However, the picture on the ground has not undergone much change. In 2012, Maharastra Forest Department offered to contract the sale of Timru leaves to gram sabhas even though they were entitled to own the Timru leaves through FRA (Pallavi, 2011). There was no change in my study area regarding the sale of NTFPs after the FRA, till the time of my field work in 2011.

\(^{138}\) The communities are allowed to sell NTFP only to these corporations. It is illegal for the communities to sell NTFP to anyone else in the market, even if traders are ready to buy from the communities directly. That is restrictive as the corporation rates of the NTFPs now, are no longer better than the market price (as it used to be when the idea was mooted).
3.2.2.4.1 The implications of the Bhuria committee: implementing PESA

According to the *Panchayats (Extension to Scheduled Areas) Act*, 1996 (commonly known as PESA), the power to regulate NTFPs has been transferred to the *Gram Panchayat*\(^{139}\). However, this contradicts the *Gujarat Minor Forest Produce Nationalization Act* 1979 and the *Gujarat JFM Government Resolution* (giving NTFP rights to the JFM committees of the villages involved in implementing JFM). The *Gujarat Minor Forest Produce Nationalization Act* 1979 gives sole authority to the GSFDC to procure and trade in nationalized NTFPs. To implement both the contradictory Acts (the *Gujarat Minor Forest Produce Nationalization Act* 1979 and PESA), the GSFDC continues to hold the authority of trade, on a no-profit no-loss basis on behalf of the *Gram Panchayats*. Thus, the authority and control is ostensibly with the village, but the Forest Department actually retains power over the forest products despite a decentralization Act from the central government. It is not clear what will happen if a village actively demands autonomy over trade in NTFPs.

3.2.2.5 Mud/earth or soil from forests

Forest earth/mud/soil is an important forest product listed in the Working Plan that is used for traditional dwellings in the region.

Mud is traditionally used to make house walls. Thin strips of bamboo, *karava* or/and *tuvar* stalks form the base for the mud coating. The coating consists of a mixture of hay, cow dung and mud from the forest (or agricultural land in recent times). These are mixed in a specific proportion that makes fairly strong and insulated walls that are also

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\(^{139}\) A self-governing institution at the village level
insect resistant. The same combination is used to coat the floor in the entire house.

Normally the floor needs a fresh coating once a month. The walls do not require such frequent maintenance, but it is normal for the entire house to be coated once a year. So every month one or two baskets of mud are sufficient and, in addition, one cartload of mud is required every year.

Traditionally, apart from home use, soil from the forest was also used to supplement soil in agricultural fields. This practice is no longer followed in the survey villages. In fact, a few survey respondents stated that they preferred to use the soil from their fields as that avoided confrontations with the Forest Department and subsequent humiliation. This was not specifically asked as a question, so it is difficult to give the number of households who have switched this activity from the forest to their fields. 35% of respondents had faced a problem in collecting mud from the forest. Use of mud for home repair/construction was prevalent in the communities irrespective of levels of income and education.

**3.2.3 Traditional restrictions to forest product use**

Places for ancestral worship are mostly located in forest areas. Worship of deities that live in the forest/trees is important as local community members believe that it affects their well-being. Forest use in sacred areas where deities are located is traditionally restricted. Patches of forest where ancestor’s spirits are positioned\(^\text{140}\) are restricted for any other use. The area remains well vegetated as it is protected by the community.

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\(^{140}\) The communities cremate their dead. After cremation, a ceremony is performed to invite the spirit of the dead person into a stone. That stone is placed in the special forest patch meant for ancestral spirits of the village. A full description is given in chapter 4.
The belief is that a multitude of deities reside in specific trees. Thus, those trees are protected: some common species include *Sterculia urens* (Gum Karaya), *Tectona grandis* (Teak), *Butea monosperma* (Khakra), *Tamarindus indica* (Iml), *Bombax ceiba* (Simal, Cotton tree) and *Madhuca longifolia*\textsuperscript{141} (*Mahuwa*) trees. Not all trees of these species are protected – only those whose roots house deities. The deities vary; with some being specific to particular villages and others being relevant to the entire district.

*Mahuwa* flowers and seeds are never plucked from the tree. Every flower and seed that is collected must have fallen from the tree. The flowers are used as food as well as for brewing liquor after being dried in the sun. The dried flowers can be stored for a year or more (although they are generally used within a year, for mostly brewing or trading). Seeds are used for extracting oil and in a ‘good’ year, the seeds collected in a season can yield sufficient oil for four months for an average family of five. Most trees are common and anyone is allowed to collect flowers and seeds from the trees. However, some are restricted, especially the ones in an individual’s agricultural fields. With these, only the ‘owner’ can collect the flowers and seeds of the tree. A typical collection season lasts 10 days for flowers and 15-20 days for seed collection.

### 3.3 Rules and legislation governing forest use

This section lists out the relevant forest related Acts in Gujarat over time.

\textsuperscript{141} Also known as *Madhuca indica*
### 3.3.1 Timeline of relevant forest-related Acts in Gujarat

**Table 3.1 Timeline of relevant forest-related Acts in Gujarat**

<table>
<thead>
<tr>
<th>Year</th>
<th>Forest related legislation and policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1855</td>
<td>The charter of Indian Forestry. This charter was meant to regulate and restrict forest use by individuals.</td>
</tr>
<tr>
<td>1865</td>
<td>The <em>Indian Forest Act, 1865</em>. The main objective was to protect forest and regulate timber use. The emphasis was state control over forest and forest resources.</td>
</tr>
<tr>
<td>1878</td>
<td>The <em>Indian Forest Act, 1878</em> replaced the previous Act of 1865. It categorized the forests and gave a greater control over reserved forest lands to the state. It created village forests for village subsistence, and laid the foundation for a revenue orientation to forest management.</td>
</tr>
<tr>
<td>1894</td>
<td>The Forest Policy of 1894 gave direction for forest management to be for the general well-being of the country. Forests were recognized for environmental services, for fulfillment of peoples need, and for maximizing revenue from the timber. In practice, this led to a commercially oriented forest.</td>
</tr>
<tr>
<td>1894</td>
<td>The <em>Land Acquisition Act 1894</em> gave powers to the State to acquire land for government interests.</td>
</tr>
<tr>
<td>1927</td>
<td>The <em>Indian Forest Act 1927</em>. This was similar to the earlier act of 1878, and included timber duty and specific provisions to make village forests</td>
</tr>
<tr>
<td>1947</td>
<td>Indian Independence</td>
</tr>
<tr>
<td>1952</td>
<td>Forest policy of 1952 focused on the environmental aspects of forestry and conservation. While it mentioned the needs of local people to be met, it was restricted to ‘the interest of the nation’.</td>
</tr>
<tr>
<td>1972</td>
<td>The <em>Gujarat Tribal Development Corporation Act 1972</em> for social upliftment of the scheduled tribes in the state. Activities included agricultural development including marketing, trade, transport, processing, storage or any such activities that contribute to the betterment of the scheduled tribes. In the Act, the definition of agriculture included forestry activities</td>
</tr>
<tr>
<td>1973</td>
<td>The <em>Gujarat Private Forest (Acquisition) Act 1972</em></td>
</tr>
<tr>
<td>1979</td>
<td>The <em>Gujarat Minor Forest Produce Trade Nationalization Act 1979</em>  This act gave the sole authority to trade certain NTFP to the state government</td>
</tr>
<tr>
<td>Year</td>
<td>Forest related legislation and policies</td>
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<tr>
<td>------</td>
<td>----------------------------------------</td>
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<tr>
<td></td>
<td>through a quasi-government body - the GSFDC. The specific NTFPs were listed in the Act, giving the state government the power to revise the list of the NTFP listed. This Act was made with the intention of protecting the tribal communities from exploitation at the hands of private traders</td>
</tr>
<tr>
<td>1980</td>
<td>The <em>Forest Conservation Act, 1980</em> prohibited the use of forest lands for non-forestry purposes without permission from the Government of India. Activities including plantation of horticultural crops or medicinal plants also require government permission.</td>
</tr>
<tr>
<td>1988</td>
<td>The Forest Policy, 1988 included a clause for involvement of local communities for forest management which was used as basis for the JFM programme. It also gave more priority to environmental concerns rather than revenue generation.</td>
</tr>
<tr>
<td>1990</td>
<td>The Government of India Resolution (GR) 1990 was issued encouraging involvement of communities in forest management and conservation and sharing economic benefits between Forest Department and communities.</td>
</tr>
<tr>
<td>1991</td>
<td>Government of Gujarat Resolution for implementing JFM in the state, 1991 called for participation from local communities for bettering forests in their area. The communities were expected to protect degraded forest lands in exchange for benefits that included NTFP, grass, cutback and cleaning operation residue (firewood) and a set percentage of profit from harvested timber.</td>
</tr>
<tr>
<td>1996</td>
<td><em>Panchayat (Extension To The Scheduled Areas) Act 1996</em> (PESA) gave villages (Gram Sabhas) the ownership of NTFPs (among other powers(^{142})) in scheduled areas.</td>
</tr>
<tr>
<td>1996</td>
<td>A Supreme Court judgment extended the provisions of the <em>Indian Forest Act 1927</em> to lands other than the demarcated forest lands - defining forest as per the dictionary definition rather than the government definition.</td>
</tr>
<tr>
<td>1998</td>
<td>The <em>Gujarat Panchayat Amendment Act 1998</em> vested the ownership of NTFP to the village <em>Panchayat</em> and sale proceeds from NTFP to go into the village development fund controlled by the village. The NTFPs were defined as per the <em>MFP Trade Nationalization Act 1979</em>.</td>
</tr>
<tr>
<td>2000</td>
<td>National Guidelines on JFM 2000 extended the concept of JFM in non-degraded forest lands with a reduced percentage of sharing timber since the harvest of timber was expected to be at a quicker rate. In Gujarat, the government decided that irrespective of the quality of forest cover- whether degraded or non-degraded, the sharing ratio would be 50%.</td>
</tr>
<tr>
<td>2006</td>
<td>The <em>Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006</em> was promulgated to undo the historical injustice to the traditional forest dwellers. It recognized that forest rights on ancestral lands of</td>
</tr>
</tbody>
</table>

\(^{142}\) For example to identify development schemes, issuing certificate of fund utilization, right to mandatory consultation in matters of land acquisition etc.
<table>
<thead>
<tr>
<th>Year</th>
<th>Forest related legislation and policies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>forest dwellers were not adequately recognized during the consolidation of State forests during the colonial period and in independent India, and that these unrecognized rights need to be recognized and vested in the forest dwellers and scheduled tribes.</td>
</tr>
</tbody>
</table>

Apart from all the acts stated above, rules and regulations that govern forest management may differ in different districts within a state. The variations depend upon different forest conditions and the use of Working Plans specifically made for a particular area. A description of rules governing forest management in South Gujarat follows.

3.3.2 Working plans

The Working Plans of the Forest Department are the regulations that are followed in a specific region\(^{143}\). It is a translation of the State rules and legislation governing the forest. It includes actions towards conservation, and working the forest lands. It lists the rights and privileges of the local people in the area. The entire forest area in the jurisdiction of the district is divided into coupes and compartments. These are then grouped together for different silvicultural operations. The Working Circle is termed according to the primary the objective of a particular area, for example, it can be a bamboo Working Circle, Plantation Working Circle, a Felling Working Circle, a

Fuelwood Working Circle etc. These Working Circles take into account silvicultural operations and the revenues to be earned.

Examining a Fuelwood Working Circle revealed the importance given to certain species. The objectives of this Working Circle was to bring back vegetation, ensuring soil and moisture conservation, increasing productive capacity per unit yield of produce and, to the extent possible, meeting the local demands for fuel and small timber. In this felling cycle, the trees were to be marked for clear felling. All climbers were marked to be cut. The choice of the trees to be planted was limited to timber yielding varieties.

In Mandvi, open patches of forest land were predominantly planted with *Eucalyptus*. Smaller open patches or in-between plantations were planned to be filled in with bamboo. Fruit trees were not encouraged to be marked for felling. In the case of the Bamboo Working Circle, meeting industrial needs was one of the objectives. In the Selection-cum-Improvement Working Circle, there was a clear direction to not cut down any fruit-bearing or important NTFP tree species unless it was dead, dying or diseased, or past the fruit-bearing age. The plantations prescribed in the Working Circle were limited to teak, *Khair*, bamboo and in some instances *Tiwas* (*Ougelina dulbergoidies*) or *Karanj* (*Pongamia pinnata*).

In the section on ‘Minor Forest Produce’, the Working Plan recognized the commercial importance of forest products, including woody climbers. Grasses were seen as having

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144 Firewood is termed as fuelwood in most Working Plans.
145 Working plan for Rajppla East and West Forest division, Surat circle, Gujarat State, 1994
147 Observation, fieldwork, 1996
148 Paper and pulp industry
149 The NTFP trees listed to be not felled are: Mahuda, Amba, Awla, Aml, Karanj, Kadaya, Timru, Koshimb, Ashitra, Charoli and Gund.
a ‘limited market’. The contractor system\textsuperscript{150} was prescribed for NTFPs including *Mahuwa* flowers and seeds, *Karanj* (*Pongamia pinnata*) seeds (used for oil), *Timru* (*Diospyros melanoxylon*) and *Asitra* (*Bauhinina purpurea*) leaves (for *bidi* making), *Kadaya* gum, *Amla* (*Emblica officinalis*) and *Beheda* (*Terminalia bellirica*) fruits (medicinal uses) and *Puvadia* (*Cassia tora*) seeds. In addition, thatching grasses were allowed to be removed freely or with permits, depending on the yield and the local Deputy Conservator of Forests (DFO).

Depending on the Working Circles, grazing was forbidden. The Protection Working Circle was continuously restricted for grazing; tree, plantation and other Working Circles were closed for grazing for a period of five years and then limited grazing was permitted. The reserved grasslands that were managed as reserved *vidis*\textsuperscript{151} did not permit grazing for a minimum period of five years and then allowed a specific number of cattle that were charged at varying rates for the specific cattle.

In the privileges section, the Working Plan lists the concessions that are granted to the local people. Free grazing in open forest is allowed with the passes issued by the Revenue department, subject to restrictions imposed by the Forest Department. Villagers, specifically in Mandvi, are allowed to collect fallen leaves and twigs, *Mahuwa* flowers and fruit (seed), honey, gum, thorns for fencing and, stones or earth (mud) for their own domestic or agricultural use.

\textsuperscript{150} In such a system, the Forest Department contracts removal and sale of NTFPs to a contractor for the specific amount of money to be paid to the Forest Department.

\textsuperscript{151} Grass *vidis* are reserved grass lands that were managed by the Forest Department and the area was auctioned for cutting fodder to contractors. The contractors were generally not the local villagers and were able to pay the rates upfront to the Forest Department.
3.3.3 Joint Forest Management rules

In Gujarat, all NTFPs were ‘given’ as a benefit to the people participating in the Joint Forest Management programme. The timber rights were divided into two kinds of sharing ratios. One arrangement was if the Forest Department supported the JFM programme (i.e. spent money in plantation, soil and moisture conservation works, and any development in the village to encourage joining the programme). Then the timber would be shared according to a 75:25 ratio, i.e. the Forest Department would take 75% and villagers would get 25% of the net timber benefits. In the second arrangement, the ratio would be 80:20 if the village did not take the Forest Department assistance (normally if the NGO supported the villages). After 2000, the timber benefits were changed to a 50% sharing ratio – i.e. the villagers and the Forest Department would get 50% of net timber benefits irrespective of any input from the Forest Department.

In Gujarat, with the exception of timber, the villagers were entitled to all forest products, grass from the forests and cutback (wood) from the thinning and improvement operations. Cutback, as understood by the villagers, was an assured firewood supply and some small timber, to the extent of the work in the forest done in that year\textsuperscript{152}. None of this was given to the villagers in writing and verbal assurances were considered to be sufficient to go ahead with the programme\textsuperscript{153}. The villages were responsible for the protection of the forest area according to the rules they made in the village. Some villages chose to hire a watchman at their own expense and the members of the village

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\textsuperscript{152} Various discussions with village leaders/heads in two districts of Surat and Bharuch, 1995-1997.

\textsuperscript{153} To a question of ‘what if the Forest Department does not uphold its commitment after 10 years?’ the reply given by village leaders was that they believed that the Forest Department would not go back on their word and if in the remotest of the case it happened, the villagers would ‘take back’ the forests that they contributed to, to develop. They felt it was not possible for the Forest Department to manage and protect the forests on their own. Discussion in various villages, Mandvi South range. 1995-97.
JFM *Samiti* paid a monthly sum of Rs.10\textsuperscript{154} towards the payment of the watchman.

Some villages decided to organize a voluntary protection patrol where each household would appoint a representative for protection. Normally each family took their turn once a month. If a family member was unable to patrol, they would pay a fine or hire a substitute for the day.

Inevitably, even though the villagers were given the JFM title (*Adhikar Patra*) for a small amount of forest land (which ranged from 30 – 50 hectares of forest land), they protected the entire forest land that fell within their revenue boundary – often ranging up to 300 hectares. There was no change in the Forest Department Working Plan (that was followed by the Forest Department) over the involvement of local people in decisions regarding plantations (tree species, location, area). In some instances, where an NGO\textsuperscript{155} was involved, the local villagers were able to decide on the tree species to be planted. But such cases were more the exception than the rule.

Since there was no fundamental change in the rules, regulations and restrictions on forest use, the village patrol had to guard the forest from their own community members. Ostensibly protection rules are set by the committees (comprising community members and the Forest Department). However, JFM is governed by what is required to be done according to the *Forest Act, 1927* and the Working Plan in the region.

Protection of the forest (no cutting timber for any purpose without the permission of the

\textsuperscript{154} The value of INR 10 is equal to CAD 0.18 (as per conversion rate in July 2014).

\textsuperscript{155} As in the case of village Sakwa
Forest Department, grazing, etc.) was not on the table for discussion\textsuperscript{156} – only the process of protection, for example, could be discussed.

The villagers' watchman worked as a Forest Department staff appointment, but without formal authority. However, the watchman was likely to be more lenient than a Forest Department official, restricting the use of heavy fines (and unlikely to physically beat a fellow villager). It was up to the discretion of the Forest Department to take cognizance of the offenders reported by the village patrol/hired watchman. This subjectivity became a problem for the villagers when protecting forests from forest offenders who did not belong to the village or neighbouring villages\textsuperscript{157}.

3.3.4 \textit{Micro-plans}

The aim of a micro-plan is to sustainably manage and develop degraded forests while ensuring firewood, fodder and timber needs of the community (Ravindranath & Sudha, 2004). Micro-plans were introduced to include the needs and requirements of the local village population adjacent to the forest boundaries in the villages that undertook Joint Forest Management. It is a planning exercise for forest management undertaken by the Forest Department to elicit participation by the community. According to the Ministry of Environment and Forests, a micro-plan should also ‘…utilize the locally available knowledge…’ while preparing micro-plans\textsuperscript{158}. Not all JFM villages were included in the

\textsuperscript{156} In one of the villages (in the Bharuch district), the women voiced their unhappiness at not being consulted for closing the forest for firewood – as it is the women who have to go for firewood collection and they were adversely affected by the decision of the ‘village’ (actually the men and the Forest Department). Women’s meeting, Bharada village, 1996.

\textsuperscript{157} In 2008 the Forest Department did not take any action against offenders caught by the village petrol for illegally cutting timber. The illegal loggers were handed over to the Range Office for further action. However, no action was taken. This led to a loss of trust and some villagers even cut timber as, quoted by one person ‘we grew the forest and now someone else will be allowed to take it away’. Village Gamtalav and Sakwa, 2008.

Mandvi North and South Range for making micro-plans. The micro-plans were made by the Forest Department in consultation with the relevant JFM village. It was restricted to the economic requirements of the village and did not include any cultural necessities. If there was a contradiction between the micro-plan and the Working Plan, the latter would prevail. For example if, according to the micro-plan, there was to be a scheduled harvest, the harvesting would not be possible if the Working Plan did not have a harvesting plan in that year. The micro-plan is supposed to have input from the village and may be more reflective of the progress of forestry activities at the local level. The only option around this – i.e. to accommodate the JFM micro-plan, is for the Forest officer (a DFO) to apply for a ‘deviation from the Working Plan’. Only the Forest Department can allow and sanction a deviation from the Working Plan. This procedure is followed in Gujarat State. Other States have different regulations for taking precedence. For example in West Bengal, a micro-plan leading to the Working Scheme, over-rides the Working Plan. So JFM was not necessarily institutionalized in an identical manner in all States, giving flexibility to the state Forest Departments to adapt the programme according to their needs (Chandran and Sengupta 1997).

3.4 Awareness of forest use

The data on awareness of restrictions for specific forest products collection is limited to those who reported their involvement in that specific forest product. Hence it is difficult to ascertain the awareness levels of householders who were not collecting specific forest products. Those who frequented the forest for collection responded according to

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This kind of a deviation was practiced by Forest Department when they were actively supporting a village for JFM. But it was problematic in instances if an NGO was supporting the village or in case of a ‘self-initiated’ JFM village, as was the case in North-West Gujarat districts.
their information and experiences. For example, those who only collected firewood and mud from the forest did not respond to questions about their awareness regarding other forest products, such as fodder, flowers, leaves and seeds.

Fodder, firewood, timber, thatching material, mud, bamboo, medicine and plants, tubers, reeds, Mahuwa flowers and seeds, and leaves of Timru and Khakra were all reported as restricted by the Forest Department.

According to the Working Plan\textsuperscript{160}, at least thatching material, mud, medicinal plants, tubers, leaves, flowers and such products are permitted to be taken by the people for their own use. The other forest products such as firewood, fodder and timber need permission but can still be used by the people for their own bona-fide use.

\footnotesize\textsuperscript{160} Working Plan, Rajpipla East and West Division, Surat Circle, 1994
3.5 Offence records (Forest Department)

In Gujarat, a Range Forest Office is located in the nearest town to the forest areas that it serves. It acts as the first point contact for forest works. In the hierarchy of forest offices, the Round office is the lowest office. It can be located in a remote area, and not serviced by facilities such as a police station or other government personnel. The Range office has facilities for the overnight lock-up of forest offenders. It also has other non-field personnel. Any offender who is caught and needs to be tried has to be transported to the Range Office\textsuperscript{161}. A Range Forest Officer (RFO) heads the Range Office (unless a higher officer is visiting, then the highest officer temporarily takes

\textsuperscript{161} The Code of Criminal Procedure, 1898 permits the District Magistrate or any Magistrate of the first class to summarily try any forest-offence punishable with imprisonment for a term not exceeding six months or fine not exceeding five hundred rupees or both.
charge). The RFO is also the highest level of forest personnel that is uniformed. Their uniforms resemble the uniforms of the police force. From 1995 onwards, RFOs were discouraged to wear uniforms when visiting JFM villages as it was seen as creating a distance between the Forest Department and villagers. (Now they only wear uniforms when higher officers visit their office and office jurisdiction areas.)

The offence record is prepared in the Round Office. Offenders who are unable to pay a fine are brought to the Range Office. Records from the Round and Range Offices are collated and the final record is kept at the Range office. I examined the offence records from two Round offices. These offices were responsible for the forest areas that were part of my field survey.

The records show that all offences recorded were of timber and rootstock\(^\text{162}\) theft. There were five thefts of root-stock from 2006-2011. The root-stock would only be used for firewood and generally only by poorer households. In case of the timber theft, the timber was confiscated. Some of the offenders (who were caught) had to pay a fine but, in some cases, the offenders escaped.

According to the Round officer, the theft generally happens close to a festival, as that is when people need more money. They cut the timber and sell it. The cutting may happen at any time, but mostly at night and when it is raining, as the rain sounds tend to drown or lessen the sound of axes. The tree is normally felled and removed the next night unless there is time to do so the same night.

\(^{162}\) Rootstock is part of the plant that is underground. It can include the stump of a tree along with the root which is left after the tree is cut.
3.5.1 **Offences records**

Offence records data is presented in Figure 3.3. The data is taken from two Rounds of Mandvi South Forest Range from the years 2006 to 2011.

