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# Bio-Cultural Community Protocol

of The Baigas, Traditional Healers' Community,  
Tatidhar Village, Marwahi Forest Division, Chhattisgarh



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I am indeed happy to present the Bio-cultural Community Protocol prepared by the Baigas of Tatidhar village in District Bilaspur of Chhattisgarh State, India. This Protocol will act as a tool to protect their rich traditional knowledge about the healing properties of medicinal plants found in the forests near their dwellings. Baigas are a Primitive Tribal Group inhabiting the remote forest areas of the Northern part of the Chhattisgarh State of the Indian Union. They are traditionally known for their healing practices. This knowledge related to health care and healing runs through the family and they take care to pass it on to their next generation. Since their Traditional Health Practices are based on plants occurring in the forests they dwell in, they have zealously guarded the Biodiversity of the area and have been instrumental in conserving several important plant species. But, over the years the great emphasis on herbal medicine all over the world, has prompted herbal hunters and gatherers to unsustainably harvest the naturally occurring medicinal plants to the extent that several species are now threatened, vulnerable and nearing extinction. The poor Baiga has also been subjected to constant piracy of his Traditional Knowledge without his prior consent or any benefit sharing mechanism.

In this context, I embarked on a journey to build capacities of the local Baigas to protect their TK and bio-resources, with the help of a civil society organisation, Care for Earth Society, along with other experts, State Forest Department and the Traditional Healers Association of Chhattisgarh, to understand the gamut of laws at the state, national and international level that have implication on their traditional knowledge, practices and innovations. This will empower them to take informed decisions relating to their knowledge and resources, which they have protected thus far due to their sustainable harvesting practices and intense zeal for their protection and conservation.

I am sure that this live document that the community members have developed will be an effective tool to promote more equitable and fair agreements on access and benefit sharing with third parties who would want to access their resources and Traditional knowledge. I congratulate the Baigas of the Tatidhar village for the development of this BCP and wish them all the best for their future endeavours and enterprises.

I am confident that this novel initiative will act as a path breaker for other communities to follow and develop similar Bio-cultural Protocols for safeguarding their traditional knowledge and Bio-resources.



**Dr. A. A. Boaz**

*Chief Executive Officer,*

*Chhattisgarh State medicinal Plants Board*

*July 2012*



We, the Baigas, a primitive tribal group, belonging to the Indian State of Chhattisgarh, are recognized for our knowledge related to medicinal plants and our healing practices. We are concerned as our knowledge and the resources are under extreme threat for various reasons. We are aware that this knowledge and its associated resources need to be protected, and that there are national and international laws for their protection. We are also aware that the international law, namely, Nagoya Protocol, provides for the preparation of Bio-cultural Community Protocol as a tool to protect our community's rights over our knowledge.

We understand that human interference and other pressures are depleting biological resources leading to forest degradation and permanent loss of biodiversity. This impacts our livelihood and our primary means of subsistence, putting at threat our food and health security. We recognize that scientific forestry management has evolved considerably in past decades, demonstrating significant positive impacts for biodiversity conservation, but it has also disregarded our cultural and spiritual sites and practices.

We also understand that the Bio Cultural Community Protocol is a document that helps set out customary values, rights and rules about our bio-cultural heritage. This also helps ensure that our rights are globally recognized. This BCP strengthens our negotiating capacity to promote more equitable agreements with third parties, those who want to access our resources and knowledge.

This Bio-cultural Community Protocol serves as an 'internal' governance tool to regulate equitable benefit-sharing amongst ourselves and help reduce conflicts associated with access and benefit sharing agreements.

We have developed this Protocol with the help of the Care for Earth Society (CES), local experts, traditional healers' association of Chhattisgarh, local foresters and other community members residing in remote parts of the Bilaspur district of the state of Chhattisgarh.

## OUR HISTORY

We, Baigas (we also call ourselves Bhumiaraja or Bhumijan), are Munda or Kolarian people (part of the Bhuiya tribe) located in the central highlands of India. The name “Baiga” is associated with traditional medicine. Communities such as the Kols and the Gonds consider us as priests having special knowledge about the properties of the resources of forests, especially medicinal plants. They also recognize us as ancient people and have traditionally respected our decisions in boundary and other disputes. We are believed to be among the earliest residents of Chhattisgarh plains and the northern and eastern hill country.