![Total number of offences recorded in two Rounds of the Mandvi South Forest Range Office (Jetpur and Lakhigam Round)](image)

The Range Office data indicate that the maximum number of offences happened in 2008, a year with a particularly bad drought. The number of timber offences in 2008 was similar to other years, but the total number of offences was higher because of rootstock thefts. The maximum numbers of offences were recorded in 2008 and 2009. According to the Forester, this is an indication that the dependence on the forest for livelihoods increases if there are problems with other sources of income. Forest resources are a fall back mechanism for people. Rootstocks are generally collected by women from poorer
households and it is possible that the poorest households were the worst affected by the 2008 drought.

The total number of offences in this data set covers more than just the survey villages. There are eight villages in the Jetpur round and 22 in the Lakhigam round. It was difficult to disaggregate the data by village as the forest boundaries are contiguous and the offences are recorded by round or beat, rather than by village. When the offender escaped, the village name was unknown. The records are for offences committed within the round or beat, regardless of where the offender came from, and offence records for particular villages are not maintained in the forest offices.

**Figure 3.4 “Illegal” wood**

| Women carrying firewood at 3:30 to 4:30 AM to avoid getting caught by the Forest Department, Netrang 2011 | Confiscated wood (poles) at Forest Department depot, Zankhwav, Mandvi North range 2008. |

3.5.2 Accuracy of the data from Forest Department office

The number of offences recorded in the forest offices is lower than the actual number of ‘offences’ because in some instances when a person is caught in the forest, the individual gets away by paying a bribe. At other times, the forest personnel are ‘fed chicken and eggs’\(^{163}\) on a regular basis so that they ‘look away’ when they see their

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\(^{163}\) Interview, Kevdi village, 2008
‘friends’ from the village removing wood. In some instances, the lower staff have a similar village background and ‘understand’ the livelihood situation of the people, allowing the ‘offenders’ to get away with only a scolding. The lower forest staff disclosed that they may stop an offence, but not necessarily apprehend the villager, especially if s/he belongs to the same village. They stated that the villagers are poor and need the resources for their livelihood, and that they took a ‘moral’ decision not to fine or apprehend them as the villagers’ actions were purely needs-based. Since lower forest staff are based in or close to the village, they know the living situation of the people and felt it was right to let them go. Thus, not all unreported “offences” lead to a monetary gain for the forest personnel. With all these factors, it is difficult to estimate the extent to which offences are under-reported.

3.5.3 Unrecorded offences (personal interactions in village)

The villagers stated that firewood collection, grazing and timber are the offences that they get apprehended for. They are also stopped from removing mud from the forest. There were no fines reported for removing mud, but they are discouraged from doing so. Some of the villagers said that they use mud from their agricultural fields as they are not allowed to get it from the forest.

3.6 Use of forest resources by the local population

The following section describes the data from survey on forest use, apprehensions due to the use of forest resources by local villagers and consequences. It also includes observations that are not recorded in the survey.

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164 Interview, Jetpur village, 2011
165 This is cross-checked in the survey data as the villagers often stated that the Beat guard or the Forester stops them and scolds them. It is not a pleasant situation for them as he may also use abusive language, but he does not necessarily fine them all the time.
3.6.1 *Forest use in villages studied*

Forest use, as reported in the survey data, comprised firewood, mud, fodder, *Mahuwa* seeds and flowers, materials for house construction and repairs including timber, thatching and wall materials, *Timru* leaves and other NTFPs for household consumption and for sale. Fodder, firewood, mud, *Mahuwa* seeds and flowers were the top five forest products reported being collected by households in the fieldwork region.

*Figure 3.5 Distribution of forest products collected as recorded in the survey, 2011*

(Number of households engaged in collecting the forest produce in 2011)

Chi-square test suggests that there is a statistically significant association between the number of forest products collected and the highest level of education in a family (p <
0.01 Cramér’s V = 0.27; N = 236). Households with higher education levels collected fewer forest products than people with lower education levels.

Families who reported lesser forest product collection had finished high school and had family members with higher education. Families who reported collecting 10 or more forest products attended school for a maximum of 5 years.

There are some forest products (for example mud, firewood and fodder) that are required by most families irrespective of their education.

### Table 3.2 Relationship between highest education in family and number of forest products collected

<table>
<thead>
<tr>
<th>FP collection</th>
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<th>4</th>
<th>5</th>
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<th>11</th>
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<td>0%</td>
<td>0%</td>
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<td>Total</td>
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<td>24.2%</td>
<td>39.9%</td>
<td>6.8%</td>
<td>0.8%</td>
<td>3.4%</td>
<td>0.4%</td>
<td>7.6%</td>
<td>100%</td>
</tr>
</tbody>
</table>

**FP collection**: number of forest products collected by the family

**Highest education in family**: the highest number of years of education received by any family member in the household
Hunting is not permitted and only one family reported hunting in 1996. The lack of reports is probably due to three reasons – reluctance to record an illegal activity\textsuperscript{166}, the respondent genuinely feeling that it is ‘too small or infrequently practiced an activity to be recorded’ and the lack of animals available for hunting (so hunting is actually not possible on a regular basis). Among my survey villages, only two villages, Kevdi and Jetpur, are situated in a deep interior forest, making hunting a possibility. But other villages have degraded forests that are being managed for regeneration and improvement and where the wildlife, especially mammals and large birds, is generally impoverished.

3.6.2 Apprehensions for offences (data from survey)

The most reported thefts from the forest at the village level were for seven forest products – timber, thatch, fodder, firewood, mud, \textit{Bili} leaf and fruits.

As part of the rules associated with collecting forest products, it is legitimate to be stopped by a forest officer for collecting timber (or firewood if has been cut). However, villagers should not be stopped from collecting thatching material, mud, \textit{Bili} leaf, fruits, and fodder\textsuperscript{167}.

\textsuperscript{166} In 1995, I visited a household in Kevdi that was drying the skin of an animal. They refused to put that in the survey saying it was just too small to record and that it was not a normal activity that should be recorded.

The survey revealed that apart from being prevented from collecting the resources mentioned above, villagers were fined for four activities, i.e. removing timber, collecting grass, collecting firewood, and grazing animals (fig 3.7).
Figure 3.7 Distribution of forest activities for which fines were reported. Survey results 2011

![Reason for stopping](image)

The survey results from 236 households (2011) showed that out of the respondents, who reported collecting specific forest produce, 12 percent households were fined for collecting grass from the forest, 24 percent households were fined for collecting firewood, 6 percent were fined for grazing their cattle in the forest area and 58 percent were fined for timber.

In the official records only timber theft received fines. The other three items i.e. grass, firewood, grazing were not recorded in the forest office records. The fines reported by the villagers ranged from Rs. 50 to Rs.5000 (CAD 0.98 to CAD 90\textsuperscript{168}). See Fig 3.8. Collection of rootstock from the forest has been fined. Rootstock is collected for the purpose of firewood therefore, part of the firewood fine has been recorded in the Forest Department official records. However, it does not cover the entire firewood that has been fined.

\textsuperscript{168} As per conversion rate (of $1=Rs. 55.70) on August 29, 2014
According to the survey, while timber theft received the largest fines, the fines for grazing represented the greatest amount (Fig 3.9). There are no official records for fines other than for timber theft, indicating that a substantial proportion of the fines reported by villagers are not being recorded officially in the forest offices.
3.6.3 Being scolded or beaten by the Forest Department

It appeared that the relationship between the village and the Forest Department influenced how villagers were treated for offences (Chi Square test p value = 0.0117; Effect Size (Cramér's V) = 0.191; Sample Size= 226). For villagers from Gamtalav and Jetpur, there were very few cases of people being scolded or beaten by the Forest Department personnel (98% and 95% did not experience it, respectively). Conversely, in Kevdi and Sakwa, 20% and 15% of respondents, respectively, reported harassment.

Table 3.3 Relationship between ‘village’ and ‘been scolded or beaten’ in the forest for collecting forest products or grazing animals

<table>
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<th>Scolded or beaten</th>
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<td>Total</td>
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<td>100%</td>
<td>100%</td>
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</tbody>
</table>

Legend:

Scolded or beaten: 0. Neither scolded or beaten; 1. Only scolded; 2. Scolded and beaten

Gamtalav has been favoured by the Forest Department, being used as a showcase for JFM (Pathan et al., 1991; Poffenberger et al., 1992a; Poffenberger et al., 1992b; Sundar et al., 2001). From the very beginning of JFM in 1991, case studies have featured Gamtalav. As this village is very ‘accessible’ for evaluating Forest Department programmes, the village enjoys a special relationship with the Forest Department\(^{169}\). Jetpur, too, holds a

\(^{169}\) This was evident during one of my visits, when the traditional leader of the village asked for my phone to call up the Range Forest Officer to ask when the toilet scheme would be sanctioned for the village. It was not usual for
special status with the Forest Department\textsuperscript{170} as it is classified as a forest village rather than a revenue village. This means that all development works for the village are totally dependent on the Forest Department\textsuperscript{171}. All the land, including agricultural land, technically belongs to the Forest Department and land tax is given to the Forest Department rather than the Revenue Department.

On the other hand, development activities in the village of Sakwa have been undertaken by the NGO, AKRSP. This created animosity between the Forest Department and the village as the Forest Department considered that it did not have control of development in the village\textsuperscript{172}. Kevdi is a revenue village and seen as secondary to Jetpur\textsuperscript{173} (Kevdi and Jetpur are twin villages in the forest interior).

There was no statistically significant relationship between being a member of the protection patrol for the forest and being harassed by the Department\textsuperscript{174}. Being a member of the protection patrol did not prevent being harassed by the Forest Department staff. Similarly, income and education were not statistically significant factors for being scolded or beaten by Forest Department officers. It is likely that the relationship between the village and the Forest Department plays a major role in the treatment given. There was a statistically significant relationship between being scolded

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\textsuperscript{170} Interview, village Kevdi, 2011
\textsuperscript{171} During my interactions with Forest Department personnel, I was often told how it was important for the department to ‘look after’ the Forest Villages as no other department would reach those villages with the development activities.
\textsuperscript{172} Elder, Village Sakwa, 2008.
\textsuperscript{173} Interview, Village Kevdi, 2011
\textsuperscript{174} The protection patrols are different from a village hired watchman. The protection patrols comprise members (or their families) who patrol the forest by turns, whereas a village hired watchman is a person who is paid an honorarium to patrol the forest regularly.
or beaten by the Forest Department or beaten by the Forest Department and the level of awareness of the development programmes run by the government (Chi Square test p value = 0.0261; Effect Size (Cramér’s V)= 0.376; Sample Size= 226). Specific individuals who seem to be more “connected” are treated differently. These individuals frequent government offices and likely to know more about the government schemes are also likely to interact with the staff in the office and build relationships. In my observation, individuals who are generally aware of different schemes are those who are powerful and connected.

<table>
<thead>
<tr>
<th>Awareness of number of development schemes</th>
<th>Scolded-beaten by F Dept (%)</th>
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<td>Scolded and beaten</td>
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<td>11</td>
<td>0%</td>
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</tbody>
</table>

Table 3.4 Relationship between level of awareness of the development programmes and ‘been scolded or beaten’ in the forest for collecting forest products or grazing animals

175 This was based on a direct question if the respondent or a member of the respondent’s family was scolded or beaten (or both) by the Forest Department.
176 This was based on a series of questions enquiring about awareness of existence of various schemes. The level of awareness of the development programs run by the government was derived by adding the number of programs the respondents were aware of.
178 Most village leaders and Agyawans were aware of the schemes by the government. I also noticed that the poorer households were not aware of the different schemes. However, I did not specifically focus on this and therefore it can only be stated as an assumption.
<table>
<thead>
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<th>Awareness of number of development schemes</th>
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<th>Only scolded</th>
<th>Scolded and beaten</th>
</tr>
</thead>
<tbody>
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Awareness of development schemes run by the government was derived by adding the number of programs the respondents were aware of. The schemes were listed and the respondents were asked if they were aware of the existence of the scheme. The total number was added to arrive at the score.

### 3.6.4 Accuracy of data from survey on forest use

The survey on fines and being apprehended by the Forest Department under-reports the true number of incidents. This is because respondents did not want it recorded that they had been involved in ‘illegal’ activity. It was seen as a matter of honour, and they did not want any ‘illegal’ activity associated with ‘their survey form’. In other conversations, they openly spoke about how the Forest Department stops them from collecting firewood and that they lose not only the wood, but also their tools (sickle, axe) if they are caught by the watchman or the beat-guard.
Survey methods were used to get data from a large population, including data regarding illegal activity. There is no certainty that another method would have worked better for this kind of information. In a sense, a survey is more anonymous than a face to face interview. The surveyor in 2011 was from the village and already knew if the respondent had been apprehended, so there was no other ‘danger’ associated in letting the surveyors fill in the form with the information. But respondents chose not to reveal the information when it was being written down. In contrast, in conversations, they did not mind mentioning instances of them being troubled for collecting a certain forest produce.

Survey methods have been used in other instances that are considered illegal and those records have been counted as acceptable. Examples include surveys of the use of marijuana in British Columbia (Barnes et al., 2005), Vancouver (Okoli et al., 2008) and other provinces in Canada (Hundleby & Mercer, 1987). In these cases, the surveys were anonymous and the respondents were allowed to fill in their own questionnaires and submit them. So the anonymity was automatically ensured. It is possible that if there was a survey form that people were asked to fill in on their own, with no names, they might be more inclined to reveal this kind of information, especially if they knew that this kind of information would actually make a direct difference to their lives. However, it would be very difficult to do this in my situation as a number of people would not have been able to complete the form on their own.

3.6.5 **Unrecorded forest use (from personal interaction)**

The extent of forest use is also under-reported. For example, I found evidence of hunting small animals, but there was only one report in the survey data. People know
that hunting is illegal are so were unwilling to record on paper that they hunt. The unwillingness to report was from a fear of getting into trouble and/or because socially, it is not seen as a 'civilized' behaviour. During my informal verbal interactions with the villagers, they shared information about the numerous types of fruits that were collected (and eaten) in the forest, but it was considered ‘too small an amount to be recorded’. This is despite that some of these fruits are also sold – although not on a regular basis. Similarly, for Karava use (wall material for home building), bamboo, timber and firewood, there was a hesitation to inform me or the surveyors about the use and collection from forest, especially if the products were being sold as it is regarded illegal.

The list of forest products that I drafted for the survey was confirmed after knowing what was collected in the villages in the area. Consequently, few or no responses for collection of some of the forest products is indicative of under-reporting, since I know that they were being collected.

3.7 Discussion

In this section I discuss my hypothesis based on the data presented above. The two parts of my hypothesis are:

- If laws for management of natural resources such as forests and forest lands are made without considering the cultural land use of natives, then criminalization of aboriginal peoples is inevitable.

- If laws do include cultural land use practices in current legislation and local policies but are designed poorly, then, they may also fall short of their objectives and fail to reverse criminalization.
I focus on the material aspect of tribal traditional land use (for example use of materials from the forest for livelihood) in the two parts of my hypothesis.

3.7.1 Incongruity between Forest Department records and survey data of forest related offences: illegitimate illegality

The survey data reveals that the number of forest apprehensions has been greater than is documented in the forest records. The records mainly document offences related to the removal of timber and sometimes root-stock removal, whereas the survey data shows a higher frequency of other reasons. Thus the survey documents instances when villagers were only stopped from collecting a forest product without being fined or detained. The survey data illustrate that villagers were apprehended for collecting and using forest resources such as timber, firewood, grass, mud, thatching material, leaves, fruits and grazing cattle. Being caught, scolded and freed has also been reported in the survey as forest apprehension. Therefore, the survey data report a higher incidence of being caught by the Forest Department than do official records. However, there is another concern regarding the data discrepancy between that reported in the village survey and the official records: fines have been reported by villagers and these are not reflected in the Forest Department records. For example, fines for grazing and collecting grass have not been listed in the forest offence records. The magnitude of this omission in Forest Department records can be gauged from the fact that it covers the data of the entire ‘Round’, i.e. 30 villages and not merely the four villages that were surveyed for the current research. A survey of all 30 villages is likely to reveal a higher total amount of fines paid by the villagers for grazing, cutting grass and firewood as these fines are

\[179\] This is despite under-reporting of forest apprehensions in survey data by villagers for reasons discussed earlier.
also likely to be prevalent in other villages. It can be assumed that the magnitude of this discrepancy is higher than is reflected in my data.

Another issue is that of unjust practices of the Forest Department. It was noted that whereas the collection of certain forest products was allowed in the Working Plans, the villagers were stopped from their collection. Some of these activities are listed as permitted activities in the Forest Department Working Plans. However, being stopped and chided by the Forest Department personnel results in community members thinking that their legitimate activities are actually illegal. I term this “illegitimate illegality”, and consider it to be a corrupt practice\(^\text{180}\).

I chose to term it as ‘illegitimate’ because the act of limiting or restriction is not legitimate and is against the rules and regulations laid down in the statutes of the government. I would continue to use the term ‘illegality’ as it is perceived and experienced by the parties affected (the community) and the parties affecting the activity (the Forest Department), as illegal. The members of the community are apologetic about collecting a particular forest product, even though they have the permission to do so. So, I chose to use the term that best describes the effect and experience of the affected party.

A classic example of illegitimate illegality is punishment for the collection of mud from forest land. It is listed in the Working Plan as a privilege for local tribal residents for the

\(^{180}\) The Oxford dictionary defines corruption as ”Dishonest or fraudulent conduct by those in power, typically involving bribery; The action or effect of making someone or something morally depraved....”. I do not necessarily see illegitimate illegality as purposeful corruption as some of the Forest Department personnel (especially from the lower ranks in the department) are unaware of all the rights and privileges of the local dwellers. This would require a study on its own to firmly establish this as a fact. I state it here on the basis of anecdotal observations and conversations. However, charging a fine and not reporting it officially, certainly is bribery and therefore a corrupt practice.
purpose of their own home and agricultural needs. However, villagers undertake this activity without the knowledge of the Forest Department because they have been stopped by the latter from collecting forest mud. Fear of being booked or fined leads community members to continue the activity secretly or discontinue it altogether. Since the villagers have no access to the Working Plan or knowledge of which privileges are listed in it, they rely on what they are told by Forest Department personnel. This trust in the Forest Department personnel is due to the villagers’ culture of oral tradition.\footnote{This is the same reason why they did not demand a written agreement for JFM and believed in the word of the Forest Department, as told by village elder, Gamtalav village, 1996. The oral tradition of communication is not unique to India or tribal communities in India. It has been a tradition in aboriginal societies globally. The culture of oral tradition among tribal and other aboriginal populations has been discussed in literature (Castellano, 2000; Klapproth, 2004; Mason, 2000; Muller, 2007). The different worldviews of the followers of written communication and the oral communication have led to misunderstandings that are being documented and interpreted. Some relate to land treaties. These were based on a system of trust of the word of mouth.}

In this chapter, I examined traditional forest use for the local forest-dependent communities’ own livelihood. On one hand, it is affected by the prevalent jurisprudence, and on the other, it is affected by the illegitimate illegality that is not visible to the outsider. Illegitimate illegality is experienced by the local community in their daily lives, for their subsistence and in their way of life.

### 3.7.2 Criminalization of traditional forest-use: forest-use v/s the rules of forest-use

Forests and forest products are used by the communities living close to forest lands for various purposes – livelihood and subsistence, as well as spiritual needs and cultural traditions. Most of these, as described in this chapter are traditional uses – i.e. those that have been used by the communities for generations. Indian forestry laws concerning the preservation and exploitation of forests are different to what the communities practiced as part of their own systems of forest governance.
While the customary laws were localized and took account of the culture and traditional norms of the local region, national laws were centralized and applicable to the entire country, irrespective of the local mores. Thus the Indian Forest Act, 1927 was a centralized Act that was generalized and applicable to the entire country. The passing of such laws legitimized the interests of the central ruler by limiting the use of forest lands and forest resources by local communities dependent on local forest resources (Guha, 1985). Working Plans operationalized the Indian Forest Act, 1927 at the local level and listed the rights and privileges of the local forest dwellers.

The traditional lifestyle of the communities continues to depend upon forests. In addition, there has been an increase in population that requires more forest resources\(^{182}\). The limitations governing access to and the use of forest products sanctioned by the laws often fail to meet the requirements of all the households in the community\(^ {183}\). The resource requirement for a household is more than that permitted or sanctioned legally.\(^ {184}\) Some forest products require permits for use (for example timber). As permits take time to convert to permission for use of the resource, they do not provide access when needed and often the need is not fulfilled during the season when it is required\(^ {185}\).

The Joint Forest Management programme in India illustrates the State’s acknowledgement of community participation in forest management. It is possible to gauge the extent of the State’s acceptance of traditional forest-use by tribal communities using Wyatt’s (2008) aboriginal forestry framework. Using some of the

\(^{182}\) In each of the villages in my sample, there is an increase of one to three household per year.

\(^{183}\) Various interviews with villagers in Gamtalv, Kevdi, Sakwa and other villages.

\(^{184}\) Village resident interview, Gamtalav village, 2011 (on timber requirement for houses repair)

\(^{185}\) Various interviews with villagers in Gamtalv, Kevdi, Sakwa and other villages.
relevant criteria in his framework described below, my case falls between “Forestry excluding First Nations” and “Forestry for First Nations”. Under the criterion of “aboriginal rights and government forestry regime”, there has been little understanding of community livelihood needs. The micro-plan had intended to address community needs from the forests. However the process of making the micro-plan did not include the community or enable them to voice their needs. In addition micro-planning processes were not followed for all villages under the JFM programme. Forest tenures were granted in the form of a Memorandum of Understanding (Adhikar Patra). However, the MoU is not a secure tenure and can be unilaterally withdrawn by the Forest Department. There has been no change in the forestry regime or community rights under the JFM programme. Consultation for making changes in forest management is left to a benevolent officer or an NGO. There are no processes to institutionalize any changes that communities might suggest. The Forest Department grants access to some forest resources to the villages as part of economic participation but there is no transfer of power. The Forest Department makes decisions to manage JFM funds. The Forester is the secretary of the JFM committee of the village that has financial powers. The lack of transfer of power to community members is evident in the way Panchayat (Extension to the Scheduled Areas) Act (PESA) has been implemented for rights over NTFPs in Gujarat. The control of the NTFP trade remains with the Gujarat State

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186 In a meeting organised by the Forest Department, the community members present would answer questions asked by the Forest Department.

187 Consultation for any inputs in Forest management has been sporadic. In the villages that AKRSP was working, decisions on species selection for plantation and other forestry activities were made in village meetings (fieldwork 1995 – 97). Such a practice was normally not followed by the Forest Department. However, in one instance, an RFO held a meeting along with me and asked the women of the village to decide on species for plantation in their forest (field work 1996). In one of my visits a few years later I found that he had indeed implemented that decision (visit in 2007).

188 Implementation of the PESA does not require local communities to have a JFM programme.
Forest Development Corporation although it has been mandated to be transferred to village communities under PESA. In the JFM programme, the decision for harvesting and sale of forest products is solely with the Forest Department\textsuperscript{189}. Traditional institutions of collective activities\textsuperscript{190} have been used in near-equitable distribution\textsuperscript{191} of forest products, such as with the collective harvest of fodder and firewood under the JFM programme. However, traditional knowledge/wisdom was not sought out by the Forest Department; the dominant paradigm for forest management continues to be derived from modern forest management practices, as per the Working Plan.

Wyatt (2008) has used impact assessment, such as criteria and indicators, as one of his measures for scrutinizing inclusion of aboriginal values and concerns in forest management practices. In India, as part of the Regional Initiative for Dry Forests in Asia, the Indian Institute of Forest Management\textsuperscript{192}, Bhopal, initiated the Bhopal-India Process that framed criteria and indicators for sustainable management of natural tropical forests for India, with the help of the International Tropical Timber Organisation\textsuperscript{193}. The

\textsuperscript{189} Bamboo, defined as timber according to the Indian Forest Act, 1927, was ready for harvest in village Balethi, Mandvi North Range, in 1995-96. It took a great deal of effort for the villagers to get permission for harvesting bamboo. The Forest Department did not permit its sale for two years, during which the quality of bamboo diminished considerably during monsoons as it was exposed to the rains. After the villagers started taking the bamboo for their own use, the Forest Department decided to auction it. Similar incidents took place in Bharuch district where AKRSP was working and following up with the Forest Department for bamboo harvest and distribution/sale under the JFM programme.

\textsuperscript{190} Tribal communities have a system of working collectively. For example, if a house needs to be built or repaired that requires a lot of work, a number of households in the village help out and finish the task in one or two days. No remuneration is paid for the work done. However, there is an understanding that the help will be reciprocated. It is also normal for community members to carry out activities in a group, for example grazing, firewood collection etc. Personal observation (while living in village Rupan, 1995-97) and interactions with villagers in the district.

\textsuperscript{191} I use the word "near-equitable distribution" because in the initial phase of JFM programme, every household was not a member and thus, was not entitled to the harvest. As the programme progressed, each household was included in the villages and gradually all households were included as members.

\textsuperscript{192} IIFM is an autonomous institute set up by the Ministry of Environment and Forests to realize the need for managerial human resource in forestry sector. The institute is normally headed by a high ranking Indian Forest Service officer.

\textsuperscript{193} ITTO is an inter-governmental organization set up under the United Nations for promoting the conservation and sustainable management, use and trade of tropical forest resources. (http://www.itto.int/about_itto/)
mandate of the Bhopal-India Process is to define, assess and monitor progress towards sustainable forest management. Similar processes have happened in other countries, such as the Montreal Process, the Pan European Forest Process, the Tarapoto proposal and others, to assess the forest management practices of the countries and the development of sustainable forest management practices and conservation. (Rawat et al., 2008)

The Bhopal India Process has eight criteria, two of which mention local forest-dependent communities. Under the criterion “maintenance and enhancement of social, cultural and spiritual benefits”, there is no mention of any kind of consultation with local communities for the protection of social, cultural or spiritual belief systems of local communities. The thrust of this criterion is merely to incorporate the area under the JFM programme. Implementation of JFM is seen as a panacea to safeguard local community interests in forest management. The criterion of “adequacy of policy, legal and institutional framework” emphasizes the compliance to the Working Plan and adheres to the existing legal framework. The other six criteria pertain to measures of physical forest conditions consistent with modern forest management practices. Looking through Wyatt’s aboriginal forestry lens, the Bhopal-India Process has made no changes to identify tribal concerns and values in the listed assessment. The indicator on identifying

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194 The indicators stated under this criterion are: (1) Number of JFM committees (and areas protected by them), subdivided into (a) degree of people’s participation in management and benefit sharing, (b) level of participation of women. (2) Use of indigenous technical knowledge: identification, documentation and application. (3) Quality and extent to which concessions and privileges are provided. (4) Extent of cultural and sacred protected landscapes: forests, trees, ponds, streams, etc., subdivided into (a) type and area of landscape (b) number of visitors. (IIFM 2006).

195 Under this criterion, the indicators listed are: (1) Existence of policy and legal framework. (2) Number of forest offences. (3) Level of investment in research and development. (4) Human resource capacity-building. (5) Forest resource accounting. (6) Contribution of forestry sector to the Gross Domestic Product. (7) Budgetary allocations to the forestry sector. (8) Monitoring and evaluation mechanisms. (9) Status of information dissemination and utilisation. (Rawat et al 2008)
documenting and application of traditional knowledge, and indicator on concessions and privileges provided have not been mentioned in the India Status Report (IIFM, 2006). No changes are envisioned in the legal framework.

The criteria and indicators framework put together by the Bhopal-India process is not a mandatory monitoring tool across the country (Rawat et al., 2008). In the state of Gujarat, the monitoring guideline for sustainable forest management does not adhere to the Bhopal-India process (Vadi, Undated). In Gujarat State, the monitoring guideline for community involvement/participation in forest management is limited only to labouring work by local communities. Clearly the two criteria, on “maintenance and enhancement of social, cultural and spiritual benefits” and “adequacy of policy, legal and institutional framework” proposed by the Bhopal-India process, are omitted in the Gujarat State monitoring guideline for forest management. The India State of Forest Report 2011 lists timber and wood requirements of rural and tribal villages as “Socio-economic contribution of forests” (FSI, 2011b). The India State of Forest Report 2013 does not even include that (FSI, 2013). Thus, at the national level, the State Forest Reports also fail to recognize the cultural and spiritual needs of the tribal communities.

The linkage between at least the above two criteria (on “maintenance and enhancement of social, cultural and spiritual benefits” and “adequacy of policy, legal and institutional framework”) needs to be drawn, to address the issue of criminalization of traditional forest-use of forest resources suffered by local communities on a daily basis. Currently, villages implementing the JFM programme have two sources of rules controlling access to forest resources: that of the Forest Department, and that of the communities, who hire guards/organize voluntary patrols to protect forests. That the communities are
exerting control suggests that they have their own internal governing system\textsuperscript{196} that helps them to improve the condition of the forests, with the help of the Forest Department\textsuperscript{197}.

Enforcement of regulations for access to forests is undergoing changes, and these changes complicate the issue of criminalization. From a situation of policing by the state, the situation has shifted to policing by the community. In exchange, the community derives benefits according to what the State decides to grant them. Forest Department meetings with villagers are credited as participation; beyond that there is no consultation. There is no modification in the operational framework of forest management.

The current legislative regime exerts limitations to the use of forest products for livelihood of forest-dependent communities. Without control over the use of forest resources the forest-dependent communities become vulnerable to various forms of violence while collecting the resources required for sustenance. They are criminalized by the very act of using forest resources, even though their survival depends on it. Legitimate sanctions according to the law of the land, compounded with corruption and illegitimate illegality, further criminalize the community. It also strips the communities of any access they have over use of their own traditional livelihood.

\textsuperscript{196} Community members get together to build/repair houses, harvest resources from common lands, help each other in agricultural work. The village wage rates are decided in a village meeting. More recently, decisions for voluntary work for forest protection are determined by the villagers. I also came across divorce cases decided at the village without going to civil courts. (Fieldwork 1996, 2008, 2011)

\textsuperscript{197} Village elder, village Balethi, expressed that it would be difficult to protect the forests if the Forest Department was not there as the Forest Department exerts authority that the village community concurs without dispute. (Fieldwork 2011).
In the following chapter, I examine the traditional means of livelihood of the local communities, focusing on the cultural practices related to forest use with reference to forest legislation and regulatory mechanisms prevalent in the region. I bring out the changes in the regulation and how that has impacted (or not) the local communities’ control to practice their own traditions.
CHAPTER 4 RECOGNITION AND PROTECTION OF CULTURAL AND TRADITIONAL LAND USE PRACTICES

“Without the forest we are nothing; the forest is our lives.” Magan Bhai Deda, Gamtalav village, Surat District, Gujarat, India 2008

4.1 Introduction

In this chapter, I focus on the relationship between forests and cultural institutions of the Bhil subtribe. In my study area, this subtribe consists of Chaudhari and Vasava families. I examine the laws that govern forest lands and how this governance affects people’s ability to follow their traditional forest-use practices with the help of data collected from my study area in 1995-97 and 2011. The broader context of investigation that I deal with here is the community forestry practice prevalent in the area, viz. Joint Forest Management (JFM).

I specifically focus on religious beliefs, and the ritual practices that involve using natural resources, especially forest resources, of the Bhil sub-castes. I find that there has been very little change in local communities following their ritual practices between 1995-97 and 2011. The legislations and policies have not helped to protect the traditions followed by the local communities, and have been culturally blind. Due to non-protection, the communities are liable to lose some of their traditions that they cherish. In addition, village conflicts affect attendance in group activities that include village level rituals. Micro level planning can help in giving recognition and maintaining village level traditions.
The word ‘culture’ is derived from the Latin verb *culturare*, meaning ‘to cultivate’. The *Oxford Dictionary* defines culture as ‘the ideas, customs, and social behaviour of a particular people or society’. According to Kroeber and Kluckhon (1952),” Culture consists of patterns, explicit and implicit, of and for behavior acquired and transmitted by symbols, constituting the distinctive achievements of human groups, including their embodiments in artifacts; the essential core of culture consists of traditional (i.e. historically derived and selected) ideas and especially their attached values; culture systems may, on the one hand, be considered as products of action, and on the other as conditioning elements of further action.”(Kroeber & Kluckhohn, 1952) Tradition has been defined by the Oxford dictionary as ‘the transmission of customs or beliefs from generation to generation’. It is derived from the Latin word *traditio* meaning ‘to transmit, to hand over, to give for safekeeping’. It carries the connotation of being rigid and unchanging, and therefore problematic when referring to Traditional Forest Related Knowledge (Trosper et al., 2012). Trosper et al (2012) uses five criteria to identify Traditional Forest Related Knowledge passed down from generations that has been adapted to changing circumstances; and therefore not static. Tradition can be practiced at a societal level as well as a household level, whereas culture is normally at a larger societal level. Traditions can become part of the societal culture; the source of change in culture can be from the household level, as people adapt to changing circumstances.

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198 Trosper et al (2012) suggests the following five criteria to “distinguish the unique character of ‘traditional’ knowledge: 1. Sustainability: the goal of understanding remains to maintain the sustainability of the system. 2. Relationships: people’ connections among themselves and to their territory are not severed by the use of new knowledge, ideas of techniques. 3. Identity: people maintain their distinct identity. 4. Reciprocity: people maintain their system of benefit sharing among themselves, and 5. Limits on exchange: while people may engage in market exchange with the flow of products from the land, the fundamental productivity of the system itself is not viewed as capital to be exchanged.”
In this research, I have included those traditions practiced by community members that are identified as common to most of the community.

### 4.1.1 Religious beliefs of the local communities

Using examples of ceremonies and rituals that are important for sustaining the cultural practices and identities of communities, I show the importance of access to natural resources, especially forest resources.

Traditionally the Bhils in Mandvi self-identify themselves as Hindus. They worship Hindu gods and carry a strong belief in life after death. Hanuman (called Hanuman Dada) and Mahadev are Gods they have been worshipping since times immemorial (Group discussion with men, village Gamtalav 2011). They also pray to their local deities that protect their families, their cattle, farms and forest resources. Local gods include a village deity ‘Simario Dev’, and individually chosen deities in the agricultural farms of various families and regional deities that are common among villages. The strong belief in life after death makes it important for the community to give due respect to the spirits of their ancestors. Ancestor worship is another important ritual in their life. All festivals, celebrations and events of religious importance are marked with the communities paying obeisance to their ancestral spirits.

Traditionally, the Bhil’s venerative belief in nature was evident in their worship of specific trees and forests (household surveys in 1995-97 and 2011). Although the number of families directly offering prayers to trees or the forest has declined from 89%

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199 In the housed survey (2011), 85% of the respondents identify themselves as Hindu, 13% as Christians, and others (including Muslims) 2%.

200 Hanuman and Mahadev are popular Hindu deities.

201 The deity that guards the boundary of the village

202 For example Kakabadiya Dev
(in 1995-97) to 25% (in 2011) of the households, there has been no decrease in participation in individual ceremonies such as prayers relating to sowing or harvesting. This can be attributed mainly to lifestyle changes and flexibility in community traditional practices. Families who do not have time (if they are commuting to work or living elsewhere) send their contribution in the form of cash and food materials for ceremonies as a confirmation of their participation. Ceremonies in the forest are performed as a community. This makes it possible for families to send contributions and let core members perform the ceremonies on behalf of all other community members. However, individual families need to conduct ceremonies undertaken for their own fields.

4.1.2 Important plant species for ceremonies

Common plants considered sacred by the local community include the Tulsi (Ocimum sanctum) and the Vad (Ficus benghalensis). Other plants such as Neem (Azadiracta indica), Sag (Tectona grandis), Imli (Tamarindus indica) and Simal (Bombax ceiba), to name a few, are also important to them. Some plant species carry special significance for certain ceremonies: for example the leaves of Umbra (Ficus racemosa), Pipal (Ficus religiosa) and Jamun (Syzygium cumini) are important for wedding ceremonies. Musical instruments for playing tunes to appease local deities are made from bamboo, leaves of toddy trees, gourds, and peacock feathers. Mahuva (Madhuca indica), Kesu / Khakra (Butea monosperma), and Khajur (Phoenix sylvestris) are also important for certain festivals such as Holi and Diwali (group discussion with women, Gamtalav village, 2011). Most ceremonies and rituals involve nature especially forests and/ or trees and animals and require sustained access to forest resources (for detailed description of six

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ceremonies see Appendix B). For an example of festivals celebrated by the communities in Mandvi that relate to nature, see box 4.1, and box 4.2.

Box 4.1

Akhatri: Ancestor worship

(an example of forest area used as a demarcated space to continue a cultural practice)

Ancestor worship, prayers offered to ancestors, is very important and part of most ceremonies. The spirit of the ancestor is lodged in a big, elaborately made, up-turned earthen pot with a lot of design (called 'Gummath' in local language). A specific ceremony is performed to install the spirit of the ancestors as part of the death ceremony (see Appendix II for death ceremony).

Each village has at least one demarcated sacred forest patch. The entire patch is never disturbed; no trees in this patch are cut, but it is cleaned regularly. All the village ancestors are 'kept' in this sacred patch. During important festivals, these revered ancestors are worshipped and blessings are sought from them for all the activities that are being performed. No festival is considered complete without worshipping ancestors. Even in the case of individual household functions such as marriage, members of the household visit the sacred forest patch to receive their ancestors’ blessings.

The special rites for ancestors are also called the Akhatri and are performed in
September – October every year. The rites start with cleaning up the forest patch and plastering cow dung and lighting incense sticks in front of each Gummath. A sacrifice may be offered to the ancestors. The Bhagat\textsuperscript{204} pays his respect to the animal by seeking it’s permission before it is sacrificed\textsuperscript{205}. A number of villages no longer offer sacrifices for every ceremony. However, sacrifices remain common in some interior villages. While offering respect to the ancestors in ceremonies, their food habits (vegetarianism or non-vegetarianism) are abided by.

The blood of the animal is sprinkled on all the Gummaths that are present in the sacred patch of forest land. The sacrificed animal is never wasted. It is cleaned and cooked and everybody present in that ceremony (those who eat meat) receives a part of it as an offering. Even if it is just a morsel, everybody gets a portion.

If the particular ancestor was a vegetarian, only a coconut would be broken.

The offered coconuts would be then distributed amongst all present.

\begin{table}
\centering
\begin{tabular}{|c|c|c|}
\hline
\textbf{Box 4.2} & & \\
\hline
\textbf{Cleaning up ceremony} & & \\
\hline
\textit{(an example of importance of forests as part of cultural and social traditions)} & & \\
\hline
The festival of cleaning up takes place in the months of October- November & & \\
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\end{tabular}
\end{table}

\textsuperscript{204} A village religious leader (Can be considered equivalent to a priest in a church, an Imam in a mosque, or a pundit in a temple).

\textsuperscript{205} I observed that a number of First Nation communities in Canada also have a similar practice of seeking the animal’s permission prior to hunting it, or thanking the animals for presenting itself as food to them (Nadasdy 2007; personal discussions with elders from Sliammon First Nation, 2012)
every year. It is a house cleaning ritual. Each household cleans and collects dirt from their house in one or more bamboo baskets. All the baskets along with the brooms are collected in one place and loaded in a cart. These are put outside the boundary of the village. The baskets of dirt collected from the households signify all the troubles the households face. This symbolizes that all the troubles have been taken out of the village. The baskets and brooms are picked up from the boundary of one village and taken outside the boundary of the next village and so on until they reach the dense forest.

The baskets are taken by men in bullock carts. The men go to the forest to perform the ceremony, which signifies that forests will absorb all the troubles that the men have collected from their households. It is always the men who go to the forest for these ceremonies, and they stay overnight and perform rituals to make the deities happy. The ceremony takes place at the village level on different dates, but the date that the baskets reach the dense forest coincides with all villages of the region. Thus, men from all the villages meet in the forest for the ceremony. They sing and dance, perform rituals and often get drunk. They cook their own food, which often includes chicken or some non-vegetarian food. They return the next day.

It is believed by the local communities that the forest can absorb all their troubles and that forests will take away their troubles, so that they can live happily.
To carry out their traditional cultural activities, communities need access to the forest, especially if it needs to be done in a particular manner or place. Curtailing access to the forest and its resources infringes on people’s right to perpetuate their customary practices and violates their fundamental rights. The UN Declaration of Rights of Indigenous Peoples endorses “…the right to practice and revitalize… cultural traditions and customs (of indigenous communities)… This includes the right to maintain, protect… manifestations of their cultures, such as… historical sites, artifacts, designs, ceremonies…” (UN General Assembly, 2007)\textsuperscript{206}. Apart from cultural institutions, some of the social and economic activities revolve around ceremonies that are associated with natural resources, especially forests (Appendix B).

Events such as Akhatri and the cleaning up ceremony (box 4.1 and 4.2) illustrate that specific spaces in village forest lands and a common dense forest area is important for some of the ceremonies that are performed. In the example of box 4.1, the same space is used not only for Akhatri, but for every ceremony or important event of the community.

Traditional systems and customary practices were unwritten. Some of these traditional ceremonies incorporated basic natural resource conservation, for example a sacred grove in a forest area where no community member was allowed to extract any natural resources. Gadgil (1985) describes eight kinds of traditional and cultural practices in India that assisted and insured nature conservation. These practices were part of the normal lives of local dwellers. They ranged from restrictions of resource use based on

\textsuperscript{206} UNDRIP article 11.1 states that “indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and developing a past, resident and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature”.
territory and different groups of people, seasonality, methods of exploitation, permanent closure to conserve biodiversity of certain areas or certain species, rules laid down by the rulers and so forth. These practices were followed as norms, sometimes with the understanding of different groups of people, and were not written down (Gadgil, 1985).

We can see that the communities continued to access the forests to pursue their age-old rituals, customary practices, traditions, festivals. Prior to 1814 these practices were legitimate, now a number of these have been rendered illegitimate.

### 4.2 Bhajan\(^{207}\) Mandli\(^{208}\): a modern form of traditional culture

In 1995, at the start of my field work, the presence of a bhajan mandli was a normal phenomenon in most villages, comprising of a group of people getting together to sing songs. The bhajan mandli possessed musical instruments for community functions in the village. The bhajan mandli met regularly, sang traditional devotional and folk songs, composed new songs and trained participants to perpetuate the village songs. It comprised the older generations, the youth of the village and the children. It was religious in nature. The songs contained stories and folktales of the village and surrounding areas and were associated with nature, forests and peoples' relationship with natural resources including flora and fauna, land, water and seasons\(^{209}\). The tales included people's relationship with outsiders, such as government officers including those from the Forest Department\(^{210}\). During my field work in 2011, there seemed to be no bhajan mandlis present. Bhajan mandlis ensured advancement and continuity of

\(^{207}\) Bhajan is devotional or religious songs.

\(^{208}\) Mandli is a cooperative society that is not necessarily registered. Therefore, it can be a formal or informal group of people who follow protocol decided by them.

\(^{209}\) Devjibhai sang older songs and composed new ones, and translated it for my understanding. Bharada village, 1995-97

\(^{210}\) My participation in Bhajan Mandli meeting, village Bharada, 1995 to 97.
village traditional folklores through regular meetings and singing the stories and folklore in form of songs.

4.3 Lack of recognition and protection of traditional land use practices: review of relevant legislation and procedural rules and guidelines

In this section, I review the relevant forest legislation that is currently operational; the latest being the Forest Rights Act 2006 and the oldest being the Forest Act, 1927. Some laws (PESA and FRA) have clauses to reverse the deprivation of tribal rights, but are seen to be inadequate. In this section, I give reasons for this. Despite the involvement of individuals and organizations working with tribal communities, the law makers watered down the provisions that gave more power to the communities. Apart from making weak laws, implementation has been dismal. Poor implementation of the FRA led the Minister of Tribal Affairs to establish separate guidelines for following the FRA, mentioning the reasons in an official letter (text included in the section later).

I argue, on the basis of the legislation that has been implemented, that the current applicable legislation does not support the recognition and preservation of the traditional cultural practices of tribal communities that are linked to forest use. The legislation does not institutionalize the protection of forest-related traditional and cultural practices by local communities. This permits leaders and bureaucrats to be in a (superior) power-relationship with communities, requiring them to obtain permission to follow cultural practices, and also provides the authorities with an opportunity for rent seeking behavior
(as described in Chapter 3). In addition there are no provisions for attitudinal changes for bureaucrats who consider tribal communities as “backward”\(^{211}\).

### 4.3.1 Imposition of laws

According to Guha (1985), the imposition of laws in both the colonial and postcolonial periods did not involve adequate consideration of the customary practices of people at the local level. Traditional land-use practices were perceived as uncontrolled, and access to forest resources by local villagers was restricted. He further elaborates that the traditional restrictions that communities practiced were ignored, including those practices that preserved the natural resources (owing to local cultural practices), and provided food and nutrition to the communities (Guha, 1985).

Only those rules that were practiced by the monarchs and were written were recognized and listed as privileges to be granted to local inhabitants (Guha & Gadgil, 1992). In my survey area, the elders did not mention any process of consultation with them for any of the rules that had been imposed.

According to Gadgil and Guha (1995), at the time lands were demarcated as reserved forest lands, unwritten rules went unrecognized by the state power. It was convenient for the government to disregard these practices as they needed to take over the forests for timber management and exploitation\(^{212}\) without local encumbrances (Oosthoek, 2013).

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\(^{211}\) Several meetings with Forest Department personnel at different levels. 1995-97, 2008, 2011.

\(^{212}\) According to Hugh Cleghorn (1872), the first Inspector General of Forests in India, “During the first stage of colonisation in most countries, as for instance Australia, India, and America, and while settlers are thinly scattered, demands on the wood supply are usually so limited as not to cause undue destruction of indigenous forest, nor to occasion alarm for future requirements. But immigration goes on, agricultural industry is extended, railways are formed, all these causing encroachments on the forests to take place, and ultimately denudation follows, with, it’s many attendant evils; and often when it is too late the maintenance of forest riches for the first time engages the attention of the legislature.” He was addressing the 19th Annual meeting of the Transactions of the Scottish
Apart from the economic exploitation, there was also cultural dominance over tribal communities. Communities were not consulted about the protection of cultural and traditions before decisions were made. After Independence, except for the sixth Schedule areas laid down under the Article 29 of the Indian Constitution (explained later in this chapter), in a sense, the structure of power and control of natural resource management did not undergo change and stayed centralized. According to Haeuber,

“Under both British and independent Indian administration, forest resources were perceived as integrally tied to economic development of the state through meeting raw material needs. Under British rule, forests met the needs of the colonial state; after independence, forests became increasingly tied to the needs and goals of the independent Indian state.

Despite the transition from colonial to independent status, forest resource management changed little: exclusionary processes accelerated as successive Indian governments strove to consolidate state authority over forest resources and increasingly bind their exploitation to state goals and interests. Thus, the history of Indian forestry policy has been marked by increasing exertion of state authority and restriction of popular access.” (Haeuber, 1993)

Despite India becoming an independent nation, there has been little substantial change in the forest laws related to consultation practices with tribal communities (barring a few,

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Arboricultural Society. He ended his lecture stating that he had “… sketched some of the terrible consequences of neglecting the natural forests of a country…” in his own observation in India. (Sadler, 1875)

Hugh Cleghorn (1874), in the 21st Annual Meeting of the Transactions of the Scottish Arboricultural Society stated that by 1850 “the government in India began to be seriously embarrassed by the scarcity of timber; its attention was directed to the management of the indigenous forests”. Hugh Cleghorn recognized the importance of forests and their influence on the humidity of air and earth, temperature, in maintaining water table and on agriculture. (Sadler, 1875)
such as the Forest Rights Act 2006), and the legislation still has not taken into account traditional forms of land use by tribal communities.

There are instances of prevalent laws that provide teeth to protect the cultural tradition of aboriginal peoples in different parts of the world. In Canada, *British Columbia’s Heritage Conservation Act, 1996*, for example, provides for protection of artifacts, rock paintings and cultural sites, burial grounds and any living artifacts, including culturally modified trees. In the Act, any person who attempts to damage or take away cultural artifacts of the specific areas or damage the area, is liable for punishment with a fine and imprisonment.