We have lost all traces of our native language and have acquired the language of our neighbours. Verrier Elwin, a renowned anthropologist who worked extensively with the tribal communities in Chhattisgarh, reported that in Bilaspur (our present district) we adopted Chhattisgarhi; in Mandla and Jabalpur we speak a modified Eastern Hindi; in Balaghat we speak Hindi, Gondi (or a combination of Marathi, Hindi, and Gondi), and Baigani. Presently, we speak Chhattisgarhi and Hindi in our village.

## OUR VILLAGE

Our village, Tatidhar, is situated in the Kota Tehsil of Bilaspur district of Northern Chhattisgarh and is about 86 km away from Bilaspur town. The nearest railhead is Belghana, nearly 26 km away on the Raipur-Bhubneshwar main line. Our village can be approached through the Bilaspur-Pendra Road.

Located in the Maikal – Satpura range of Central India, Tatidhar village is one of the most forested tracts in this region. It is adjacent to the famous Achanakmar Biosphere Reserve. The area has rich dry deciduous Sal forests which houses several Globally Significant Medicinal Plant (GSMP) species. The area is managed under the Marwahi Forest Division working Plan. Tatidhar village is proud to have a Forest Protection Committee and has been allotted the following forest compartments for conservation and management. We have recently also formed a Biodiversity Management Committee with the help of the Divisional Forest Officer.

S. No.	Compartment Number		Area in Hectares	Allotted to Working Plan circle	Coupe Number
	Old	New			
1.	1131	2429	188.47	Selection cum improvement working Circle, Bagdhara	XI, XII
2.	1132	2430	284.72	-do-	IX, X
3.	1133	2431	260.60	Selection cum improvement working Circle, Khomsara	XIV
4.	1134	2432	318.77	-do-	XV, XVI
5.	1135	2433	211.11	-do-	XXI, XXII

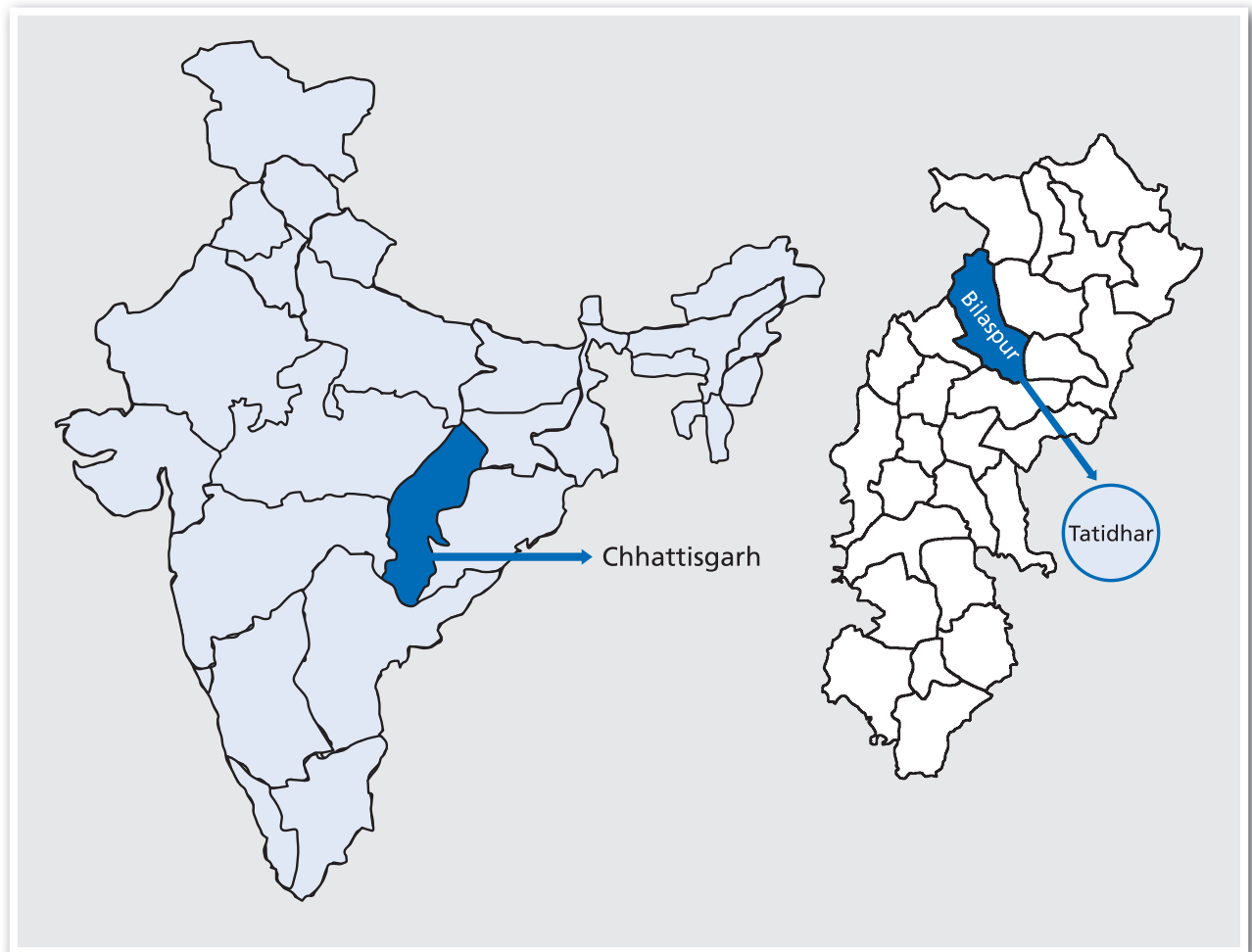
Our village lies in the catchment of Arpa River which is a tributary of the Mahanadi. Geographically we are situated at latitude 22.29 and longitude 82.02 East of the Greenwich meridian.