Not only is it desirable to be a custodian of one’s own cultural and traditional heritage, but allowing communities to decide on what they would like to protect enables the required changes in traditional practices that would occur in a normal life situation (Ash, 2009). This enables dynamic changes in traditional practices. Culture is not frozen in time and it helps to find means to empower people to protect their own cultural heritage. Traditional practices for resource management change as a result of responses to the environment’s requirements. This change is orchestrated to ensure continuity of resource use for communities’ livelihoods (Berkes et al., 2000). Berkes (1999) deliberates on the development of healthy ecosystems through traditional and cultural practices by communities dependent on ecosystems for their livelihood because their purpose of conservation is linked to their own survival. National laws that undermine local management structures set up for purely ecological conservation may actually result in degradation of the ecosystem as well as the traditional management structures that preserved the ecosystem (Adger & Luttrell, 2000; Colchester, 2006).
4.3.2 **Indian legislation on protecting culture**

Under constitutional provisions of the Article 29, the Constitution of India recognizes the protection of the culture of minorities as a fundamental right. However, there is no legislation that has been enacted to protect a distinct tribal culture, including language\textsuperscript{213} or script, folklore or traditional knowledge. Only some areas that are permitted to have separate autonomous councils for self-governance are able to practice their customary laws. If, in those areas, the national laws of India are in conflict with their customs, then the head of the state of the autonomous councils can decide to suspend the national laws. Most tribal communities not falling in the area of autonomous council sovereignty, under the Sixth Schedule of the Indian constitution, are subjected to the laws of the country as a whole. No other special provisions have been granted for implementing customary laws in those areas\textsuperscript{214}. Apart from this inadequate legislation for the preservation of different cultures and traditional land use of tribal areas, there is no legislation to protect cultures and traditional practices from misuse by outsiders (Kutty, 2002).

The traditional practices followed by tribal communities have barely been given recognition in the national legislation. Even the instances of recognized customary laws (for example in the 6\textsuperscript{th} Schedule) mainly pertain to the governance of the management of resources. They do not necessarily take cognizance of the cultural practices that

\textsuperscript{213} In the state of Andhra Pradesh the language of Kolam (a tribal community) has been lost (von Fürer-Haimendorf, 1982).

\textsuperscript{214} Areas in Gujarat, for example Mandvi (my study area), falls under the Fifth Schedule under article 244 (1) of the Indian constitution. In this case the governor consults with the Tribal Advisory Council and makes rules regarding land and for business. For example prohibiting or restricting transfer of land allotment of land to tribal communities and regulating moneylending to members of Scheduled Tribes in such areas. There is no mention of protecting cultural practices or land-use of non-private lands. The Sixth Schedule under article 244 (2) of the Indian constitution provides legislative, judicial and executive powers for district or regional autonomous councils. The sixth schedule extends mostly to the states in North-East India.
include the belief systems or the religious ceremonies in the area. The PESA (Panchayat Extension to Scheduled Areas Act 1996), which gave some authority to the Gram Sabha or the village council, for example, mentions only vesting decision-making powers over the use of forest resources related to livelihoods, and are economic in nature. No attention has been paid to the protection of cultural and traditional practices.

The Forest Rights Act, 2006 touched upon preserving tribal cultures. The FRA has a specific clause that refers to protecting the cultural and natural heritage of forest dwellers\textsuperscript{215}. It does not give any specific instructions on the process of how the Gram Sabha would realize and exercise this power. In fact there is no definition of “cultural heritage”. While it is possible to interpret this as giving freedom to the Gram Sabha to take any step towards preserving their culture and natural heritage\textsuperscript{216}, this Act, too, falls short of giving the teeth that would be required to implement the protection of local traditional cultures.

4.3.3 Ancient Monuments Act 1958

The Ancient Monuments and Archaeological Sites and Remains Act, 1958, provides for the preservation of historical and ancient monuments and archaeological sites of national importance. It protects sculptures, carvings and other objects. In the Act there is no mention of protecting tribal cultural heritage, nor their sacred places nor what the tribal communities hold as important.

\textsuperscript{215} The Forest Rights Act 2006, s 5 (c) states "The holders of any forest right, Gram Sabhas and village level institutions in areas where there are holders of any forest right under this act are empowered to –… (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;…"

\textsuperscript{216} As mentioned earlier, in the Niyamgiri-Vedanta SC case in Odhisa, the Dongari Kondh tribal community members saved their sacred hill from bauxite mining using the provisions of the FRA. They were supported by the NGOs and international organizations in this effort. There are no cases of village communities taking up cases in courts to fight for their rights without support from NGOs.
4.3.4 **Gujarat Animals and Birds Sacrifices Prohibition Act 1972**

Tribal religious practices call for ritualistic animal sacrifices. Traditionally, tribal community members in the area sacrificed “big” animals for example a goat, as well as fowl such as chickens. The *Gujarat Animals and Birds Sacrifices Prohibition Act* 1972, places a ban on sacrifices. Thus the sacrificing of any bird or animal as an offering to deities is illegal. Although the number of sacrifices has decreased and “big” animals are rarely sacrificed, the communities do still sacrifice a bird, usually a chicken, while praying to ancestors. In cases when a chicken is sacrificed, after the sacrificial ceremony, the bird is dismembered, cleaned and cooked on the spot during the ceremony and distributed for eating to everybody who is present at the ceremony.

I did not come across any instance where a community member was fined or accosted for carrying out a sacrifice. However, the police and other government personnel have the power to fine or accost community members for offering sacrifices during their ceremonies. The Sacrifices Act thus makes their practices, namely paying obeisance to their ancestors, illegal. This Act, if applied, would forcefully change the cultural practices of the communities. On the other hand, there is a growing tendency amongst the villagers (number of people from Gamtalav, Kevdi, Makhenjar, Sakwa, Titoi, Kalibel and few others) talked about the size of the animal that was important for sacrifices. In that context, a goat sacrifice was (and is) seen as more ‘uncivil’, ‘primitive’ and less ‘ethical’ than a fowl. Also since eating chicken is more common than a goat, it is more acceptable for a sacrifice.

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217 The villagers (number of people from Gamtalav, Kevdi, Makhenjar, Sakwa, Titoi, Kalibel and few others) talked about the size of the animal that was important for sacrifices. In that context, a goat sacrifice was (and is) seen as more ‘uncivil’, ‘primitive’ and less ‘ethical’ than a fowl. Also since eating chicken is more common than a goat, it is more acceptable for a sacrifice.

218 Trikombhai village Makenjhar; Maganbhai, village Gamtalav; Rama ben village Kevdi, 2009

219 However, a local news channel, TV9 Gujarat, covered a story of an animal rights NGO thwarting efforts of a deer sacrifice by the local tribal community, located in Zankhwav (neighbouring forest range to my study area). (See https://www.youtube.com/watch?v=xW4-4NoLijO). The news item shows that the individual from the tribal community ran away and could not be caught and jailed or fined, but the deer was rescued and handed over to the Forest Department.

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communities towards being vegetarian. This too has contributed to the reduced number of sacrifices\textsuperscript{220}.

An example of making a customary practice a criminal activity is the imposition of a ban on the manufacture and sale of liquor in South Gujarat, extensively researched by Hardiman (1987). Locally available Toddy and daru\textsuperscript{221} (made from Mahuva) were taxed in 1878, including ownership of toddy trees. Daru was an essential item in their livelihood and culture, and for ceremonies that involved offerings to the deities and ancestors. Both Toddy and daru were nutritional supplements in times of famine and drought (Hardiman, 1987). With heavy taxation on toddy trees, there was a drive to cut them down (Hardiman, 1987). The abundance of Mahuva trees were also reduced in the forest in my study region (group discussion with women, Gamtalav, 2011). This has had a detrimental effect on people’s access to nutrition (Chaudhuri, 2008; Hardiman, 1987). Heavy taxation has forced tribal community members to migrate. There were a series of protests against the taxation policies of the government (Fischer-Tiné & Tschurenev, 2013), and letters to the government to stop this tax and let drinking be free, but it fell on deaf ears (Hardiman, 2007). Post-independence, the Bombay Prohibition Act, 1949 was put in force; it banned the manufacture, storage, sale and consumption of alcoholic beverages. After a liquor tragedy leading to deaths, the State government proposed the Bombay Prohibition (Gujarat Amendment) Bill, 2009 with stricter punishments for offenders found guilty\textsuperscript{222}.

\textsuperscript{220} Village elders, Gamtalav and Kevdi, 2008, 2009
\textsuperscript{221} Local liquor brewed from Mahuva flowers
\textsuperscript{222} According to a study undertaken by Subramanium et al (2005), state-level prohibitionist policies were not effective for reducing alcohol consumption, whereas non-policy based contextual factors (social and cultural) were stronger predictors of alcohol use. (Subramanian et al., 2005)
Despite prohibition in Gujarat, *Mahuva daru* is still offered during religious ceremonies. Brewing liquor is illegal but it is important for the communities. So *Mahuva* liquor is brewed secretly (visit to few liquor brewing sites in the district\(^{223}\), 2009). This liquor is used for consumption (and local sale) as well as for religious ceremonies\(^ {224}\). People grow *Mahuva* trees on their own land and also collect *Mahuva* flowers from the forest. McNemar’s test suggests no statistically significant change in the number of households collecting *Mahuva* flowers in 1995-97 and 2011 {\(p \text{ value} = 0.804; \text{Valid percent} = 98.1\%; N=152\)}\(^ {225}\).

Table 4.1 *Mahuva* flower collection (number of HH) in 1995-97 and 2011

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<tbody>
<tr>
<td></td>
<td>No</td>
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<tr>
<td><strong>Total</strong></td>
<td>92</td>
</tr>
<tr>
<td>% within <em>MahuvaFlowers_1997</em></td>
<td>60.5%</td>
</tr>
<tr>
<td>% within <em>MahuvaFlowers_2011</em></td>
<td>100.0%</td>
</tr>
<tr>
<td>% of Total</td>
<td>60.5%</td>
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</table>

\(^{223}\) Names of the villages are not specified on purpose as liquor brewing is termed illegal.

\(^{224}\) Personal observation during most of my field visits from 1995-2011. Initially my visits to the local brewery were regarded with a lot of suspicion, in case I ‘reported’ to the police.

\(^{225}\) Test conducted on data of the same 155 households that were interviewed in 1995-97 and in 2011.
4.3.5 The Forest Rights Act 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, commonly known as the Forest Rights Act 2006, was passed to undo the historical injustice to the Scheduled Tribes and Other Traditional Forest Dwellers in the country. It is a National Act, and extends to all states except Jammu and Kashmir. It attempts to recognize and vest in the forest dwellers their traditional rights, including community and individual rights. It grants ownership of traditionally used forest products and secures land tenure over traditionally used forest lands. By promulgating this Act, not only did the State realize that ancestral lands of forest dwellers have not been so far recognized but there was recognition of the need to undo historical injustices. This includes recognition and protection of tribal culture, even if it only recognizes cultures and traditional practices prior to December 2005. However, the Act itself and its implementation have been weak for the reasons stated below.

No change in land use is considered by the government for vesting and rights after December 13th, 2005; only practices prior to December 2005 are considered when vesting forest rights to forest dwellers. In my field area, FRA had not yet been effective by 2011. The Government of Gujarat Resolution regarding formation of the District Level Committee for implementation of the Forest Rights Act 2006 was issued in September 2012. According to the Status Reports226 on implementation of FRA 2006 issued by the Ministry of Tribal Affairs, Government of India, a total of 42,752 titles (40,994 individual and 1,758 community) have been settled, out of 191,592 claims.

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226 Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the period ending 30th June 2013; and Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the period ending 31st May 2014. Both reports are issued by the Ministry of Tribal Affairs, Government of India. There is no difference in the figures in both the reports.(GOI, 2013, 2014)
(182,869 individual and 8,723 community). The extent of forest land community titles distributed has not been furnished by the Gujarat government. The area of occupation of land for individuals has been fixed to a maximum of four hectares, upon verification of the claims by various departments (revenue, the forest, tribal and Panchayat departments) after the claim has been approved and initiated by the Gram Sabha.

The Forest Rights Act (FRA) has been mired in controversy since its inception. Conservation NGOs and the Forest Department have alleged that the Act was giving away forest lands for cultivation and regularizing encroachments on forest lands; while, the pro-tribal lobby felt that the Act was a very watered down version of the bill that was drafted (Ghate 2009). The Act did not completely fulfill the intent that was specified in the draft Bill, as the clauses that gave power to the village communities were diluted. This is evident in the example of powers granted to the Gram Sabhas. The suggested forest rights of the Gram Sabhas were tempered with the inclusion of Panchayat officials (from different villages), politicians, and the Forest Department officials as decision makers. The Forest Rights Rules 2012 interprets details of implementing the Act and this was further weakened by adding a Sub-Divisional Committee as the authority for vesting forest rights. The final authority in case of a dispute is the District Level Committee (DLC), set up by the State. The Gram Sabha cannot veto the decision of the DLC which is deemed to be the final authority. The Forest Rights Rules 2012 make the Gram Sabha heavily dependent on the bureaucracy for taking decisions.
4.3.5.1 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012

The Forest Rights Act of 2006 is implemented through the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, amended in 2012\textsuperscript{227}. In the amendment, the function of the *Gram Sabhas* has been extended to include the preparation of a conservation management plan for community forest resources for the benefit of the local community members and the integration of this conservation and management plan with the micro-plans and working plans of the Forest Department.

The rules define the composition and functions of the Sub Divisional Level Committee (SDLC). The Sub Divisional Level Committee comprises a sub-divisional officer, a forest officer, members of the *Panchayat*, the district *Panchayat*, an officer from the tribal welfare department, and at least two members from the Schedule Tribes community.

The role of the Sub-Divisional Level Committee is to inform the *Gram Sabha* about the duties of the forest rights holder to protect forest and wildlife: what needs to be protected and conserved, and how it could be done.

Among other functions, the Sub-Divisional Level Committee ascertains the veracity of the claims of the *Gram Sabha*. The final approval of the claims is done by the District

\textsuperscript{227} The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2008 was amended in July and September 2012 because of the “objections and suggestions received from the public in respect of the said draft amendment rules have been duly considered by the Central Government” as stated in the FRA Amendment rules 2012.
Level Committee (DLC) and a clause has been added to provide a certified copy of the title to the forest resources to the Gram Sabha or the individual who has been granted the title. The FRA rules 2012 specify that the District Level Committee has responsibility to ensure that “protection, the regeneration or conservation or management of any community forest resource, which Forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognised…” (Article 12 B.3), realizing clause (i) of subsection (1) of section 3 of the FRA 2006. However, no such clarity has been inserted for preserving tribal cultural heritage under clause (c) of section 5 of the FRA 2006. Evidence for determining forest rights includes traditional structures, burial grounds, sacred places or information on customary laws that are followed in the area, but there is no protection clause. There is also no clause for collecting information that would enable the preservation of traditional practices and cultural artifacts.

4.3.5.2 The 2012 Guidelines on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

The Forest Rights Rules 2012 and the Forest Rights Guidelines 2012 give direction on the implementation of the Forest Rights Acts. In the official letter accompanying the guidelines, the Joint Secretary to the Government of India, Ministry of Tribal Affairs,

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228 The district level committee comprises of the District Collector, the Divisional Forest Officer, three members of the district Panchayat of which preferably at least two needs to belong to Scheduled Tribe or forest dweller community, and an officer from the Tribal Welfare Department in charge of the district.

229 The Forest Right Act 2006, s 3.1 (i) states that “For the purposes of this act, the following rights, which secured individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands namely: —… right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;…”

230 The Forest Right Act 2006, s 5 (c) states that "The holders of any forest right, Gram Sabhas and village level institutions in areas where there are holders of any forest right under this Act are empowered to —… Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;…”
expressed the reason for issuing the guidelines. They include activities by a few State
governments impeding the implementation of the FRA 2006, and harassing tribal people
and other forest dwellers in violation of the spirit and provisions of the FRA 2006. The
grounds for rejection of claims for forest title required revision. The letter\textsuperscript{231} stated

\begin{quote}
\ldots The ministry has noticed several problems which are impeding the implementation of the act in its letter and spirit, such as, convening of Gram Sabha meetings at the Panchayat level in some cases, resulting in exclusion of smaller habitations not formally part of any village; non-recognition of unhindered absolute rights over the minor forest products (MFP) to forest dwellers; imposition of several restrictions, like, transit permit for transportation of MFPs, levy of fees, charges, royalties on sales of MFPs; exclusion of certain types of MFP’s, in contravention of the definition of MFP being given in the act; continuance of monopoly in the trade of MFP, especially in the case of high-value MFP, such as tendu patta by the Forest Corporations in many states; non-recognition of other community types, such as, nistar rights, \ldots The tribal people and other forest dwellers are reportedly facing harassment and threats of eviction from forests and forced relocation or displacement from the areas proposed for development projects without settlement of their rights or due compliance with safeguards in violation of the provisions of the Act. The claims are being rejected in some states as the officials are insisting on certain types of evidences and the new technology, such as, satellite imagery, is being used as the only form of evidence for consideration of a claim, instead of using the same to supplement the evidences submitted by the claimant in support of their claims. Inadequate public awareness about the provisions of the Act, particularly the provisions relating to the filling of petitions by the persons aggrieved by the decisions of the
\end{quote}

authority prescribed under the Act, inadequate training of the implementing officials etc. are also some of the reasons for non-implementation of the Act in its letter and spirit.…"

The FRA guidelines 2012 mention the rights of local forest-dependent communities to minor forest products. This only partly recognizes the traditional activities of the forest-dependent community, and is limited to the livelihoods or subsistence of people and the conservation of forest resources. There is no mention of preservation of cultural heritage or artifacts, or recognition of the ceremonies or traditional practices that communities followed for spiritual purposes and/or for conserving the forests.

The guidelines protect local forest-dependent communities against eviction, diversion of forest lands and forced relocation. However, how these rules would translate into the field is yet to be seen as the FRA rules and guidelines are not entirely complied with.

4.3.6 Forest (Conservation) Amendment Rules, 2014

The draft policy on ‘Inspection, Verification, Monitoring and Overall Procedure Relating to Grant of Forest Clearance and Identification of Forests’, January 2014, referred to conditions and processes to be followed for diversion of forest land and its vegetation. It failed to mention the FRA or any of its components or processes.

Officers of the Forest Department and a ‘third party of repute’ are required to help the entire process of identification, verification, clearance and even monitoring. There is no reference to a process of consultation with or any participation from any part of the community, be it Panchayat institutions, the Gram Sabha or any community member, as

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232 Official letter by The Minister of Tribal Affairs and Panchayati Raj, Government of India, in June 2013 to the Governor of Madhya Pradesh, Chairperson of the ruling party, and the Chief Minister of Madhya Pradesh detailed "… blatant violation of legal requirement of FRA and the requirement for consent of Gram Sabha…" in granting clearance for coal mining on forest lands without settlement of local communities' forest rights. (MoTA, 2012)
required by the FRA, in the entire process of diversion of forest land. This omission was partially addressed in the final amendment to the Forest (Conservation) Amendment Rules 2014. The consent of the Gram Sabha is now required at the stage of clearance of land for forest diversion. There is no mention of the process involved in the relocation of villages or compensation to affected communities. The application, verification and monitoring forms specify details on forest and wildlife, and also protected archaeological heritage sites, defense establishments or any other monuments located in the area (Form – C, Part II, Section 21 (i-v), and 22). There is also no mention of protecting sacred sites that local communities find important for their traditional practices.

In all the above described legislation, the process of recognizing and vesting cultural and traditional rights over natural resources, and clarity in helping preserve cultural heritage, is inadequate. The common understanding of traditional activity so far is limited to economic and subsistence activities. Cultural heritage as a whole has not been addressed; rather in some instances, it has been criminalized. As a component of basic human rights it is important to recognize and respect the cultural heritage of tribal communities as stated in the United Nations Declaration on the Rights of Indigenous Peoples, 2008 (India voted in favour of the Declaration) and the Universal Declaration of Human Rights. Steps need to be taken to enable communities to preserve their culture (United Nations Committee on Economic, Social and Cultural Rights 2009). The International Covenant on Economic, Social and Cultural Rights obligates governments “…to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves.” India is a signatory to the Convenant.
4.4 Findings from the survey/group discussions/observations

This section combines and describes the findings from the survey, group discussions and my own observations.

4.4.1 Erosion of cultural practices

The current research is based on the premise that it is important to protect and to recognize tribal culture associated with nature, and to protect traditional land use and its associated culture\(^\text{233}\) (at least for those communities and for those households who wish to follow these and retain the traditional land use and culture). In their present form, the laws and legislation in India related to the protection of tribal traditional and cultural practices do not contain adequate measures to recognize various aspects of traditional practices and culture. Without any safeguards, the danger of slow destruction of this culture is real. Traditional tribal practices and ceremonies are often dismissed by other religious groups and given an inferior status, making the communities feel that their culture, traditional ceremonies and practices are inferior to those of other religious groups\(^\text{234}\) (such as Christianity, Islam, Zoroastrianism and different forms of Hinduism\(^\text{235}\)). As some community members feel compelled to be associated with a 'higher status and lifestyle', they do not give much importance to their own culture, considering it 'backward'\(^\text{236}\). The erosion of tribal cultural practices in this case occurs because of the downgrading and undermining of the importance of their own culture


\(^{234}\) Community members, Kevdi 1996, 2009, 2011. This observation is supplemented by interactions with non-tribal people in and around Surat and Bharuch districts.

\(^{235}\) These are the religions followed in the geographical area where my field work was located.

\(^{236}\) Community members, Kevdi 1996, 2009, 2011. This observation is supplemented by interactions with non-tribal people in and around Surat and Bharuch districts.
rather than because a change is required in the practices for the betterment of the community or as part of evolving traditions (Malhotra, 2011).

During my field work in 1995-1997, I was able to participate in a number of traditional ceremonies performed by the community members that required the use of forests or forest resources in some form (descriptions of some ceremonies have been recorded in this chapter, box 4.1 and 4.2, and appendix II). Usually, community members prefer not to share information about their traditional beliefs and related ceremonies as they are unsure how outsiders will react. They have been given the impression that their ceremonies are inferior, especially by households that have converted to Christianity\textsuperscript{237}. Of the households or household members who converted to Christianity, there are some who follow both customs – those directed by the Church, and their own traditional practices.

4.4.2 Physical space and access to continue following practices

The government policies and procedures are often blind to traditional practices. Although some individuals in the bureaucracy may be aware of certain ceremonies, there are no systematic procedures for taking such heritage into consideration in governmental programmes and activities (interviews with Forest Department staff, Mandvi range 2011). This has been seen to have adverse effects on community culture. For example, in one of the Gamtalav’s neighboring villages, Makhenjhar, I attended the ceremony for cattle protection (\textit{Nandervo}) in 1995, which is performed every year in the month just before the monsoons (Appendix B). \textit{Nandervo} is an important ceremony for each village and is performed for the welfare of the livestock of the village. In

\textsuperscript{237} Community members, Kevdi 2011 and 1995
Makhenjhar, the ceremonial site for the ceremony was on land adjacent to the main road\textsuperscript{238} that housed three deities, as well as a community well.

In 2009, I saw that the government had built about 20 concrete houses on the land, entirely occupying the sacred ceremonial site. When I spoke to the headman of the village, he informed me that according to the revenue records this was village common land. Nobody officially consulted the villagers. The government simply re-settled some people on the land. Unfortunately, there was no written or official record of the deities that had presided in that area. Hence, the next year onwards they stopped holding the *Nandervo* ceremony.

Apart from the social and cultural differences between the resettled communities and Makhenjar residents, there is also a feeling amongst the residents that the re-settled people were responsible for the loss of their sacred site. Consequently, the villagers refuse to accept these households as part of their village.

### 4.4.3 Community perception on changes in values, beliefs and traditional practices

Prior to 1918, there were no restrictions on ceremonies performed in the forests by tribal communities. Despite being forbidden to go into the forests to perform any ceremonies by the Forest Department from 1918 onwards, the communities continued their practices (Group discussion with men, Gamtalav 2011). The ceremonies are still carried out, although with a reduced number of people physically participating and attending the ceremonies (group discussion with women, Gamtalav village, 2011). Every household, however, contributes towards ceremonies (even if they cannot go physically), as they think that these ceremonies are important for the well-being of their family. Thus the

\textsuperscript{238} The road from Mandvi to Netrang is the only road connecting the two towns and quite an important road.
families ensure their representation through materials that are contributed and received back\textsuperscript{239} as a sacred offering.