## Our Settlements

We are a peace loving community and prefer to live in small hamlets despite the state government's efforts to bring our tolas (hamlets) closer for their convenience. We like our privacy and normally a hamlet comprises a big, extended family. We build villages either in the form of a large square or in a row on each side of a broad street (approximately 10 meters in width). Villages are located in areas convenient for cultivation, but we also consider aesthetics and isolation when setting up a new hamlet. Our villages are located near jungles on high hills and in valleys. Piles of stones demarcate the village boundary to form a magic wall protection against wild animals and diseases. Cultivation of tobacco, maize, vegetables and sweet potatoes is

common among our people. Each house has a pig house attached to it. We dry and store our maize on platforms located in the centre of the village. A typical Baiga house is rectangular in shape, with a small veranda and a single gate. The main space is divided into two rooms by a bamboo wall or grain bins. We keep water pots and a fire in the first one, whereas the second one is used for cooking. This space is not accessible to outsiders.

There is serious concern in relation to access to land. Unlike neighbouring tribes like the Gonds, we were late to ask for legal titles. It resulted in access and land tenure disputes, which remain unresolved. Nevertheless, we are thankful to the government for giving us pattas under forest settlement and the Forest Rights Act.



# HEALTH OF OUR COMMUNITY AND OUR BOND WITH NATURE



## Our Culture

We have full reverence for the Earth Mother and the creatures created by her. We don't even use a plough for cultivation purposes, believing it will scar the body of our mother, the Earth. We are considered by other communities as possessing supernatural powers. We adhere to a simple lifestyle in remote, forested areas and are considered the most primitive and unique forest tribe. We have specific art forms connecting us with nature. For instance, the Karma dance which is common in our society is associated with the fertility cult. It is said that the Karma dance of Chhattisgarh is the oldest among all tribal dances.

## Religion, Ceremonies, and Festivals

We use magico-religious means to control both animals and weather, ensure fertility, cure disease, and guarantee personal protection. *Dewars* and *Gunias* are the two main religious practitioners in our community where the former has been accorded a higher status as compared to the latter. *Dewars* are held in great esteem and are responsible for the performance of agricultural rites, marking village boundaries, and stopping earthquakes. *Gunias* deal largely with the magico-religious cure of diseases. The

*panda*, an eminent practitioner from our community, is no longer of great prominence. The *jan panda* (*clairvoyant*) is yet another important person in our society who is believed to have supernatural powers.

Our annual calendar is predominantly based on agricultural activities, and most festivals and rituals are related to agricultural activities of different seasons. The Bidri ceremony, for example, is a ceremony which takes place in June for blessing the crops and protecting them from pests and bad weather conditions. The Hareli festival is celebrated in August to ensure a good yield; and the Pola festival (roughly equivalent to the Hareli) is held in October. The Nawa feast, thanksgiving for a good harvest, is held after the rainy season.

## Our Agricultural Practices

We are a very vulnerable social group. Historically, we were the nomadic slash and burn cultivators and hunter-gatherers. We have been forced to leave jungles and to lead a more settled life. As a result, we have lost knowledge related to forest resources. We started learning farming and practicing agriculture only about 25 years ago. We lack skills, knowledge in settled agriculture and need more support and capacity building to engage in agriculture efficiently. In the absence of adequate agriculture knowledge and modern means, our food production is very low. Hunger, malnutrition, illness and helplessness hamper our ability to develop economically and socially.

Our farming includes raising of pigs (which are held in particularly high esteem), poultry, goats, and cattle





(cows, bullocks, and buffalo). We consume fish and all kinds of meats. We had been traditional hunters but with the enactment of the Wildlife Protection Act in 1972, we have greatly curtailed this habit. We also grow several kinds of tobacco for personal use. Our main food items are rice, various kinds of grain (*kodon*, *kutki*, and *siker*), sweet potatoes, cucumbers, *dal* (tuar and urad), maize, roots, leaves, herbs, and young bamboo shoots. We consume several fruit such as the forest mango, wild fig and banyan flowers. Leaves of the butter tree, which are ground to produce chutney, are also gathered from the forest. This shows our great dependence and close links to the forests and its resources.

In our community we do not distinguish considerably between men and women. Men and women share the responsibility for cooking, gathering water, fishing, and wood cutting. However, only men are allowed to hunt, and women do not engage in heavy ploughing activity and animal killing.

## NTFPs AND MEDICINAL PLANTS

Some of the important species found in our forests that are used extensively by us and also extracted by outsiders for trading are Chaar (*Swertia chirayita*), Aonla (*Emblia officinalis*), Arjun (*Terminalia arjuna*), Bibirang etc. Being a forest-dwelling community, we depend a lot on collection of NTFPs (Non-Timber Forest Produce) and medicinal plants from the forest. Though our access to the forest is becoming more and more difficult, we still continue to collect NTFPs and medicinal plants from the forest not only for meeting our day to day needs but also for our health security.

We also collect some NTFPs from the forest and sell it to the primary cooperatives set up by a state institution, the Chhattisgarh Minor Forest Produce Federation Cooperative Ltd. NTFPs are our lifeline as we live in the midst of dense forests. We have rich traditional knowledge related to the resources of the forest. This knowledge is related not only to the medicinal plants and their healing power, but also extends to the making of natural dyes and crafts. Many kinds of bamboo and leaf baskets are manufactured by us for personal use. Wooden beds are also produced locally. We are familiar with most plants available in the forest and their use. We have specific practices in our tradition to ensure sustainable harvest of these species.

Not with standing the above, our forests are fast depleting, especially the flora, because of regular fires, uncontrolled grazing and unsustainable harvest by outsiders. This has resulted not only in the decline of quantity of certain species but we find that many plants have become extinct and the existence of several is threatened.

Some of the NTFPs like leaves of Tendu (*Diospyros melanoxylon*), Harra (*Terminalia chebula*), Seed of Sal (*Shorea robusta*), Gums like Dhoara (*Anogeisus latifolia*), Kullu (*Sterculia urens*) have been nationalized which means these species can only be sold to the primary cooperatives established by the MFP federation at a price fixed by the government every year. The rest of the non nationalized NTFPs are collected and sold in the same season to local traders who either approach villages or buy from the haat/ weekly market bazaars.

## THE BASIS OF OUR TRADITIONAL KNOWLEDGE

Though much of our knowledge has evolved over generations and years of testing and usage, most of the healers in our community believe it to be a gift of supernatural powers. We believe that we received the knowledge of medicinal properties of various plants from supernatural powers which are transmitted in different ways. Some of us are of the strong belief that we received this knowledge in our dreams- especially the knowledge pertaining to the location of specific plants which could treat certain ailments comes to us in our dreams and then we test the properties and gain knowledge. We also gain much knowledge from our seniors, gurus and teachers. Since this knowledge is largely gained from other sources, we strictly believe in not charging a fee for treating people. We believe that the medicine and treatment may not be fully effective if we charge money. But in recent times, it is also our source of livelihood, hence, we do charge nominal fee and along with that the patient sometimes pays for the services in kind.

## THREATS WE PERCEIVE

Our traditional knowledge related to useful properties of the medicinal plants and other NTFPs found in nearby forests and our knowledge related to the sustainable harvest of these plants helps maintain an ecological balance in the forest. Conservation values

are inherent in our customs, beliefs and folklore, which when transmitted to the next generation, help protect the knowledge and also the bio-resource base. Our customary laws and social norms help resource conservation by regulating use of the resources. Our customary laws, though not in spirit, are often in conflict with the state laws, which restrict our access to these resources on which we have been dependent upon for generations. Restricted access to the forests affects our livelihoods and subsistence needs. This also affects the traditional knowledge related to these resources as the younger generation with less engagement in the forest, gradually lose out on this knowledge and its use in our lives. Our restricted access to these resources also poses a threat from outsiders who extract in an unregulated and unsustainable manner. If the forest department tries to keep us away from the forest and doesn't give us access to the resources, many in our community then don't take interest in protecting the resources.