The numbers of people who conduct the ceremonies have declined. As an example, in Gamtalav, approximately 50 years ago there were more than 15 *Bhagats* (local traditional priests) and *Dhunies* (traditional instrument players, who played the ‘tunes of the gods’). Now it is difficult to find a *Dhunie* within a 50 km radius, and there are only a couple of *Bhagats* in each village. With better roads and transport facilities, ceremonies that would have taken more than a week are now completed in two or three days. In the past, they would only eat what the forests gave them during the ceremonies. Today, there is hardly any food available in the forests and food is carried from the village (Group discussion with men, Gamtalav village, 2011). There is also a difference in the number of school-going children attending the ceremonies during school hours. The ceremonies that take place during the evenings or during holidays are well attended by children. But if it happens to fall on a week-day, the school going children are absent from the ceremonies\textsuperscript{240}.

Marriage ceremonies have also changed; they take less time and more money. Earlier the wedding could happen within the village and leaves from particular trees (*Sterculia urens* and *Butea monosperma* – normally where deities resided) were used to sanction the wedding. No outsider was required. Now, the wedding must be conducted by a

\textsuperscript{239} A family that does not send a family member to the ceremony sends a basket of uncooked food. After the ceremony is over someone present in the ceremony brings back to the family a portion of the cooked food that was offered to the deity. This is more so in cases where the male members of the family are either too old to go or have gone out for work/wage labour. In 2011, I went along with one village group for a ceremony to a place that was more than 15 km away from the village. Part of the ceremony took place in the village itself and people who were unable to go sent baskets of uncooked food with the group who was going to the sacred site. These baskets were opened after reaching the sacred spot when the food had to be cooked.

\textsuperscript{240} Personal observation of the ceremonies in 1995-97, 2008, 2011. Sometimes I saw children in school uniforms as they joined in the ceremonies after school.
Brahmin priest (group discussion with men, Gamtalav village, 2011). However, the presence of a *Sterculia urens* tree is, even now, required to complete a wedding. The bridegroom is taken ceremoniously under the *Sterculia urens* tree and a ceremony is performed to get the blessings from the deity in the tree. That particular deity (to give the blessings) resides in the *Sterculia urens* tree specifically. With the reduction in the number of people playing traditional instruments, the practice of women dancing has also declined (group discussion with women, Gamtalav village, 2011).

Although traditional medicines are not given too much importance by the younger generation, the older generation still relies on the traditional medicines that can be gained from the forests (group discussion with men, Gamtalav village, 2011). The availability of medicinal plants has also declined. It takes more time and effort for people collecting medicinal plants as they have to travel longer distances to find some species due to degradation of forests coupled with an increased extraction (including from outside the village).

The following is the result of comparing data from 155 households that were interviewed in 1995-97 and 2011. The McNemar’s test suggests number of households collecting medicinal plants was not statistically different in the two years {p value = .061; Valid percent = 98.1%; N=152}:

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241 Personal observation, wedding ceremony, 1997
242 Some of the youth said that they resort to traditional medication when modern medicine fails, Gamtalav 2011
The number of households involved in extracting medicinal plants has not undergone a significant change and the communities continue their use of medicinal plants. Of the 152 households, 9 households that did not extract medicinal plants in 1995-97 were extracting medicinal plants from the forest in 2011 and 20 households that did the extraction in 1995-97, stopped doing so by 2011. There was no change in 123 household extracting medicinal plants in the two time periods. These data only reflect the responses from the three villages in the survey. It does not reflect the number of families that may be accessing the same forest lands from other villages or the quantity extracted. Also since medicinal plant collection is specialized; only specific individuals in the village know what and how to collect, and the various uses of the plants. This

<table>
<thead>
<tr>
<th>MedicinalPlants collected in 1997</th>
<th>MedicinalPlants collected in 2011</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>No</td>
<td>113</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 1997</td>
<td>92.6%</td>
<td>7.4%</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 2011</td>
<td>85.0%</td>
<td>47.4%</td>
</tr>
<tr>
<td>% of Total</td>
<td>74.3%</td>
<td>5.9%</td>
</tr>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>20</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 1997</td>
<td>66.7%</td>
<td>33.3%</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 2011</td>
<td>15.0%</td>
<td>52.6%</td>
</tr>
<tr>
<td>% of Total</td>
<td>13.2%</td>
<td>6.6%</td>
</tr>
<tr>
<td>Total</td>
<td>Count</td>
<td>133</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 1997</td>
<td>87.5%</td>
<td>12.5%</td>
</tr>
<tr>
<td>% within MedicinalPlants collected in 2011</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>% of Total</td>
<td>87.5%</td>
<td>12.5%</td>
</tr>
</tbody>
</table>
knowledge is passed on from the father to the son in most cases, but if the son is not considered fit to use the knowledge ethically or if the son is not interested, the knowledge is passed on another person who may be seen fit by the medicine man244.

For people who drink alcohol, the quality of liquor has changed. Traditional liquor was more easily available due to the frequency of Mahuva and Toddy trees in the forests (group discussion with women, Gamtalav village 2011). Traditional liquor was easily digested and had a lower proof (less alcohol by volume). There is now a change in the liquors brewed – they induce drunkenness with a small amount of liquor245 and are not good for health (group discussion with men, Gamtalav village, 2011). Other changes246 not directly related to forests also affect traditional social practices in the communities.

According to the household survey, there was no reduction in the following of values, beliefs and traditional practices in the villages. There was not much difference in the culture score in 1995-97 and 2011 (fig 4.1). Culture score was arrived for each household according to practices, values and beliefs that the households followed. This was arrived at as per the cultural practices followed in the communities (for example belief in nature, worshipping deities, specific prayers before sowing/harvesting,

245 Only a few individuals take the risk of illegally brewing liquor in the village due to prohibition laws. Cheap liquor is also sold in the town clandestinely.
246 1. A change in eating habits (converting to being vegetarian) is regarded as an “improved” way of life. Vegetarianism and giving up drinking are considered as desirable living traits. Conversion to vegetarianism has an effect on certain social habits. For example during festivities and other dates of community importance people exchanged food between households. But since some people do not eat meat anymore, they do not like to eat in anybody else’s house. To stop any kind of discomfort this practice of exchanging food has been discontinued (Group discussion with men, Gamtalav village, 2011).
2. With a lot of opportunities for work, women are not only involved with housework, agriculture, grazing, looking after animals, but also travel for work outside the village. With improved irrigation, agricultural work has increased. People also have television at home, so whatever time is left over after work is spent in watching television. There is less free time to get together in the village and the practice of singing and dancing in the night on a regular basis has stopped (group discussion with women, Gamtalav village, 2011).
3. There has been a statistically significant decrease in the number of households practicing barter system {p value = 0.024 (McNemar test); valid percent = 51.6% (N=80)}
participating in religious journeys, and tree-worshiping). The number of activities listed (as mentioned above) that were carried out by the household formed the culture score for the family.

**Figure 4.1 Comparison of culture scores in the years 1995-97 and 2011**

![Box plots showing culture scores in 1995-97 and 2011](image)

CS is Culture Score. The 25% quartile at 7 is identical in both years, as is the median at 8, and the 75% quartile at 9.

Individual households reported continued beliefs and values, and participation in traditional cultural practices. According to individual households, participation in the activities was by being physically present, and by contributions of cash and other offerings towards the ceremonies. In traditional group practices there has been flexibility over the physical presence of a household member. With increased opportunities for work and a decrease in time available for community based non-economic activities, this flexibility has increasingly been utilized. The survey results reflect the perception of the households of their own values and beliefs (which have not changed). However, the actual physical attendance in group ceremonies has declined.
In the household survey and group discussions, I did not distinguish between the village level (group) practices where participation is not mandatory, and household level (individual) practices which would not be carried out if the household did not do it themselves.

### 4.4.3.1 Tree/forest worship

Ceremonies in the forest are generally group activities. On the basis of data collected from the 155 common households in 1995-97 and 2011, McNemar’s test suggests statistically significant reduction in the number of households practicing tree worship: p value = .000; valid percent = 94.8% (N=147).

#### Table 4.3 Tree worship (number of HH) in 1995-97 and 2011

<table>
<thead>
<tr>
<th></th>
<th>TreeWorship_2011</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>TreeWorship_1997</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>26</td>
<td>4</td>
</tr>
<tr>
<td>% within TreeWorship_1997</td>
<td>86.7%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Yes</td>
<td>79</td>
<td>38</td>
</tr>
<tr>
<td>% within TreeWorship_2011</td>
<td>75.2%</td>
<td>90.5%</td>
</tr>
<tr>
<td>% of Total</td>
<td>53.7%</td>
<td>25.9%</td>
</tr>
<tr>
<td>Total</td>
<td>105</td>
<td>42</td>
</tr>
<tr>
<td>% within TreeWorship_1997</td>
<td>71.4%</td>
<td>28.6%</td>
</tr>
<tr>
<td>% within TreeWorship_2011</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>% of Total</td>
<td>71.4%</td>
<td>28.6%</td>
</tr>
</tbody>
</table>
There has been a reduction in attendance in the ceremonies especially by the younger generation that are either going out for education or work\textsuperscript{247}. Talking with a group of four young men\textsuperscript{248} during a ceremony in Gamtalav in 2011 revealed that the youth who go out to cities to work are mostly unable to attend ceremonies; except when they visit their village during holidays. Despite not regularly attending ceremonies, they had faith in their traditional culture and were knowledgeable about the ceremonies and cultural practices. In Kevdi and Sakwa, the reason for the reduction in attendance at ceremonies was due to friction in the villages\textsuperscript{249}. The divisions in both Kevdi and Sakwa were based on religious beliefs that have permeated to different aspects of community work, including forest protection\textsuperscript{250} and cultural practices relating to forests. McNemar’s test suggests that there has been a statistically significant difference (decrease) in the membership in Forest Protection Committee in the years 1995-97 and 2011 {\(p\) value = 0.017; Valid percent = 69%; \(N=107\)}. Of the 107 households, 17 household that were members of FPC in 1997 ceased to be members of the FPC by 2011, whereas only 5 households that were not members of FPC in 1997 became members of FPC by 2011. There was no change in FPC membership of 85 households.

Reduction in the numbers of members physically participating in group activities including forest protection and traditional ceremonies is considered to be due to two

\textsuperscript{247} Group discussion with men, Gamtalav, 2011

\textsuperscript{248} The men, in early 20s, had migrated to Surat for work in a transport company.

\textsuperscript{249} Group discussion with men and women, Kevdi, 2011; discussion with village elders, Sakwa, 2011

\textsuperscript{250} McNemar’s test suggest a statistically significant change (decrease) of number of households that participate in JFM from 1995-97 to 2011 {\(p\) value = 0.039 ; valid percent = 17%; \(N=26\)}. Of the 26 households, there was no change in 17 households. 8 households that participated in JFM in 1995-97 stopped participating in 2011 and only one household that did not participate in 1995-97 was participating in 2011. However, due to the small number of responses to this question, this observation is only indicative, not conclusive.
main reasons: out-migration and village conflict\textsuperscript{251}. These have affected the group activities and have resulted in fewer households carrying on the practices. However, according to the data for cultural scores, there has been no change in the continuity of cultural practices at household level and from people’s own perceptions.

4.4.4 **Recognition of local traditional practices absent in outside agencies’ interventions**

Outside agencies in this section refers to the persons that visit the villages, are not permanent residents of the area and do not belong to the community. This includes government department personnel that visit the area for example Forest Department and other welfare departments, NGO personnel and people belonging to different institutions that visit the villages. In my study area, it was relevant to examine different government departments, NGOs and Christian missionaries.

4.4.4.1 **Forest Department/government departments and development agencies**

Development agencies working in the area include AKRSP\textsuperscript{252} and BAIF\textsuperscript{253}. Both agencies are involved in economic and natural resource development, and social development is limited to poverty alleviation and gender issues (AKRSP (India), 2010; BAIF, 2012). There is no mention or inclusion of the preservation of culture or traditional practices in their activities.

The Forest Department, other government departments and development agencies follow set programmes laid down by the state or central governments or non-governmental organizations. Even when there are provisions to tailor policies and

\textsuperscript{251} Conflict within the village results in formation of different groups that do not cooperate with each other.
\textsuperscript{252} Aga Khan Rural Support Program
\textsuperscript{253} Bharatiya Agro Industries Foundation
programmes to local circumstances, the department personnel brainstorm among themselves and take important decisions. For instance, I attended Forest Department meetings at two levels – one was at the Range office where the Conservator and the Chief Conservators of Forests (CCF) conducted a meeting with Range Forest Officers (RFO) and the Foresters to come up with a plan to boost the economy of the villagers through agriculture\textsuperscript{254}. The second meeting, a follow up to the first one, was presided over by the Principal Chief Conservator of Forests (PCCF) in Gandhinagar, where the Conservators and Divisional Forest Officers were asked to develop similar projects\textsuperscript{255}. The aim of the project was to increase the income of the villagers so that they would not be dependent on forests and would stop going into the forest. The entire focus of both these meetings was to reduce and if possible eliminate interaction between people and forests, so that the forests would not be degraded\textsuperscript{256}.

The same attitude, of separating people from forest use, has percolated down to the field staff. One RFO told me that culture is something that people do for their enjoyment only, indicating that it was not important\textsuperscript{257}.

In the above examples, despite a provision for plans to be made to suit the local needs, I did not witness any participation from the villages in these planning exercises. The purpose of the Forest Department’s officials’ planning exercise (as observed in the meetings mentioned above), was to keep people out of forests, without giving due regard to the traditional and cultural importance of forests for the local communities. In

\textsuperscript{254} RFO Meeting, Mandvi Forest Guest House, 2011
\textsuperscript{255} DFO Meeting, Gandhinagar, 2011
\textsuperscript{256} As stated by the Chief Conservators of Forests in the meetings.
\textsuperscript{257} Discussion with RFO, Gujarat, 2011
both the meetings, there was no discussion regarding traditional and cultural forest use by local communities.

The Forest Department undertook two activities related to cultural and religious practices as part of entry point activities in JFM in early 1990s. One was to present musical instruments to the Bhajan mandli so that they could continue their activities. Secondly, they organized bus tours to distant religious places considered important and holy. These trips were free for village members and were appreciated as they would otherwise find it difficult and expensive to make the visits on their own. These well-intentioned activities were a one-time input – akin to an ice-breaker to start JFM in a village. Both activities were indicative of what the bureaucrats considered as acceptable cultural activities. There has been no effort to create an activity around the cultural and religious practices related to the forests (or any other natural resource) that the communities find important, reiterating the idea of keeping the people out of the forests.

4.4.4.2 Christian Missionaries

The Christian missionaries came to Mandvi Taluka in the late 19th century (Hardiman, 2008). A church was established in Zankhwav (a major junction on the District highway between Mandvi and Netrang) with a residential school especially for tribal children. The school caters to the children who have converted to Christianity. The school provides education, food, books and uniforms. Later, similar churches and residential schools

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258 The term entry-point is used to denote the activities or incentives the Forest Department carries out to make an ‘entry’ in the village community. The activities are supposed to help Forest Department build trust with the village community by offering a token gift. Other entry-point activities included providing drinking water, water for cattle, community utensils (for community feasts), sport kits (volleyball kit) and village meeting place (making a concrete seating structure for community meetings under a tree in the village center).


260 Trips included visits to temples in Sabarkatha, Dakor, Ahmendabad and Vadodara.

were established in other interior areas that were difficult to access. The nearest residential school to Kevdi and Jetpur is about 6 km away.

4.4.4.2.1 Established Church: Case of Kevdi and Jetpur:

In Kevdi and Jetpur, Christians form 33% and 26% of the population, respectively. In Kevdi, there has been an increase of self-declared Christians, from 4% in 1995-97 to 33% in 2011.

In 1995-97, in Kevdi, traditional practices were followed by most households, including those who had converted to Christianity. In fact, the figure of 4% can be misleading as there were some households that had ‘officially’ converted to gain the incentives that were offered, but did not consider themselves as Christians. So in the survey, they stated they were Hindus rather than Christians. There were a few who were staunch converts and rejected local cultural beliefs and practices, including worshiping trees or forests and the deities residing in them.

4.4.4.2.2 The effect of Christianity on local traditional practices and other village matters

There was a change in the period between 1997 and 2011 as religion took a more political dimension. Most ceremonies that were practiced earlier had dwindled and the regular Ujjamani (traditional village meeting) for Kevdi had stopped by 2011, except those that took place together with Jetpur. To clarify, households in Kevdi interested in participating in the Ujjamani and other cultural practices joined the Jetpur Ujjamani and ceremonies. In Jetpur, the village leader is a staunch believer in their own rituals and

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262 Household survey 1995-97 and 2011
customary practices. So he has ensured that the cultural and traditional practices continue. The leadership in Kedvi, on the other hand, is in flux. The traditional leadership has weakened and a new Christian faction is emerging. This is leading to tensions and there is a definite divide in Kevdi over following traditional culture and practices versus converting to or adopting Christianity. As long as the converted families did not oppose traditional ceremonies and practices, there did not seem to be a problem. However, when traditional culture was given up completely as a ‘backward’ culture and as numbers of conversions increased, tensions developed. In Kevdi the divide was clearly political – the Christians supported the Congress party and the non-Christians supported the Bhartiya Janata Party (BJP). In Gamtalav, the traditional leaders supported the Congress party as it was associated with the Gandhi family\textsuperscript{263} and the new leadership supports the BJP\textsuperscript{264}, although both the old and the new leadership believe in non-conversion and in keeping their traditions alive.

The religious divide in Kevdi has affected other functions and developmental (including forestry-related) activities. With the weakening of the leadership in Kevdi, the village leader in Jetpur has ‘taken over’ the headship of both villages. He is now heading most cooperative programmes, in the form of mandlies\textsuperscript{265}. These have been constituted jointly – the JFM mandli, the Fish mandli and the Milk mandli. The Christian faction in Kevdi village feels that they are not being treated fairly in the mandlies and want Kevdi...
to separate from Jetpur in all these mandlies\textsuperscript{266}. The tussle over this matter was not resolved even towards the end of my field work (in 2011).

### 4.4.5 Discussion

The discussion section is divided into role of government policies and programmes, for preservation, protection and revival of traditional cultural forest use practices.

#### 4.4.5.1 Role of governmental legislations and policies and programmes in preservation of traditional land use practices

The field data revealed that the communities continue to cherish their traditional beliefs, practices and culture related to forests. However, government legislation and policies do not adequately address the protection of tribal traditional and cultural forest-use practices. Despite new laws such as the Forest Rights Act 2006 and subsequent rules to implement the Act, the statutory framework in India does not offer protection to local tribal community members to pursue their religion and customs and practices related to forests\textsuperscript{267}. The continued existence of certain legislation\textsuperscript{268} and an absence of control over land diversion at the village level\textsuperscript{269} present a threat to the continuation of traditional and cultural forest-use practices amongst tribal communities. Similar instances in other countries can be drawn, such as the Potlatch system in British Columbia, Canada, which was outlawed from 1884 to 1951; at present, traditional and

\textsuperscript{266} Village member, Kevdi, 2011

\textsuperscript{267} The Constitution of India allows for freedom of religion and ability to pursue cultural and religious activities. However, here I am concerned about absence of special provisions to actively protect against erosion of tribal culture and heritage.

\textsuperscript{268} Such as the \textit{Gujarat Animals and Birds Sacrifices Prohibition Act 1972}

\textsuperscript{269} For example the ability to protect a sacred site from being diverted by the government for other purposes, as in the case of village Makhanjar.
cultural practices of First Nations in Canada are actively protected and being revived through government-sponsored programmes\textsuperscript{270}.

Using Wyatt’s (2008) criteria for looking at the inclusion of tribal traditional and cultural forest-use practices related to forest lands, my case falls under “Forestry excluding First Nations”. Under the criteria of “Aboriginal rights and government forestry regime”, the traditional cultural forest-use practices of tribal communities are ignored in forest management and decision-making. In the forestry and forest-related legislation of India (described in this chapter), there is hardly any mention of tribal cultural practices. Despite a mention of the rights of local forest dwellers to protect cultural heritage in the FRA 2006, there are no further action points in the subsequent rules and guidelines for implementing the clause on the protection of the cultural heritage of local forest-dependent communities.

4.4.5.2 The role of Joint Forest Management (JFM)

In the JFM programme, the focus has also been economic livelihoods – be it the making of micro-plans, the Memorandum of Understanding between the Forest Department and local communities, or the planning processes. In the process of “consultation”, the traditional and cultural values and forest-use practices of the local communities have been ignored.

Joint Forest Management was promoted by the Forest Department to regenerate degraded forest lands and to conserve forests with the help of local communities. It was

\textsuperscript{270} For example the First Peoples’ Cultural Council was established in 1990 through the "First Peoples’ Heritage, Language and Culture Act, 1990", enacted to prevent the loss of indigenous languages, arts and culture in British Columbia.
touted as a participatory form of forest management. However, the concept of participation was limited to the communities taking action according to what the Forest Department legitimized through the making of micro-plans along with the villagers. Traditional and cultural practices and needs were not included in the management of forests. The Forest Department restricted the micro-plan to what they considered important\textsuperscript{271}. As long as the communities fulfilled this need, JFM was considered “successful”. Thus, a successful JFM programme was based on how well the forest was protected\textsuperscript{272}, fulfilling the requirements of the existing rules and regulations. The authority and the decision to continue with the programme remained with the Forest Department (Government of India, 1991, 2000). In a sense the responsibility of the Forest Department (for the protection and regeneration of forest lands) was transferred to the communities. The JFM programme has not progressed beyond stage one i.e., “policing by community”. With only token participation expected of the community, their interests – economic, cultural or spiritual, has not been taken care of in the processes of forest management.

4.4.5.3 Protection and revival of traditional and cultural forest-use practices

Wyatt (2008) refers to the differing paradigms of forest management; those of First Nations governed by their beliefs, values and traditional practices connected with forests, and those of forestry managers governed by the goals of the State. “Coexistence (of the two paradigms) means re-establishing indigenous management systems on forest lands to complement mainstream systems rather than compete with

\textsuperscript{271} I attended the process of making micro-plan for village Balethi in 1996, in village Balethi.
\textsuperscript{272} Discussion with the Forest Department personnel, Gujarat (range offices, Mandvi, Netrang; division offices, Rajpipla; circle office, Surat; head offices, Gandhinagar), 1996 – 97, 2008, 2011.
them” (Wyatt, 2008). Such coexistence would foster more equitable relationships between First Nations and forestry managers (Natcher, Davis, & Hickey, 2005). In this framework there seems to be an assumption of an identified First Nations paradigm of forest management; and this different existing paradigm needs to be given (or is being given) space in the current non-traditional science-based forest management. However in my case of Gujarat, there are a few more steps before this stage. The traditional tribal forest-use practices first need to be identified and recognized as another forest management paradigm. Steps to revive and protect these traditional and cultural forest-use practices necessitate legislation; this needs a process to initiate recognition and decriminalizing of tribal traditional and cultural forest-use practices. Thus the main two legislative steps required are 1. Dismantle externally imposed illegitimate controls that criminalize traditional forest-use practices and 2. Frame legislation that protects and encourages the development of traditional forest-use practices that benefit the communities and their surrounding ecosystems. The negative impact of externally enforced decisions denies the tribal communities from following their local lifestyle and cultural values and practices. It imposes impediments on the local management of the surrounding natural resources (Turner et al, 2008). There is a danger of criminalizing the cultural practices of the communities, as in the case of my study area in Gujarat.

Turner et al. (2008) suggest practical steps and processes to alleviate the losses experienced by communities, some of which are applicable in my study area. Some of the steps suggested are: focusing on what matters to the people, using narratives,

\[273\] As according to the UN Declaration on Rights of Indigenous Peoples 2006
stories\textsuperscript{274}, visuals and historical baselines to describe important issues, ensuring a place for these in decision-making processes, recognizing the significance and relevance of culturally derived values and including them as legitimate inputs for decision-making, and creating relevant and better alternatives.

The process of making micro-plans by the Forest Department could be another vehicle that could be used to make culturally relevant decisions at the village level that could be included in the working plan for managing forests. While the mechanism for this is present within the existing Forest Department actions, it is the process that requires change. By itself the micro-plan does not ensure culturally sensitive decisions, however it can be a step in that direction.

4.5 Conclusion

The above steps would be in addition to the requirement of a specific legislation for protection of local cultures. There is no specific legislation specifically to protect cultural and traditional heritage of the tribal communities. As mentioned in this chapter, the Forest Rights Act 2006 only mentions (section 5 c of the Act, See footnote 227) that the Gram Sabha is empowered to protect the habitat of forest dwellers from damaging activities that affect people’s cultural and natural heritage, and the Ancient Monuments Act 1958 protects the monuments designated by a centralized authority in the country.

Laws that are in contravention to protecting the cultural and traditional practices also need to be re-looked. Therefore a specific legislation that protects tribal communities’ traditional and cultural heritage is required. As mentioned in chapter 3, the criteria and indicators that form the basis of the State of Forest Report, India, also need to include

\textsuperscript{274} For example revival of bhajan mandlis
cultural and traditional practices. The FRA rules 2012 need to be put up for consultation on protection of traditional and cultural practices that the communities find important.

The question of local language was not taken up for the survey or group discussions during my research. However, in hindsight, this is an important aspect that needs to be highlighted. On the face of it there seems to be no erosion in the local languages (Chaudhari and the Vasava). However, with an increase in the school-going population, and increased interaction with outsiders and migration for work, one needs to be mindful to ensure that there is no loss of language. This is more so as both the Chaudhari and Vasava languages do not have a separate script and are quite close to Gujarati language. It would be prudent to take steps right now to preserve the language, as is being done in some First Nation communities in Canada\textsuperscript{275}.

In my next, chapter, I discuss my findings and draw conclusions based on the material presented in chapters three and four. I use Wyatt’s framework for Aboriginal forestry to construct a classification of decriminalization based on my experiences and research in Gujarat, India.

\textsuperscript{275} \url{http://www.firstvoices.com/en/home}
“In the end, only three things matter: how much you love, how gently you lived, and how gracefully you let go of things not meant for you.” – Gautama Buddha

5.1 Introduction

In this chapter, I use Wyatt’s framework of Aboriginal Forestry and take help from Arnstein’s ladder of participation to develop a framework for decriminalizing the forest-dependent livelihoods of local tribal communities. I term it as the Classification of Decriminalization. The Classification of Decriminalization is based on the findings from the field and therefore in its present form, limited to the experiences of the communities in the study. This may be applicable to other communities with changes.

Joint Forest Management in India was seen as a vehicle for the involvement of local communities in forest management. However the modern forest management practiced by the Indian Forest Service has not accorded adequate significance to the traditional forest-use practices of local forest-dependent communities and the involvement of local communities in forest management has remained extremely limited. The level of people’s participation in JFM in Gujarat can be termed as tokenism in Arnstein’s (1969) ladder of participation. A higher level of people’s participation in Arnstein's ladder is citizen power, which advocates devolution of decision-making (Arnstein, 1969). This concept of citizen power is comparable to Wyatt’s definition of aboriginal forestry (Wyatt, 2008).
5.2 Aboriginal forestry

Parsons and Prest (2003) define Aboriginal Forestry as “… the application of sustainable forest land use practices learned over time that incorporates the respectful interaction between the forest and Aboriginal people of today for the benefit of generations unborn”. The Aboriginal world view is seen as ecocentric as opposed to anthropocentric (Parsons & Prest, 2003).

The model of aboriginal forestry gives more control of decision-making in forest management to communities dependent on forests. An ideal situation of aboriginal forestry, in Wyatt’s (2008) framework, represents the dominant interest of First Nations by recognizing aboriginal rights, systems of management and institutions, and thus reflects and respects aboriginal traditional land use practices, along with non-traditional science for forest management; First Nations retain the right to approve final decisions. Wyatt’s (2008) framework of aboriginal forestry is based on Canadian experience, although applicable elsewhere; I examine its applicability in India.

5.3 Alternate framework requirement

In order to use the framework of aboriginal forestry in India, a more basic criteria needs to be evolved. The traditional forest land use by local forest dwellers in India is, inadvertently, outside the purview of the law of the land. It is only after addressing the criminalization of traditional forest land use by local forest dwellers that the notion of aboriginal forestry can be deemed applicable in the Indian context.

Wyatt uses the term ‘Western’ science/thought rather than ‘non-traditional’ science/thought. I have chosen to not use ‘Western’ as a term as it can be misleading.
A combination of the framework of Wyatt’s aboriginal forestry with the results from my study of criminalization has helped me to develop a Classification of Decriminalization framework based on the fundamental elements of forest legislation in India that demonstrate that tribal people’s cultural identities are respected and are not criminalized (objective 3).

5.4 Classification of Decriminalization

Forests are seen as common property resources. In the context of decriminalization, I look at common (property) forests and not individually-owned forests277. The legislative regime can be viewed through the lens of a “bundle of rights” which succinctly explains the differing rights over common property (Schlager & Ostrom, 1992). These include the legal right of access (to forest and forest resources), withdrawal of (forest) resources, (forest) management, exclusion rights (right to exclude anybody from using forest resources), and alienation rights (right to sale, lease forest land and forest resources collectively).

With an understanding of the above stated ‘bundle of rights’, I envisage five steps/scenarios for decriminalization of forest-dependent communities. The scenarios are described as follows:

5.4.1 Policing by the state

In this situation, the forest lands are owned and managed by the government. Tribal community members may be hired to carry out silvicultural operations in the forest (for example planting, felling, weeding, cleaning etc.) under the guidance and instructions of

277 Examples of individually owned forests include forest lands used for cultivation by local forest dwellers. Title to cultivated forest lands, and forest lands used by community collectively can be granted using FRA.
the Forest Department. The state decides on the extent of use and access to forests by the local forest-dependent/tribal communities, and forest management practices. Forest-dependent communities may or may not be consulted for forest management practices, rules and regulations. There is no provision or mention of local communities’ forest-related cultural customs. The dominant paradigm followed is based on professional and non-traditional forest management systems. Typically, an exploitative control regime pursues this.

5.4.2 Permitting rights and concessions

The forest management working plan made by the Forest Department includes the livelihood needs of tribal communities. Specific requirements as understood by the Forest Department are included. These pertain to economic livelihood needs that may or may not be sufficient for the local forest-dependent communities. At any point in time the Forest Department has the power to change these concessions without consultation with the local communities. Participation by the communities is limited to responding to questions from the Forest Department about community livelihood needs. The Forest Department regulates the collection and sale of NTFPs. The state may set up marketing channels for trading NTFPs. The state decides on the process of NTFP trade (which NTFPs can be sold on the open market and which must be sold to government corporations). There is no change in the forest management regime.

5.4.3 Policing by community – community-based forest management (CBFM)

This represents the most commonly observed community forestry situation that is promoted by the government, for example Joint Forest Management in India. There is no change in the government regulations and tenure rights over forest lands. There is
some awareness generation and consultation by the Forest Department with local communities; it is a unidirectional flow from the Forest Department to the local communities. The Forest Department consults with local community members; the suggestions may or may not be included in the forest management plan (dependent on the forest official present). Members from local communities are co-opted by the Forest Department into forest management practices as per the existing state norms. The local communities do not have any formal regulatory authority; their powers are limited to local customary practices and these practices do not have legal backing. Any powers given to the local community members can be unilaterally revoked by the Forest Department without a hearing. Benefits from forest resources are primarily seen as economic paybacks in exchange for voluntarily helping the Forest Department in forest management.

5.4.4 Power to exclude outsiders' activities

The legislative regime allows local community members as a collective to prevent actions and practices that are detrimental to the forests that they depend on for their livelihoods. They are able to protect forest lands that are important for their traditional cultural practices. Their ability to do so flows from legislation that can be used in a court of law. These powers to protect forest lands cannot be taken away by a bureaucrat. The local forest-dependent communities have clear tenure rights over forests (either as a collective or as individuals). In those forests over which the community has collective tenure rights, modifications are possible in the existing forest management practices to accommodate communities' traditional land use practices while maintaining/improving forest health. The community as a collective has the final authority for permitting the
lease of forests. The boundaries of forests are decided by the state; the local community may or may not have a voice in making changes to the boundaries.

5.4.5 Altering governing laws

In this scenario the governing forest management practices are geared according to the interests of forest-dependent communities. Forest management practices are a combination of traditional knowledge and non-traditional science. The role of the Forest Department is that of a technical adviser to assist in the management of the forest lands. The (newly formed) Forest Act at the national level has clauses to assist local communities in using forests for their livelihoods and cultural practices, and improving forest health. The (new) Forest Act is geared towards better productivity and use of forests rather than keeping people out of forests. Forest lands that have no communities living nearby continue to be managed by the Forest Department according to principles laid down in the (new) Forest Act.

It can be seen in a tabular form in table 5.1:

<table>
<thead>
<tr>
<th>Classification of Decriminalization</th>
<th>Legislative regime</th>
<th>Economic/livelihood protection</th>
<th>Participation and consultation</th>
<th>Cultural protection</th>
<th>Silvicultural operations/differing paradigms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policing by state</td>
<td>Forest lands owned and managed by the government</td>
<td>Community may be hired for carrying out silvicultural operations in the forest under Forest Department guidance and instructions</td>
<td>The state decides on the extent of use and access to forests by local communities; on forest management practices: on rules and regulations.</td>
<td>No provision or mention of local communities’ forest related cultural customs</td>
<td>Dominant paradigm professional non-traditional forests management systems followed</td>
</tr>
<tr>
<td>Classification of Decriminalisation</td>
<td>Legislative regime</td>
<td>Economic/livelihood protection</td>
<td>Participation and consultation</td>
<td>Cultural protection</td>
<td>Silvicultural operations/differing paradigms</td>
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</tr>
<tr>
<td>Permitting rights and concessions</td>
<td>Forest lands owned and managed by the government</td>
<td>Forest management working plan includes livelihood needs of tribal communities as understood by the Forest Department</td>
<td>Forest Department has power to change concessions without consultation with the local communities. Participation by the communities is limited to informing the Forest Department</td>
<td>No provision or mention of local communities' forest related cultural customs</td>
<td>Dominant paradigm professional non-traditional forests management systems followed</td>
</tr>
<tr>
<td>Policing by community - CBFM</td>
<td>No change in the government regulations and forest tenural rights. Powers given to community can be unilaterally revoked by the Forest Department</td>
<td>Paybacks in exchange for voluntary help to Forest Department in forest management</td>
<td>Outcome of community consultation may or may not reflect in the forest management plan</td>
<td>No provision or mention of local communities' forest related cultural customs</td>
<td>Dominant paradigm professional non-traditional forests management systems followed</td>
</tr>
<tr>
<td>Power to exclude outsiders’ activities</td>
<td>Community as a collective to prevent actions and practices that are detrimental to the forest lands</td>
<td>Community as a collective has the final authority for permitting lease of forestlands. Collective decisions over NTFP trade</td>
<td>Community consultation important for development of rules and regulations, and management practices.</td>
<td>Community protects forest lands important for their traditional cultural practices. Powers to protect forest lands cannot be taken away by a bureaucrat</td>
<td>Modifications possible in the existing forest management practices to accommodate communities' traditional land-use practices while maintaining/improving forest health</td>
</tr>
<tr>
<td>Altering governing laws</td>
<td>(New) Forest Act at the national level geared according to the interests of forest dependent communities</td>
<td>Act at national level is geared towards better productivity and use of forests rather than keeping people out of forests</td>
<td>Act at the national level mandates community participation with Forest Department for improving forest health</td>
<td>Act at the national level assists in preservation of cultural practices and improving forest health</td>
<td>Forest management practices are a combination of traditional and non-traditional knowledge</td>
</tr>
</tbody>
</table>
To compare the different frameworks, table 5.2 is helpful to situate the different philosophies in the Classification of Decriminalization.

Table 5.2 Corresponding levels of Arnstein’s Ladder of Participation, Wyatt’s Aboriginal Forestry and the Classification of Decriminalization

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizen control</td>
<td>Aboriginal forestry</td>
<td>Altering governing laws</td>
</tr>
<tr>
<td>Delegated power</td>
<td>Citizen power</td>
<td></td>
</tr>
<tr>
<td>Partnership</td>
<td>Forestry with First Nations</td>
<td>Power to exclude outsiders’ activities</td>
</tr>
<tr>
<td>Placation</td>
<td>Tokenism</td>
<td></td>
</tr>
<tr>
<td>Consultation</td>
<td>Forestry for First Nations</td>
<td>Policing by community – CBFM</td>
</tr>
<tr>
<td>Informing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Therapy</td>
<td>Non-participation</td>
<td>Rights and concessions</td>
</tr>
<tr>
<td>Manipulation</td>
<td>Forestry by First Nations</td>
<td></td>
</tr>
<tr>
<td>No participation</td>
<td>Forestry excluding First Nations</td>
<td>Policing by state</td>
</tr>
</tbody>
</table>

5.5 Policing by community and continued criminalization

My first objective was to understand how forest policies and legislation affect people’s use of, and access to forests, and control the decisions in forest management. This study confirmed that despite the existence of a community-based forest management programme, the Joint Forest Management (JFM) programme, the tribal community’s control over decisions in forest management was extremely limited. Some of the
functions of forest management were delegated by the Forest Department to the local communities, but there was no financial or political\textsuperscript{278} devolution.

Participatory processes encourage inclusion of the needs and requirements of the community. While this was the thought process that encouraged village-level meetings to draw up the micro-plans, the needs and requirements of the community had been listed by the Forest Department prior to the meetings. The community’s role was to specify the quantities associated with each pre-defined need. There was thus no scope for inclusion of cultural attributes of the people. Peoples’ participation is crucial for bringing in the cultural attributes that characterize their lives and identities. The UN Declaration on the Rights of Indigenous Peoples (2007) recognizes that “respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment”.

In the context of this study, the decision-making by the tribal communities did not move beyond tokenism as evinced in Arnstein’s ladder of participation (1969). At this level, the community can hear and is given a voice. However, there is no guarantee that their voice will be considered. The power holders may take the advice of the community but retain the right to decide. This is what can be seen in the JFM programme in my field area: despite its implementation, the element of control and decision-making had not been delegated to the communities. As per Wyatt’s framework of aboriginal forestry (2008) the case fluctuates between “forestry excluding First Nations” to “forestry for First Nations”\textsuperscript{279}. Tribal communities in my field work area continued to be either ignored or

\textsuperscript{278} i.e. local communities had no control over decisions on forest management

\textsuperscript{279} Both, First Nations and Tribal communities are aboriginal peoples.
excluded from decision-making for forest management. At best they were informed of the decisions. Village meetings were held, but did not necessarily translate into decisions being taken by the community. Notwithstanding little or no recognition of community rights, a few tribal villages received a written Memorandum of Understanding stating that they were entitled to 50% of the profits from a certain number of hectares in exchange for protection of the forest land by these communities. The arrangement was liable to be revoked unilaterally at any point of time by the Forest Department if the Department was not satisfied with the level of forest protection. The Memorandum of Understanding was perceived as a “partnership” between the Forest Department and the community. However, any decision to harvest timber to generate profits lay solely with the Forest Department. Consultation, if any, did not necessarily lead to any changes. There was no instance of any Forest Department personnel seeking information on traditional knowledge for forest management planning. The JFM programme structure endorses the existing forest management regime.

Despite sanctions from the authorities and a constant fear of being reprimanded, fined and shamed, local communities continue to use the forests for their traditional livelihoods. The limitations on access and continuation of the use of forest resources lead to criminalization of the tribal communities. Often, the criminalization itself is not legitimate. Apart from the legislation and rules, the power structures created by the

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280 There was no map or indication of the location of the Forest area in the MOU. In practice, villagers protected the entire forest area, ranging from 100 – 300 ha, in exchange for an MOU of 20 – 40 ha.
281 While villagers of Gamtalav and Balethi did request for harvest, Kevdi and Sakwa have had no opportunity for discussions.
282 This is against the universal declaration of Human rights, Article 5 that says no one should be subjected to degrading treatment.
state, for example the Forest Department or any other government department, leads to illegitimate criminalization\textsuperscript{283} of tribal community members (Colchester 2006), as discussed in Chapter 3. The steps for involving people in forestry and for increasing people’s participation in forest management have not addressed the issue of criminalization or illegitimate illegality.

In the Classification of Decriminalization, policing by the community is the second rung. It allows for some deviation according to the needs of the community but does not deviate too much from the legislation imposed by the state, and whatever deviation there is, is informal. People’s participation in forest management was institutionalized in the form of Joint Forest Management. The Joint Forest Management Committees, though being part of the village, act more as the state body\textsuperscript{284}. The JFM committees continue with the same set of rules and regulations as laid down by the Forest Department. Since JFM is a part of the village and the community, the policing of forest resources becomes more efficient and cost-effective for the state. Ostensibly, there is transfer of power but there is no actual transfer of control over how forest resources should be managed or used. Because the community itself is responsible for policing, there are more possibilities of lenient sanctions against “offenders”. Not everyone gets fined and communities formulate their own rules for repeat offenders\textsuperscript{285}. However, the

\textsuperscript{283} Universal Declaration of Human Rights, Art 9 (no one shall be subjected to arbitrary arrest, detention or exile), and Art 11 (no one shall be held guilty of any penal offence on account of any act or omission, which did not constitute a penal offence, under national or international law at the time when it was committed).

\textsuperscript{284} For example in West Bengal in 2013, the JFM committee was used by the Forest Department for sanctioning clear-felling of forest land against the wishes of the Gram Sabha, leading to village conflict and physical violence. In Andhra Pradesh, the JFM committees were wrongly given forest titles instead of the Gram Sabha – which was held illegal by the Ministry of Tribal Affair, Government of India. (Community Forest Rights Learning and Advocacy Process (CFR-LA) & Adivasi Janjati Adhikar Manch (AJAM), 2013)

\textsuperscript{285} In the field area, some amount of fire wood collection was permitted at the village level. Mostly it was timber that led to sanctions/fines which were generally more lenient than if the person was caught by the Forest Department. The shame attached to being caught persisted.
rules devised by the community are not transparent, institutionalized or formal, and are not permanent arrangements. There is a complete lack of legal authority for the local community to implement any sanctions against forest offenders. There is no inclusion of cultural forest-use practices in forest management; local communities continue with their forest related practices for their economic and cultural livelihood. As these practices are not included as part of legitimate forest management, it continues to be criminalized. There are no steps taken for decriminalizing or legitimizing traditional forest-use practices of local communities. It not only violates local communities' human rights, but also exposes cultural and traditional practices to denigration, degradation and possible elimination.

5.6 Policing by state and cultural loss
My second objective was to examine changes in people’s cultural land-use due to forest legislation. Chapter 4 focuses on the cultural forest land use practices. I differentiate between evolution and erosion of cultures and traditional forest use practices. As is true for most cultures, cultures evolve when the change is made by people themselves according to the situations and their choice and wisdom. Culture is constantly updated, reconstructed and recreated in response to the changing world people live in. Sometimes only the outside manifestation of the core values of the culture change (Joseph, 2011; Underwood, 2000). Cultures erode when the change happens due to force and pressure from outside agencies as the reason behind changes is not necessarily according to what the communities find acceptable (Battiste, 2012; Smye & Browne, 2002). Studies exploring the relationship between biodiversity and traditional land use practices

\[286\] Cultural erosion flouts article 18 (everyone has the right to freedom of thought, conscience and religion) of the Universal Declaration of Human Rights
in forest areas have also shown that cultural management systems conserved and protected the flora and fauna (Posey & Balée, 1989; Ramakrishnan et al., 1998). With changes in lifestyle patterns and facilities available, village communities adopt different techniques and methods for their different traditional practices. For example, in Gujarat, India, instead of spending one week in interior forests using bullock carts, community members hired a truck and just spent a couple of hours for travelling. This was a choice of the community members. Another example of making changes in cultural practices is the practice of sacrifice. Sacrificing an animal is important for paying one's respects to ancestors (at least for ancestors who followed a non-vegetarian diet). The *Gujarat Animals and Birds Sacrifices Prohibition Act 1972* makes the practice of sacrifice illegal, affecting those who continue this practice\(^{287}\). Thus, we see that a change can be due to different reasons – either due to a change in practice by the community or due to an external imposed source. If the changes are warranted due to an external pressure or a change is thrust upon them, then the change in culture happens without the choice coming through people’s own wisdom. There is a difference between these two changes. Change through traditional wisdom enables the development of a culture, whereas change\(^{288}\) through external pressure tends to weaken a culture.

In the context of forest-related traditional cultural practices, it is important for communities to protect specific spaces to carry out cultural ceremonies. Tribal communities' forest-related cultural practices are important for their own identity (Cote, 2012). In the neighbouring block (20 km away), Zankhwav, animal sacrifice was prevented by an NGO, Prayas, in 2011. ([http://youtube/xw4-4NoL:30](http://youtube/xw4-4NoL:30), TV9 Gujarati, local news channel). However, I did not come across any such incident in my study villages.

\(^{287}\) Normally, non-vegetarian diet includes fowl, goats etc. These animals are raised by the community themselves. So availability is not the issue. In India, in a number of instances, the animals for food are raised and not often hunted. It is possible because wildlife hunting is illegal. So even if they eat wild animals, they do not disclose it.
1996; Harshaw & Tindall, 2005; Vidyarthi & Rai, 1977). An examination of the legislation made it clear that people find it difficult to protect their own culture. In my field area there was a clear example of a village losing an entire sacred site as they had no legal authority to protect it. In other geographical locations in India, even after the implementation of the *Forest Rights Act* 2006, it is a struggle for the communities to protect their sacred sites. For example, it took 10 years289 for the Dongria Kondh tribe to fight a court case290 to protect their sacred hill, Niyamgiri, from being exploited for mining and denuding the ecology in the state of Odhisa. It is not usual in India for every tribal community to be able to fight a court case and get the support of lawyers and other national and international agencies for the protection of their cultural and traditional rights. Legislation and policies that give importance and respect to tribal cultural practices are required291. Examples of such policies are prevalent in other countries and can be seen in practice292. In my field area, the concept of traditional cultural practices has not been given importance in any meeting, discussion or forum either by the Forest Department or by NGOs.

The measures of protection of traditional and cultural forest use practices particularly in my field area reflects Wyatt’s “Forestry excluding First Nations” in the aboriginal forestry framework, and “policing by state” in the Classification of Decriminalization, as there is no participation or consultation regarding inclusion of traditional forest cultural practices.

289 The MOU between the Orissa Mining Corporation and Sterlite to mine bauxite ore from Niyamgiri was signed in 2003. The final decision to reject the mining project was taken in 2014.
290 The historic fight to protect the sacred mountain range was supported not only by lawyers and NGOs in India but was supported by international groups to pressurize the Indian government to retract their mining clearance.
291 UN declaration of rights of Indigenous peoples 2007
of local communities. Neither the JFM programme nor the FRA 2006 has resulted in reversing criminalization. The JFM programme had basic design flaws that prevented local traditional forest-use from being included in planning for forest management. The attempt to correct the design flaw in FRA 2006 has so far not shown enough evidence to be adequate; as is evident from the prevalence of cultural loss and in the absence of mechanisms to protect traditional forest-use.

5.7 Conclusion

Using the concept of Aboriginal forestry, Wyatt’s framework described the scenarios leading to a situation where aboriginal interests are predominant along with non-traditional science. Arnstein’s ladder of participation describes levels of citizens’ decision-making power that ranges from non-participation to complete control over decisions. However, in both the frameworks, criminalization due to lack of power or voice has not been examined. The Classification of Decriminalization examines the scenarios where some traditional practices are deemed unlawful by the State and are not on the table for discussion.

With the introduction of Joint Forest Management, there was a possibility that local traditional forest related practices would be permitted and protected. However, due to the nature of implementation of the JFM program, genuine participation has been minimal. It has not helped in decriminalizing traditional forest use practices that are followed by community members. Although Forest Rights Act 2006 has a clause to protect communities’ cultural heritage (section 5 c, see footnote 217). Neither JFM nor FRA have prevented cultural loss of the community of sacred practices revered the community.
The Classification of Decriminalization addresses the issue of cultural and traditional practices in two sections – the economic and the cultural-based livelihood including values and beliefs of the communities.

In my next chapter, I draw conclusions based on the material presented in my thesis.
6.1 The context and main research question.