There is a general trend that the younger generation in our community is showing less interest in our knowledge and, in particular, is not willing to learn the health care system from us. However, there is some hope as some youngsters including women are taking interest and doing innovative things.

Our knowledge and continuous use of this knowledge helps maintain the ecological balance and holds the key to solutions for future research and developments in the health, nutraceutical and pharmaceutical sector.

## CONSERVATION OF MEDICINAL PLANTS

We have rules linked to the seasons and time of day in which we can collect various plants. As mentioned in the earlier section, we harvest NTFPs and medicinal plants in a sustainable way. We have our own norms and taboos for resource conservation. We also believe that if we do not adhere to or comply with our social norms and customary law, we will face the wrath of the super being in the form of heavy rains, fires and drought. We normally collect small quantities of any resource and only for immediate use. We never collect



and store huge amounts as the efficiency of the medicine and the treatment goes down. We also do some puja (rituals) before we extract any part of the plant. This inhibits over harvesting. While collecting NTFPs and medicinal plants in our traditional way, we also protect biodiversity by guarding the forests against fires and discouraging poaching of plants by outsiders.

Over the years, we have seen a decline in the health of the forests. Lots of people come from outside our area and extract bags full of some plants. We are unable to stop them, rather, some families here actually help them by giving them food and shelter. We feel we do not have any authority to stop them from this collection. More recently, a Biodiversity Management Committee has been established in our village and a number of villagers are part of this committee. We hope that now with this new committee in place, we will have a better say in matter of conservation.

We do not distrust outsiders. As per our culture, visitors have a highly respectable status. However, we have learnt about the many incidents and experiences in our country and other countries where tribal people have suffered. Their knowledge and resources have been misappropriated. This makes us suspicious about sharing information even with researchers and representatives of various companies. Hence, in the emerging global scenario, as we understand now after the Care for Earth Society has informed us, we want outside agencies/ individuals, Indians or foreigners to seek our consent before accessing our knowledge or our plants.

We want our knowledge to get better recognition at all levels. The effort made by the State Medicinal Plant Board in making a directory of all traditional healers and giving us opportunities is worth appreciating. We want the forest officials to treat us well and with respect. We should not be treated as poachers. We collect medicinal plants largely for personal use or for the benefit of the community and neighbouring villages.

## THE PROCESS ADOPTED FOR DEVELOPING THE PROTOCOL

A local NGO, Care for Earth Society (CES), sensitized us about the provisions of the international Convention on Biological Diversity and many related laws at the national and international level (Annex 1) that have implications on conservation and our rights. We were consulted on the format used for drafting this protocol and we approved it as we found it meaningful to our needs and rights. It instills in us, a sense of pride and ownership over the process and the outcome and helps us establish our right over knowledge related to bio-resources. It also helps us develop a regime for sharing benefits arising out of our use of traditional knowledge.

This protocol is linked to the Biodiversity Register that we are preparing and encompasses the following:

- Brief description about our society, history, culture, agriculture, animal husbandry, forestry, non-timber forest produce, medicinal plants and intrinsic interlinkages;
- Brief insight into our spiritual values connecting us to Mother Earth;
- Use of wild and domesticated bio-genetic resources in meeting the food as well as nutritional and health security of our communities;
- Generation and transmission of our traditional knowledge acquired over the years;
- Connects the community with the outside world through our state institutions and ensures that the outside community seeks our prior informed consent before using our knowledge and resources;
- Our awareness that some private parties from India and other countries are making huge profits from the knowledge of traditional healers like us.
- The threat posed to our subsistence and livelihood because of biodiversity loss, and by outsiders usurping our traditional knowledge without sharing benefits with us;

- Our understanding of the need for sustainable harvest of NTFPs and medicinal plants for conservation of bio-resources for future generations;
- Our understanding of our legal rights and privileges under the international, national and state laws;
- Our urgent call to the state and national institutions to help us conserve, protect and promote our traditional knowledge base. It also calls on the Forest Department to work with our community in such a manner that conflicts and disputes related to forest rights can be settled amicably and in an enabling environment.

## PRIOR INFORMED CONSENT AND ACCESS AND BENEFIT SHARING

We are committed to knowledge sharing among members of our communities according to our customary laws and transfer knowledge from generation to generation. However, we strictly prohibit transfer of our knowledge to outsiders who would misuse it in violation of our customary laws.