The main focus of this study was to examine the pattern of the criminalization of tribal communities dependent on forests in Gujarat, India. The study examined how forest legislation, policies and programmes proscribe local forest dwellers' traditional forest-use practices, with a focus on practices relating to their livelihoods and culture (objective 1). In chapter 3 and 4 I find that some laws criminalize the economic and cultural livelihood of the local forest dwellers and in some instances, illegitimate criminalization of villagers is exercised by the government authorities. The study also examined changes in local forest dwellers' traditional forest-use practices based on forest legislation, policies and programmes, and examined issues relating to the protection and preservation of tribal communities’ traditional and cultural forest practices important for the communities (objective 2). The Forest Act, 1927, the main forest-related legislation in India, dates back to the colonial era. The participation of local
people has been noticeably absent in formulating more recent, post-Independence legislation, policies and programmes as well. In an attempt to justify the need for people’s participation in the regulatory and management constructs of forest management, I have developed a framework based on the essential constituents of Indian forest legislation that exhibits acceptance and appreciation of tribal people’s cultural and traditional forest-use practices, without criminalizing these practices in chapter 5 (objective 3).

6.2 Revisiting the hypotheses

The policy reform on forest rights favours reversing the historical injustice done to traditional forest dwellers in India by the passing of the Forest Rights Act 2006. The Forest Rights Act was able to help one community (Dongri Khond Tribe) to save their traditional land use for cultural purpose in Odisha (a state in eastern India). However, the design of the policy has not enabled each community to replicate the same, especially without help from outside the community – the Makanjhar village community (in my field area) was unable to do the same despite the same Act being applicable to them. Policies and programmes that propose to empower tribal communities (permitting traditional land use by tribal communities), such as PESA and JFM, have not really given communities the power to reverse the criminalization that has occurred over the decades of operation of the Forest Act, 1927 and other forest laws. Tribal communities in South Gujarat continue to be criminalized for traditional land use for their livelihoods and cultural practices.

The traditional land use by tribal communities in South Gujarat includes a variety of uses ranging from using forest resources directly to fulfil everyday material and
economic living needs, as a means to offer prayers and, in some cases, considering forests as a place of worship. Some of these practices are deemed illegal according to the *Indian Forest Act*, 1927 and most other legislation following that. In addition, it is difficult for communities to protect their sacred/spiritual place for their continued use from outside sources, including the State. Criminalization takes two forms – legitimate and illegitimate, as per the country’s legislation. Despite attempts to reverse criminalization through well-intentioned programmes and legislation (Joint Forest Management, PESA and *Forest Rights Act*, 2006), the reality does not reflect a process of decriminalization.

The Classification of Decriminalization helps to understand to an extent what the issues in the current policies are, and how one can move forward.

6.3 **The relationship of the chapters to each other**

Chapters 1 and 2 have been used to set the context and methodology used for this research. My main empirical findings are divided into three chapters. Chapter 3 deals with forest-related livelihoods and ensuing criminalization. Chapter 4 describes and discusses forest-based traditional cultural activities and the inability of local people to preserve and protect the cultural activities they deem important. People’s participation over policies and legislation related to forest resources in India for rights and concessions to tribal communities dependent on forests is severely lacking. In addition, some concessions listed in government documents, for example access to soil (mud) from forests, *de facto* lead to the criminalization of the people who use those concessions. Thus, even legitimate use of forest resources is informally proscribed, which I term as ‘illegitimate illegality’. The basic livelihood needs of forest-dependent
communities embedded in their traditional forest use practices are criminalized according to the law of the land.

Government policies, programmes and legislation on forests are blind to tribal communities’ traditional forest use practices for cultural purposes. Provisions for preserving tribal culture are missing (although in the most recent act relating to forests, FRA 2006, there is a mention of cultural heritage in one sentence, but it is not mentioned in the FRA rules or guidelines used for implementing the Act). In fact some of the other prevalent acts at the field level criminalize some intrinsic aspects of tribal cultures, such as the use of local traditionally brewed and tapped alcoholic beverages, both for consumption as well as for religious ceremonies. The Forest Rights Act 2006, which is the only forest legislation that mentions preservation of tribal culture, is implemented through the Ministry of Tribal Affairs and not the Ministry of Environment and Forests. The latest legislation on forests laid down by the Ministry of Environment and Forest (Forest (Conservation) Amendment Rules, 2014) did not take into account the Forest Rights Act 2006 in its draft policy (draft policy on Inspection, Verification, Monitoring and Overall Procedure Relating to Grant of Forest Clearance and Identification of Forests, January 2014); the clause for consent of the Gram Sabha for forest clearance was inserted after pressure from civil society. This shows a discomfort or unwillingness within the Forest Department to accept and acknowledge tribal culture and rights, and to include them in forest management practices.

293 The Police Department practices rent-seeking behaviour in order to not penalize community members involved in brewing or tapping alcoholic beverages. Field work, 1996, 2009, 2011
294 Mahuwa flowers are brewed to make daru, an alcoholic beverage
295 Toddy is tapped from Toddy trees (Borassus flabellifer)
296 The inadequacy of the clause is apparent (discussed in chapter 4).
In chapter 5, I use existing concepts on participation, aboriginal forestry and insights from my field work to develop a Classification of Decriminalization for acceptance of traditional forest-use practices, of forest-dependent communities, in forest management practices.

6.4 Limitations to the study

I did not start with the framework of Aboriginal forestry at the beginning of my research. The Classification of Decriminalization came up only later after the data was collected and analyzed. The interviews were not based on the CD framework. The framework is derived from the data that were collected and thus may be considered simplistic and limited to the situation of the villages involved. However, by using the frameworks of Arnstien and Wyatt, I have tried to make it more generic.

I was unable to carry out structured interviews with higher officials in the Forest Department. However, I tried to incorporate basic questions in the conversations that I had during meetings with them.

I tried to triangulate data on forest use violations and fines. Apart from the household survey, I referred to office records maintained with the Forest Department. There were discrepancies in the data collected from the two sources (Chapter 3). I was not able to clarify this discrepancy with Forest Department officials, and have stated it upfront as a discrepancy.

Most often it was not possible to interview just one person in the household and sometimes it was almost like a group interview for an individual household. It would be culturally inappropriate to insist on individual interviews in a household setting in the
villages. Also, it was not always the head of the household who was available for the interview. By being flexible, and allowing more ‘contributions’ to the interview, the information got triangulated during the interview itself. This is because most often the neighbours have information about each other. So if there was a new household member such as a daughter- or son-in-law, the neighbours were able to help out with more accurate information.

It would have been ideal to the visit the communities to validate the findings from my study. Due to funding constraints it was not possible to revisit the communities after completion of the study and completing my thesis (I do intend to visit the communities to share and discuss the results in the future). Knowing this limitation prior to my last field work, I included some probable results in my group discussions.

Since I was able to visit the communities over a period of 15 years, I was able to include my observations in my study. This, however, leads to the difficulty in replicability of this research as many researchers (as outsiders) may be unable to do the same. However, with a different perspective, similar work can be carried out by people who are constantly in the field for a longer time, such as community members, NGOs and Forest Department personnel, rather than a researcher coming for a limited time.

6.5 New ideas related to the field of study

The study has helped in creating a framework for examining local community criminalization due to forest-use by community members. I call it the “Classification for Decriminalization” or the CD framework. The CD framework shows steps that can be taken to reverse criminalization. This framework borrows concepts from Wyatt’s (2008)
framework of Aboriginal Forestry and Arnstein’s (1969) ladder of participation, but extends it to include a new dimension to decriminalize traditional forest-use practices of tribal communities along with the need to recognize and respect their customary practices. This study empirically examines the prevailing forest-use related legislation in India from the point of view of respecting tribal peoples’ cultural and traditional forest-use practices. While studies on the participatory approach to community-based forest management studies look at and address issues related to livelihood (mostly economic) of forest-dependent communities, these are situated within the existing legal frameworks and policies and programmes of the government. The sharing of decision-making power with the communities has been limited to what the government deems important. The starting point297 in this study was to look at current forest-based livelihoods, and cultural practices of people that are important for local tribal communities; and importance of access to forest resources they depend upon. The study used data from 155 households with a 15 year gap to examine changes in traditional forest use. The study underlines the importance of including the traditional land use practices of communities relating to livelihoods and culture in the decision-making for forest management. Specifically, the importance of including tribal cultural practices in forest management in India is discussed. Cultural practices need to be addressed in the working plan of the Forest Department to acknowledge the relevance of traditional and cultural forest use. Preservation of cultural artifacts as in some other countries (for example Canada) can be a starting point. This is currently absent in India as a legal requirement.

297 As described in the introduction
The study led to a finding of illegitimate illegality prevalent in the field area. Such situations are likely to exist in other tribal communities, as well as in other areas where the government has control over information regarding legality\textsuperscript{298}. Further research is required in this field.

### 6.6 Overall significance of the research to the field of study

A programme of participatory community-based forest management, such as Joint Forest Management, does not automatically lead to a peoples’ forest management, as has been made amply clear by the current study. The primary reasoning of JFM was that the resource would be better managed by resource users and that resource users would have the highest stake in managing the resources. The Government of India circular on JFM inserted clauses that treated village communities as beneficiaries in exchange for protection and regeneration, rather than setting the communities up as resource managers. The current study illustrates that, with a management system devoid of political participation and powerless stakeholders, JFM failed\textsuperscript{299}. Criminalization continued to occur despite the community ostensibly being a partner in managing the forest lands and resources that they depended on for their livelihoods.

The Forest Rights Act of 2006 was intended to correct historical wrongs by reversing forest dwellers’ alienation of forests. The current study acknowledges that despite the Act being watered down and running into implementation problems, it has demonstrated

\textsuperscript{298} There are many rules and regulations that common citizens may not be aware of and become a victim of the power structures due to misuse of power. For example awareness regarding conditions/requirements for arrest; offender rights in a lock-up; and even other development related information for example availability of development services in villages for which households are entitled to such as free seed kits, employment guarantee scheme etc.

\textsuperscript{299} This has been seen in other resource management areas, for example Participatory Irrigation Management in India (Enarth, 2008).
at least some success in protecting forest lands and resources that are important for tribal communities’ livelihood and culture. Unlike JFM, which is a directive and run as a programme in different states, FRA is an Act at the national level. The basic design flaw in JFM, which gave powers to the Forest Department to unilaterally reverse any decision taken by the community, has been to an extent addressed in the FRA. Today, a decision of the Gram Sabha cannot be reversed by a single officer once it has been accepted.

6.7 Discussion of any potential applications of the research findings

Looking at both issues on traditional forest practices for livelihood and culture, further steps to begin with would be to include these concepts in the criteria and indicator framework used to define and assess sustainable forest management.

So far, criteria and indicators in India (in the Bhopal India process, 2006) use JFM indicators to monitor social, cultural and spiritual benefits of forest management. A more appropriate indicator for measuring the criterion dealing with cultural and social beliefs, as a starting point, would be the listing and protection of cultural artifacts of the community. This listing could be included as part of the micro-plan or the working plan of an area. From the manager’s point of view, the preservation of forest-related cultural heritage would be to support communities to identify, and to protect the cultural artifacts of the community. Indicators for consultation processes are conspicuous in their

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In Odhisa, India, the Dongria Khond tribal community was able to protect what they considered as a sacred hill with rich forests and ecosystem which would have been destroyed by bauxite mining, on the basis of the Forest Rights Act 2006. The Forest Department had given all the clearances to continue with bauxite mining.
absence\textsuperscript{301}. Rather than JFM committee meetings, a *Gram Sabha* meeting is closer to a democratic consultation. The *Gram Sabha* has been used in both PESA and FRA.

For moving towards decriminalization of livelihoods of forest dependent communities, it is necessary to revisit the *Indian Forest Act*, 1927, the main Act that governs forest management in India. Amendments to the *Indian Forest Act*, 1927 are required to reflect concurrence with the Forest Rights Act 2006. Clauses\textsuperscript{302} in the *Indian Forest Act* 1927 that fostered authoritarian policies and proscribed forest dwellers’ basic needs need to be repealed. Legislation governing forest management needs to introduce clauses to fulfil the needs of the forest-dependent communities sustainably while ensuring maintenance of the ecosystem. The Act also needs to reflect the importance of the cultural practices followed by communities and a clause to protect those cultural practices that are sustainable. Other Acts that criminalize tribal traditional cultural practices (such as the *Gujarat Animals and Birds Sacrifices Prohibition Act* 1972) need to be revisited and amended with community consultation. Such amendments are likely to work towards the decriminalization of forest-dependent communities, while at the same time enhancing forests.

\textsuperscript{301} Although there JFM meetings are included as part of indicators, it does not amount to fair consultation processes as the composition of JFM committees and members do not necessarily represent the entire community/village.\textsuperscript{302} For example extinction of unwritten rights of local population; commutation of forest rights; process of legitimizing forest rights; power of the state government to issue notification preserving trees etc; expropriation of forests using the *Land Acquisition Act*, 1984; power to impose duty on forest resources and regulate transit; power to arrest without warrant; assumption that forest product belongs to government; persons bound to assist forest officers and police officers; and other clauses assisting these.
6.8 Further studies and recommendations

Current changes in the Indian forest legislation and programs have mostly been unsuccessful in reversing criminalization of tribal livelihoods as they were poorly designed. Using Classification of Decriminalization can help in identifying some required changes.

There is a need for amendments in the forest legislation of India to make it pro-people in a more sustainable manner. There is a need to frame legislation that protects cultural forest use practices that benefit communities and environment. Deeper consultation to make culturally sensitive micro-plans is required to be carried out at village level. Building relationships between the Forest Department and the communities is important and developing social capital can be the beginning for a meaningful consultation.

Further research is required on illegitimate illegality to establish its extent. Subsequently, there is a need for research to find ways to reduce illegitimate illegality. Concrete and institutionalized steps are required to eliminate illegitimate illegality.

Tribal needs require to be recognized in Indian State of Forest Reports (and Criteria and Indicators). Further study is required for redrafting Criteria and Indicators (according to the Classification of Decriminalization framework) to show that tribal rights and cultures are respected and protected.

6.9 Final thoughts

Legitimacy of forest resource use is important not only from the point of view of basic human rights, including rights to livelihood and preserving and continuing culture, but also for maintaining and enhancing a healthy forest ecosystem. The impediments to this
goal require a major paradigm shift in the approach to lawmaking. A philosophical alteration in the case of forest legislation in India would be to enable people to use and invest in the forest resources sustainably so that they can have a livelihood along with a flourishing resource. Instead of restraining laws, enabling laws that enrich forests that provide valuable livelihood and cultural needs and improve forests are required.

Lessons learnt from similar transformations in other sectors (for example irrigation management) in India and in other countries (for example forestry in Canada; irrigation in Philippines) could be used to make this a practical reality.
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Last accessed 30 May 2015


Orissa Mining Corpn. Vs. MoEF & Ors., No. 180/2011 (Supreme Court of India April 18, 2013).


APPENDIX A

A.1 Interview schedule for tribal communities (India)

Introduction

I am doing my PhD from the Faculty of Forestry, University of British Columbia, Canada. My research is on the people and forest relationship, for which I am conducting this survey with tribal communities in India and First Nation communities in Canada. This research is conducted by the Sustainable Forest Management Laboratory at the University of British Columbia, and the project manager is Dr. John Innes in the Department of Forest Resources Management. This research is sponsored by the Social Sciences and Humanities Research Council and the International Development Research Center.

The purpose of the survey is to understand access and use to forest resources and the relationship that tribal communities have with the forests and forest lands that they live on. It also explores the changes that are happening and how they affect the livelihoods of tribal communities. The interview will take approximately 40 minutes to one hour.

There will be no direct benefit to you from participating in the study. We will share the final results of the study with your village and policy makers so that they may use it for planning purposes. The study will describe the cultural and legal aspects of the communities’ relationship with forests.

Your identity will remain completely confidential, and your answers will remain anonymous. Only aggregated and analyzed data will be shared. If you feel uncomfortable with any question you need not answer it. Your participation is voluntary and you may withdraw at any time.

Identifying information and background

Name of Village __________________________________________

House No. ______________________________________________

1. Name of respondent: __________________________________
2. Age (no. of years) _________________________________
3. Sex: Male / Female
4. Religion
   1 Christian / 2 Muslim / 3 Hindu / 4 Any other _________
5. Caste (if applicable) __________________________________
6. Scheduled Tribe (if applicable) ________________________

7. Marital status:

8. Family Background:

<table>
<thead>
<tr>
<th>S.no</th>
<th>Name</th>
<th>Relationship</th>
<th>Age</th>
<th>Education</th>
<th>Primary Occupation</th>
<th>Secondary Occupation</th>
<th>Place of work</th>
<th>Income</th>
</tr>
</thead>
</table>


8 a. The house you live in, is it owned, rented, government quarter, or any other type? (Tick applicable answer)
   1. Owned ___________
   2. Rented ___________
   3. Govt. quarter ______
   4. Any other _________

8 b. Type of house
   1. Thatch roof and mud walls ______
   2. Thatch and tiled roof __________
   3. Tiled roof and puccha walls _______
   4. Concrete slab __________________

9. a) Do you or your family own any land, orchard, etc.? Yes / No
   If yes, please indicate:
   Irrigated area ___________(acre) Value _____________
   Unirrigated area _________(acre) Value _____________

b) Do you cultivate any other land for yourself? Yes/ No
   If yes, please specify:
   Forest land ________________(value) ________________(acre)
   Gauchar ____________________(value) ________________(acre)
   Rent in land ________________(value) ________________(acre)
   Bhage (Partial rent in land) ____________________(value) ________________(acre)
   Ardo (Partial rent in land) ________________(value) ________________(acre)
   Any other ____________________(value) ________________(acre) _
d) Irrigation source

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<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>1 Well</td>
<td>Own/rented/Nil</td>
<td>5 Pond / Dam</td>
<td>Yes /No</td>
</tr>
<tr>
<td>2 Diesel engine</td>
<td>Own/rented/Nil</td>
<td>6 Kotar</td>
<td>Yes /No</td>
</tr>
<tr>
<td>3 Electric motor</td>
<td>Own/rented/Nil</td>
<td>7 Any other</td>
<td>Yes /No</td>
</tr>
<tr>
<td>4 Canal</td>
<td>Yes /No</td>
<td>8 NA/ DK</td>
<td></td>
</tr>
</tbody>
</table>

d) Do you have any livestock? Yes /No

If yes, give details:

<table>
<thead>
<tr>
<th>Livestock</th>
<th>Yes/No</th>
<th>Number of adults</th>
<th>Number of kids</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goat</td>
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<tr>
<td>Sheep</td>
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<tr>
<td>Cow</td>
<td>Milk ___ Dry ___</td>
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<tr>
<td>Buffalo</td>
<td>Milk ___ Dry ___</td>
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<td>Bullock</td>
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<tr>
<td>Chicken</td>
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<tr>
<td>Duck/Goose</td>
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<tr>
<td>Any other</td>
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</tr>
</tbody>
</table>

10. a) Do you have any son, daughter or any other relative who sends you money on a regular basis? Yes / No

b) If yes, how much per month? Rs._________

11. Please list your household monthly expenses:

- Food _Oil____Masala__ Vegetables__ Rice ____Wheat___ Juvar___Sugar_____ Tea_____
- Fodder __Grass___ Chimdi____
- Fuel wood ___________
- Clothing ______________
- Transport _Bus ticket_______For education___ Petrol_____
- Children’s education _______
- Electricity __________________
- Medical exp. ____________
- House repairs ____________
- Festivals _Dev Phado_______Holi_____ Diwali____ Church/temple____ Others_____
- Miscellaneous ___________
Agriculture information

<table>
<thead>
<tr>
<th>S.No</th>
<th>Crop</th>
<th>Seed (kg)</th>
<th>Cost</th>
<th>Fertilizer</th>
<th>Pesticide</th>
<th>Transport</th>
<th>Production</th>
<th>Sold</th>
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<tr>
<td></td>
<td>Juvar</td>
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<td>Dangar/ Bhat</td>
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<td>Mugphali</td>
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<td>Soyabean</td>
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<td>Diwel</td>
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<td>Vatana</td>
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<td>Sherdi</td>
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<td>Chana</td>
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<td>Ringan</td>
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<td>Tameta</td>
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<td>Mirchu</td>
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<td>Others</td>
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</tbody>
</table>

12. a) Do you keep any capital amount (mool dhan) at home for emergencies? Yes / No
   If yes, how much ___________
   
   b) Do you have a bank account? Yes / No
   If yes, approximate balance? ___________

13. Sometimes people help relatives and friends in need. How about you?
a) During last three years, have you extended any loan to any relative or friend?  
   Yes / No  
b) If yes, approx amount? ____________

14. During last three years, have you borrowed money from any friend or relative?  
   Yes / No  
   If yes,  
a) Specify :

<table>
<thead>
<tr>
<th>Source</th>
<th>Year</th>
<th>Amt</th>
<th>Collateral Mortgage</th>
<th>Rate of interest</th>
<th>Purpose</th>
<th>Amt of unpaid loan</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

15. Have you or your family taken any loan from any of the following sources?  
   Yes / No  
   Source code: 1 No, 2 Big landowners, 3 Bank, 4 Cooperative society, 5 Development agencies, 6 Local money lenders (Mahajan/ Vanya), 7 Any other  
   If yes, please specify:

<table>
<thead>
<tr>
<th>Source</th>
<th>Year</th>
<th>Amt</th>
<th>Collateral Mortgage</th>
<th>Rate of interest</th>
<th>Purpose</th>
<th>Amt of unpaid loan</th>
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</tbody>
</table>

**Information about forest use**

16. Among the following, which do you avail or benefit from forests :

<table>
<thead>
<tr>
<th></th>
<th>Yes / No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fodder</td>
</tr>
<tr>
<td>2</td>
<td>Fuelwood</td>
</tr>
<tr>
<td>3</td>
<td>Timru leaves</td>
</tr>
<tr>
<td>4</td>
<td>Timber</td>
</tr>
<tr>
<td>5</td>
<td>Lac/Honey/ gums</td>
</tr>
<tr>
<td>6</td>
<td>Khakra leaves</td>
</tr>
<tr>
<td>7</td>
<td>Fruits</td>
</tr>
<tr>
<td>8</td>
<td>Mahua flowers</td>
</tr>
<tr>
<td>9</td>
<td>Mahua Seeds / Doli</td>
</tr>
<tr>
<td>10</td>
<td>Bili leaves</td>
</tr>
<tr>
<td>11</td>
<td>Mud for house walls</td>
</tr>
<tr>
<td>12</td>
<td>Herbs for medicine</td>
</tr>
<tr>
<td>13</td>
<td>Kesu flowers/leaves</td>
</tr>
<tr>
<td>14</td>
<td>Hunt for rabbits or other animals</td>
</tr>
<tr>
<td>15</td>
<td>Roof thatching materials</td>
</tr>
<tr>
<td>16</td>
<td>Others (if yes, specify.__________)</td>
</tr>
</tbody>
</table>
Table for use of forest products (Excel) is inserted here. The table will ask the following questions for each product

17. Do you or your family collect go to the forest to collect _________? Yes / No
   If yes,
   a) In what season (month) do you collect it?___________
   b) How much time did you take to collect it last?___________
   c) Hours per day __________
   d) Last time when you did this thing, did you do it alone or in a group?
      Alone ______
      In a group ______
   e) Was this collected by men or women?
   f) How far did you have to walk to collect _________? _____ kms
   g) Did you require this fodder for household use, market, or both?
      1 Household use ______
      2 For market __________
      3 For both __________
   h) If for the market, how much money did you make in a year?
      Rs. __________
   i) Did you face any problem in collecting this? If yes, specify the problems.
      j) How did you tackle the problem?
      ______________________________
   k) During last three years has availability of grass/leaves in the forest increased, remained unchanged, decreased?
      Decreased ______
      Unchanged ______
      Increased ______
   l) What are the official restrictions on collection of it, if any?
      We would like to know a bit more about restrictions on the collection of these products, if any.
      i. Who enforces these restrictions? Villagers/ Forest Department/ Not enforced
      ii. How are these enforced?
   m) If enforced, please give details of the penalties and fines in the past three years that you know of.
   n) Are there any traditional restrictions for using or collecting? ____________ Yes/No
   o) If yes, please give details on how the restrictions are imposed. Please tell us what penalties
are enforced if the rules are broken.
p) Please give an example of the last time when the rule was broken and/or enforced.

**Information on work done and restriction by Forest Department on forest use**

30. Are you aware of any restrictions imposed by Forest Department during last 12 months on the collection of forest produce?  Yes / No

If yes, please give details

31. During last three years has there been any occasion that forest guards or police would have stopped you in the forest?  Yes / No

If yes,
(a) What was the reason?________________________________________

Code reason: 1 Cutting grass, 2 Cutting fuelwood, 3 Grazing, 4 Cutting timber, 5 Any other (specify) __________

(b) What happened after that?____________________________________

(c) Did you have to pay fine? Yes / No

If yes, how much? __________

(d) Were you scolded or beaten by any forest official? Scolded (yes/no), beaten (yes/no)

32. During last 12 months have you observed any work been done by workers of the Forest Department, to improve forests (e.g. plantation, fencing, check-dams, etc)?

Yes / No

If yes, please give details:

(a) Nature of work _____________________________________________

Code work done: 1 Nursery, 2 Pits, 3 Trenches, 4 Nala bunding, 5 Cutback/ singling, 6 Plantation, 7 Gadko kam, 8 Any other(specify)

(b) Number of workers _________________________________________

(c) Area covered ______________________________________________

(d) Did you take part in it?  Yes / No

If yes, No. of days ___________________________________________

Wages _______________________________________________________

33. Do you think that this work will:

(a) Improve forests in the coming years? Yes / No

(b) Benefit those villagers who live near or in forests? Yes / No

34. During last 12 months did the Forest Department organize any meeting of the villagers to discuss matters relating to forests? Yes / No
If yes,  
(a) Did you attend it? Yes / No 
(b) What was the main discussion? __________________________________________

35. Has the Forest Department employed any villager to guard the forest? Yes / No 
If yes, 
(a) Since which year? ___________________________________
(b) Do you know how much he is paid per month? Rs._______

Information on Joint Forest Management

36. During last two years, has any area of the forest been allotted for plantation and management of trees jointly by the Forest Department and villagers? Yes / No 
If yes, 
(a) How far is it from your village? Kms ___________________
(b) Are you participating in it? Yes / No 
(c) How is it going (in terms of survival and growth of trees)?___________
Code: 1 Very good, 2 Good, 3 Fair, 4 Poor, 5 Very poor 
(d) Who is it likely to benefit more, Forest Department or local community?
   1 Forest Department ______________
   2 Local community ____________________
   3 Both of the above ____________
   4 None of the above ______________

37. Does the village have a Joint Forest Management agreement with the Forest Department? Yes / No 
If yes, what does the agreement say? (land area, protection methods, benefits etc)?

38. Does the village have any groups (toli) for forest protection? Yes / No 
If yes: 
i) Are you a member of it? Yes / No 
ii) What are the main activities of this toli? 
iii) Do you think that this group fulfills its tasks? Yes / No 
If no, what do you think is the reason for it? 
If No, 
What other arrangement does the village have for forest protection?
39. Have you received any direct benefit from this agreement? Yes / No
If yes, please specify the benefits in the last three years

Information on organizations working in the area

40. Are there any samiti, sansthan or voluntary organizations that are working in this area for the welfare of the villagers, or for the development of the forest? Yes / No
If yes,
(a) What is (are) its (their) name(s)? ________________________________
(b) What are its main activities? ____________________________________
   Health
   2 Education
   3 Village organization
   4 Forestry works
   5 Agricultural improvements
   6 Livelihood improvement
   7 Any other _____________________________________________
(c) Have you ever participated in any meeting organized by it? Yes / No
   Regularly/Sporadic
   (If yes, please give details)
(d) Have you ever participated in any activity organized by it? Yes / No
   (If yes, please give details)

41. During last 12 months, did the organization organize any meeting of the villagers to discuss matters relating to forests? Yes / No
If yes,
(a) Did you attend it? Yes / No
   (b) What was the main discussion? ________________________________

42. During last 12 months, has the organization done any tree planting in the village forest or revenue land? Yes / No
If yes,
(a) Did you participate? Yes / No
(b) Were you paid any wages? Yes / No
   If yes, how much per day Rs.___________

43. During last 12 months, has the organization taken any area under its charge? Yes / No

44. Do you think all the work being done by the organization will benefit villagers?
Yes / No
45. Would it improve the forests?
Yes / No
46. Are there any villagers' organization, e.g. any mandali, in this area?
Yes / No
If yes,
(a) What is (are) it's (their) name(s)? ________________________
(b) What are its main activities? ____________________________
(c) Have you ever participated in any meeting organized by it?
Yes / No
(d) Have you ever participated in any activity organized by it?
Yes / No
(If yes, please give details).
(e) Are you an office bearer? Yes / No

Information about the village
47. It generally happens in villages that some people have the same opinion and some have
different opinions. Sometimes all of them do not agree with each other on all the issues. We
would like to know something about your village also.
(a) Are there any issues in this village about which some people disagree? Yes / No
If yes, what are they? _________________________________
(b) Has any attempt been made, during last 12 months, to resolve these? Yes / No
If yes, please give details.
(How, on whose initiative, outcome, etc.)
(c) Has this issue created small or big group conflicts? Yes / No
If yes, please give details.
(Nature, figures in forefront, seriousness, outcome, etc.)
48. In villages, we have caste groups. Do we have, in this village, caste groups which are lower
in social status than that of yours? Yes / No
If yes, please give their names
49. For buying such things of daily necessity as grain, vegetable, cloth etc, some people buy
using grain, forest produce or their labour. Have you done this during last six months? Yes / No
If yes, please give details.
Information about religious beliefs and rituals

50. (a) Do you believe in any God? Yes / No
(b) Do you believe in fate or Karma? Fate / Karma
(c) Do you believe in rebirth (Punarjanama)? Yes / No
(d) Most persons worship a particular god, deity, or totem. Which god, deity, or totem do you worship? ______________________________________________________
(e) How often do you worship (this god, deity, or totem) and what are the main rituals in this?
(g) Do you observe fast (Varat)? Yes / No
If yes, what was the occasion when you observed a fast - last time?
(h) During last five years, have you undertaken religious journey (Dham yatra)? Yes / No
   If yes, please give details.

51. Do you worship trees or forests? Yes / No
   If yes, please give details (Season, particular trees/shrubs, rituals, etc.)

52. During sowing season, before starting sowing, do you worship any god, deity or totem? Yes / No
   If yes, please give details.

53. During harvesting season, before starting/after harvesting, do you worship any god, deity or totem? Yes / No
   If yes, please give details.

Information about government welfare programmes being implemented in the area

54. Have you heard of government programmes? Yes / No

<table>
<thead>
<tr>
<th></th>
<th>Program Name</th>
<th>Yes / No</th>
</tr>
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<tbody>
<tr>
<td>A</td>
<td>Tribal Sub-plan (TSP)</td>
<td>Yes / No</td>
</tr>
<tr>
<td>B</td>
<td>DRDA</td>
<td>Yes / No</td>
</tr>
<tr>
<td>C</td>
<td>NREP</td>
<td>Yes / No</td>
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<tr>
<td>D</td>
<td>Sardar Patel Awas Yojna</td>
<td>Yes / No</td>
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<td>E</td>
<td>Panchvati Yojna</td>
<td>Yes / No</td>
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<td>F</td>
<td>Swachcha Gam Swasth Gam Yojna</td>
<td>Yes / No</td>
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<td>G</td>
<td>Jamin Sampadan and Malkhagat Suvidha</td>
<td>Yes / No</td>
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<td>H</td>
<td>Gram mitra Yojna</td>
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<td>I</td>
<td>Samras gram yojna</td>
<td>Yes / No</td>
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<tr>
<td>J</td>
<td>Tirth gram yojna</td>
<td>Yes / No</td>
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<td>K</td>
<td>Gramsabha</td>
<td>Yes / No</td>
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<td>L</td>
<td>Nirmal Gujarat</td>
<td>Yes / No</td>
</tr>
<tr>
<td>M</td>
<td>E-gram Vishvagram yojna</td>
<td>Yes / No</td>
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<td>N</td>
<td>BAIF</td>
<td>Yes / No</td>
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<tr>
<td>O</td>
<td>Animal husbandry Kendra</td>
<td>Yes / No</td>
</tr>
<tr>
<td>P</td>
<td>World food program</td>
<td>Yes / No</td>
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<tr>
<td>Q</td>
<td>Any other</td>
<td>Yes / No</td>
</tr>
</tbody>
</table>

If yes,

(a) Have you ever participated in any of these programmes? Yes / No

(b) Do you think any of these programmes are useful in the development of the village? Yes / No

(If yes, give reasons)

55. Have you availed of subsidy for any of the following?

<table>
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<th></th>
<th>Formatted Content</th>
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<tbody>
<tr>
<td>A</td>
<td>Well</td>
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<td>B</td>
<td>Seeds</td>
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<tr>
<td>C</td>
<td>Fertilizers</td>
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<tr>
<td>D</td>
<td>Cattle</td>
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<td>E</td>
<td>Irrigation</td>
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<td>F</td>
<td>Vegetable garden</td>
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<td>G</td>
<td>Land leveling</td>
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<td>H</td>
<td>Smokeless chulla</td>
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<tr>
<td>I</td>
<td>Biogas</td>
</tr>
<tr>
<td>J</td>
<td>Any other subsidy</td>
</tr>
</tbody>
</table>
56. Has a cattle camp been organized for your village? Yes / No
   If yes, by whom:

<table>
<thead>
<tr>
<th>S.No</th>
<th>Yes / No</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Forest Department</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>Tribal Sub-Plan</td>
<td></td>
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<tr>
<td>C</td>
<td>Any other</td>
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</tbody>
</table>

57. Have you or any one from the village received any of the following from the Forest Department:

<table>
<thead>
<tr>
<th>A</th>
<th>Nursery</th>
<th>Yes / No</th>
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</thead>
<tbody>
<tr>
<td>B</td>
<td>Bamboo</td>
<td>Yes / No</td>
</tr>
<tr>
<td>C</td>
<td>Smokeless chulla</td>
<td>Yes / No</td>
</tr>
<tr>
<td>D</td>
<td>Solar cooker</td>
<td>Yes / No</td>
</tr>
<tr>
<td>E</td>
<td>Bio-gas</td>
<td>Yes / No</td>
</tr>
<tr>
<td>F</td>
<td>Leaf-plate making machine</td>
<td>Yes / No</td>
</tr>
<tr>
<td>G</td>
<td>Timber</td>
<td>Yes / No</td>
</tr>
<tr>
<td>H</td>
<td>Any other</td>
<td>Yes / No</td>
</tr>
</tbody>
</table>

58. If yes for any of the above,
   Is the biogas working? Yes/No. If no, why not? _________________________________
   Is the smokeless chulla working? Yes/No. If no, why not? _________________________
   Is the solar cooker working? Yes/No. If no, why not? _____________________________
   Is the leaf-plate making machine working? Yes/No. If no, why not? _______________
A.2 Group Discussion introduction and questions

I would like to know about your traditional relationship with forests – how your forefathers lived and managed natural resources around them. These may be reflected in some of the practices that may have been laid down since olden times – perhaps when you were a child or even before you were born. (मारे जडणुं की आपणी कधी काळ मे लगातार परंपरांमध्ये /मानवीविविधतेबाबो याळीया आढळीचे की आपना बाळपासून मागेऱी हसीती अथवा तमाशा बापाडात चूकतीत घडत असे करते होते)

We will discuss a few things today:

A. On traditions:

1. List each ceremony that you perform and relate it to how it affects or is affected by nature and forests.
2. How these ceremonies have undergone a change that you are aware of – or are they carried out in an identical manner as it used to be done when you were a child.
3. What are the reasons for any of the changes that are listed.
4. What forest laws help or hinder following these ceremonies or practices.
5. If there are any ceremonies that have been stopped happening, please describe those as well.
6. Do you like or dislike any of the changes that have happened in carrying out the ceremonies and why?

B. On Joint Forest Management (JFM):

7. How has JFM affected these practices?
8. How has JFM affected your economic livelihood?
9. How are your ceremonies treated in JFM or making of the micro-plan for your village?

Mapping exercises

1. Historical land use and changes:
   - Forest
   - Agriculture
   - Grazing
   - Forest uses
   - Ancestor worship places
   - Ujjamani places
   - Places of worship/ceremonies
   - Presence of sacred forest

2. Seasonal calendar and changes in it:
   - Agriculture
   - Forest products
   - Festivals
APPENDIX B

Ceremonies descriptions

*Toran: the village entrance ceremony*

*Toran* or *Jatra*, is a ceremony followed by both the Vasava and the Chaudhari communities. This ceremony is performed when the first grass that comes up after the first rains at the end of summer is just four inches tall. It is collected from each person’s backyard, and then a prayer associated with it is offered in a community setting. Only after these prayers have been offered can the community members start eating locally grown green vegetables again.

On the same day two other ceremonies are performed. The entrance to the village, which is marked by two cotton trees (*Bombax ceiba*), is also fortified against evil spirits by linking the trees with a string. This string is special as it has several leaves\(^{303}\) attached; this is the quintessential ensemble that defines a ‘*toran*’. A *toran* is put up at the entrance to the village, to ward off any evil to the village as a whole. The *toran* would have been prayed to and hence considered sacred. It embodies the power to ward off any kind of evil eye or any disease, or anything that is negative, that might attempt to enter the village. *Bombax ceiba* trees are very important, because they are supposed to be the protectors of the village.

In the morning, male representatives from each household in the village, especially the traditional leaders and medicine men, hold the traditional meeting, *Ujjamani*. During the *Ujjamani*, Neem leaves are first offered to the village deity and then distributed to each household by the medicine men (along with their helpers). These *Neem* leaves are to be kept in their homes for purity and for freedom from diseases.

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\(^{303}\) Mostly Mango (*Mangifera indica*) and Neem (*Azadirachta indica*) leaves
**Nandervo: Cattle protection ceremony**

*Nandervo*, a traditional ceremony in the study area, mainly meant for the welfare and good health of the cattle and the livestock of the village. They also pray to other deities and ask for a good crop. To perform the ceremony, the medicine men go to the forests a day prior to the ceremony and collect roots and the barks of specific trees (known only to the medicine men). As preparation for the ceremony, on the day of *Nandervo*, the collected material is crushed with stones and then put into a huge vessel of water. Bunches of *Neem* leaves are also added to this water. This vessel is placed in the same ground where the deities are established. This ground is first purified by plastering it with dilute cow dung and mud paste. The *Nandervo* deity is worshipped with lit incense sticks, lamps and a vermillion *tilak* on the “forehead” of the deity followed by the breaking of a coconut in front of the deity. This is followed by similar prayers to the other deities in the area. The deity/deities are then requested to bless the water. After this ceremony, the purified water is distributed to the entire community.

People line up their utensils, normally milk cans, to receive the purified water. A large volume of the purified water is shared with any neighbouring family of the community members who missed collecting it for some reason. The portion of water left in the big utensil is used for another purpose. This water is sprinkled on the entire herd of cattle of the village that were herded near this ground of worship. The prevalent belief is that this will protect the cattle from any disease, any evil or famine that would befall them and thus ensure that their cattle would be healthy and happy.

After the prayer is completed, everybody sits in a circle and the community has the first\textsuperscript{304} *Ujjamani* (traditional village meeting) of the year. One of the main agendas of this first meeting of the year, held at the beginning of the rains, is a decision on the daily minimum wage of the

\textsuperscript{304} Although the Toran ceremony is considered the "first" ceremony, the Ujjamani during the Nandervo ceremony is considered "first" traditional meeting of the year.
village. This is not a government rate but a rate fixed by the village. The rate decided during the
_Ujjamani_ factors in what the people are able to pay and what is an income required for
sustaining a household.

The cattle protection ceremony thus includes not only a religious element i.e., the prayer
towards the deity but also an economic angle i.e., the decision about labor wages in the village.

**Duseherra, and the rat and tiger ceremony**

The festival of _Duseherra_ is celebrated in this area with a ceremony to protect the village
people, livestock and the crops from the wild animals of the forest.

One measure of grain is collected from each household and cooked together. There are two
portions which are cooked – one without salt which is meant for women and one with salt meant
for men. After it is cooked, each household gets a share of the cooked food for both men and
women. The food is cooked by men during the ceremony, which runs late into the night. After
the ceremony is over the men eat their share, but they put the share for the women on top of the
roof for them to eat in the morning. This food is not taken inside the house but rather placed on
the roof.

In the same ceremony, prayers are offered to sheaves of rice stocks collected from community
members at least a day before the ceremony. Each household in the village gets one sheaf of
this rice. This sheaf is tied to the main pillar of the house along with some _Neem_ leaves. It
symbolizes that new grain has come into the house and that that house shall never face
shortage of grain. The sheaf of rice stock (tied to the pillar) is supposed to last for the whole
year.

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_Dushera_ is typically a Hindu festival that signifies victory of good over evil. In non-tribal celebration, it is
celebrated by burning an effigy of the Demon god who was killed by Ram, a Hindu god. In Gujarat this festival is
celebrated for nine days with fasting, and singing and dancing late night. It is also a prayer to the Goddess Shakti
signifying power.
On the same day, figurines of tigers, rats, snakes and other pests are made with clay, decorated and painted and put in front of the deity at the foot of the tree where the deity of animals resides. The tree is normally either teak (*Tectona grandis*) or *Imli* (*Tamarindus indica*). In the evening young males, and even middle-aged men, dress up as a lion or leopard and some pretend to be the pests. With much fanfare the village children role-play the hounding of the pests out of the village. All the children run after them and drive them out. It is a fun ceremony especially for all the children. Children are very important in this ceremony. As the children are driving these tigers and the rats away from the village they pick up these clay figurines and take these outside the village boundary pretending to be driven away by the villagers. They are placed outside the village boundary, so it symbolizes that these animals are not going to come inside the village boundary. In some villages, after the role-play, a sacrifice is offered to the animal deity 306. The sacrifice (normally a chicken) is cleaned and cooked on the spot. Everyone present is seated in a circle and given the cooked meat along with tea (without milk). Men 307 who drink liquor are given locally brewed *Mahuwa* liquor.

The next day these figurines are picked up by the neighbouring villagers and put at the entrance of the next neighboring village and then the next neighboring village takes these figurine as well as whatever figurines they themselves would have made, taking it further away towards the dense forest and finally all these clay figurines reach the forest going from one village to another and from one boundary of the village to the another boundary. So it symbolizes that these animals will stay in the dense part of the forest and will not disturb the life in the villages.

*Diwali: the festival of lights*

During the Diwali festival, the lighting of lamps is significant. In tribal communities in Mandvi, the lamp is supposed to be the representation of a *Devi* and it is made out of bamboo. It has to be lit

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306 I attended this ceremony in village Titoi and Rupan in 1995. The same process (of sacrifice) did not take place in village Rupan, where I was living.
307 Women are normally not present during the ceremony. Children are not given liquor.
from the household *chullah* i.e. the stove on which the food is cooked. After a small prayer to the deities and ancestors, the lamp is lit and it is put at the boundary of the village, outside the village. The special *mantra*, i.e. chanting, is basically to take the small insects and pests such as mosquitoes, bedbugs, spiders, etc. outside the house. Thus Diwali symbolizes a freedom from these small bugs and pests for the village.

**Akhatri: Ancestor worship**

Ancestor worship is very important and part of most ceremonies, where community members pray to their ancestors. The spirit of the ancestor is lodged in a big, elaborately made, up-turned earthen pot with a lot of design (called ‘*Gummath*’ in local language). A specific ceremony is performed to install the spirit of the ancestors as part of death ceremony.

Each village has at least one demarcated sacred forest patch. The entire patch is never disturbed; no trees in this patch are cut, but it is cleaned regularly. All the village ancestors are ‘kept’ in this sacred patch. During important festivals, these revered ancestors are worshipped and blessings are sought from them for all the activities that are being performed. No festival is considered complete without worshipping ancestors. Even in case of individual household functions such as marriage, members of the household visit the sacred forest patch to receive their ancestors’ blessings.

The special rites for ancestors are also called the *Akhatri* that is performed in September – October every year. The rites start with cleaning up forest patch and plastering cow dung and lighting Incense sticks in front of each *Gummath* (the elaborately designed earthen structures in which the ancestral spirits are lodged). A sacrifice may be offered to the ancestors. The *Bhagat* seeks the animal’s permission before sacrifice. A number of villages do not offer sacrifice anymore for all ceremonies. But there are some interior villages where sacrifice is quite
prevalent. While offering respect to the ancestors in ceremonies, their food habits of
vegetarianism or non-vegetarianism, are abided by.

The blood of the animal is sprinkled on all the *Gummaths* that are present in the sacred patch of
forest land. The animal which is sacrificed is never wasted. It is cleaned and cooked and
everybody present in that ceremony (those who eat meat) receives a part of it as an offering.
Even if it is just a morsel, everybody gets a portion.

If the particular ancestor, who is being prayed to, was a vegetarian, only a coconut would be
broken. The offered coconuts would be then distributed amongst all present.

*Cleaning up ceremony*

The festival of cleaning up happens in the month of October- November. Each household
cleans and collects dirt from their house in one bamboo basket (it could be more or less). It is a
house cleaning ritual. All the baskets along with the brooms are collected in one place and
loaded in a cart. These are put outside the boundary of the village. The baskets of dirt collected
from the households signify all the troubles the households face. This symbolizes that all the
troubles have been taken out of the village. This is picked up from the boundary of one village
and taken outside the boundary of the next village and so on and so forth till it reaches the
dense forest.

The baskets are taken by men in bullock carts. The men go to the forest to perform the
ceremony, which signifies that forests will absorb all the troubles that the men have collected
from their households. It is always the men who go to the forest for these ceremonies, and they
stay overnight and perform rituals to make the deities happy. The ceremony takes place at the
village level on different dates, but the date on which the baskets reach the dense forest
coincides with all villages of the region. Thus, men from all the villages meet in the forest for the
ceremony. They sing and dance, perform rituals and often get drunk. They cook their own food which often includes chicken or some non-vegetarian food. They return the next day.

It is believed by the local communities that the forest can absorb all their troubles and that forests will take away their troubles, so that they can live happily.

Other ceremonies

Apart from the village level annual ceremonies which are performed on a regular basis, there are certain ceremonies that are performed at an individual level, by individual households. In some of these, certain species of plants are important, or a particular tree may be important as a deity may reside in its roots. For example during a marriage ceremony, the groom has to be taken under a Kadaya tree (*Sterculia urens*) to get the blessing of the deity that resides in the tree. These trees are preserved in the village because they are very important for marriage ceremonies.

Similarly for death ceremonies, there are entire patches of forests that are demarcated as sacred for the ancestors to rest in. Each village normally has such a patch for the ancestors. As described earlier, ancestor worship is performed each time that any village ceremony is performed, apart from the Akhatri ceremony which is performed specifically for the ancestors.

There are also special deities who are not particular to a village but to an area, for example Kakabadia. This deity is in one patch of forest which is conserved for its sacredness. Villagers from a 50 km radius go there to perform ceremonies every year. This particular sacred site is about 30 Km away from village Gamtalav, one of my survey villages. While earlier people used to use the bullock cart, now a truck is hired to go.

Normally only men go to conduct the ceremony, and each household contributes one small bag of food so that it can be cooked over there and they get a cooked meal back so that their contribution to the deity has been received and they get the blessings as well. To elaborate, a
family that does not send a family member to the ceremony sends a basket of uncooked food. After the ceremony is over someone present in the ceremony brings back to the family, a portion of the cooked food that was offered to the deity. This is more so in cases where the male members of the family are either too old to go or have gone out for work/wage labour. In 2011, I went along with one village group for a ceremony to a place that was more than 20 km (almost an hour journey in a car) away from the village. Part of the ceremony took place in the village itself and people who were unable to go sent baskets of uncooked food with the group who was going to the sacred site. These baskets were opened after reaching the sacred spot when the food required to be cooked.

There are two tiers of protecting forest areas and making the place sacred for praying to the deity. One is at the village level where the ceremony is performed within the village and at household level. The other tier is at the regional level in which case many villages conglomerate together for performing the ceremony to pray to the deities. In these areas, the natural resources of the forest are preserved. In both cases, the patches of forest are preserved. Outside ceremonial times, people do frequent the place but avoid damaging anything in it. During the times the ceremonies are held, footwear is not permitted in the area. The area of Kakabadia resembled an oasis as it was a green patch in the middle of barren lands.

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