Therefore, our free and informed consent must be sought by all people outside our community who want to access our resources or our traditional knowledge associated with those resources. For each demand, a process has to be as followed. We hold a meeting of our Biodiversity Management Committee (BMC) and evaluate the said demand according to the intended use of the resource or knowledge. The draft terms and conditions attached to this BCP will be used to come to an agreement with a third party. These will be elaborated in consultation with the seeker and the BMC. This document and the design of the benefit sharing agreement will then be evaluated and discussed in a participatory and open way. Of absolute necessity is comprehensive and transparent information about the intended use of the resource or knowledge. We will assess each demand on a case by case basis and, thereafter, according to our traditional customs and the principles, terms and conditions are spelt in this protocol.

Although we have agreed on a model contract for signing an agreement with the third party, whether from our country or overseas, in consultation with the State Bio-diversity Board, we seek the consent of the community and then a written agreement is signed by the BMC and the knowledge/resource seeker:

- Adhering to the agreement in word and spirit;
- No sharing of our traditional knowledge with anyone who would try to gain personal monetary benefits and not for the community;
- The researchers and/or companies have to share reasonable benefits with the community, including recognition of our role in developing the traditional knowledge;
- We want to be involved in parts of the research and be kept informed periodically. We want a continuing relationship with the user in terms of periodic reports once in 6 months with the research and the knowledge recorded;
- No patenting of our traditional knowledge without prior permission of our Biodiversity Management Committee (BMC), State Biodiversity Board (SBB) or National Biodiversity Authority (NBA);
- The outcomes must be translated into our dialect and language: Chhattisgarhi and Hindi;
- Any subsequent change of use of the knowledge requires new prior informed consent (PIC);
- We will engage with foreign companies only through our BMC, SBB and NBA. The user will be restricted to the existing framework of laws and the terms mentioned in this protocol.

## Our Rights under International and National Laws

India has ratified a number of international agreements/policies that require national implementation of their provisions, including the UN Declaration of the Rights of Indigenous Peoples, the Convention on Biological Diversity, the International Labour Organization Convention 169 on Indigenous and Tribal Peoples, and the International Covenant on Economic, Social and Cultural Rights. Rights of communities to

access natural resources are recognized under these International Conventions. In India several National and State Acts and rule has been drafted to comply with international law and to provide rights over communities over natural resources, particularly government owned forests and community lands. Several government resolutions have also vested us with right over extraction of NTFPs. The drawing up of Bio-cultural Protocols not only allow us to protect our resource and traditional knowledge, it also enable us to reaffirm our historical rights to access forests and other resource areas which have been more and more hindered in recent years. Some of the International Conventions and National Laws are listed below :

The main international document regarding biodiversity is the **Convention on Biological Diversity** ratified by India in 1992. It states three objectives: conservation of biological diversity, sustainable use of its components, fair and equitable sharing of benefits arising from genetic resources. The main steps forward entailed in the document are the following:

- States have sovereignty over their biological resources
- The role of Communities and indigenous peoples in protecting and conserving biodiversity through their culture and tradition are acknowledged.
- Any access to a community natural resource requires the approval of the State concerned, based on prior informed consent of the communities.

Of major importance is Article 8(j) which requires States to, subject to their national legislation, to 'respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practice'.

In 2010, during the 10th Conference of Parties to the CBD, a specific protocol to facilitate and ensure

implementation of access and benefit sharing mechanisms was adopted: the Nagoya protocol. It states that States shall:

- Take measures to ensure that benefits arising from natural resources and traditional knowledge held by communities are shared in a fair and equitable way with communities, on mutually agreed terms.
- Provide for legal clarity and transparency rules on access and benefit-sharing mechanisms
- Provide information on how rules and procedures for obtaining prior informed consent and mutual agreements
- Create conditions to promote and encourage research contributing to biodiversity conservation and sustainable use of biodiversity

In addition, the Protocol specifically encourage States to support the development of

- Community protocols to access and benefit-sharing regarding traditional knowledge associated with natural resources
- Minimum requirements for mutually agreed terms
- Model of contractual clauses for benefit-sharing

If the CBD and the Nagoya Protocol are the two main international instruments linking biodiversity conservation and communities entitlement to access and benefit-sharing, indigenous rights over their land and traditional knowledge are recognized in various other international Conventions, such as the Declaration of the Rights of Indigenous Peoples which notably asserts that Indigenous peoples have the rights to their traditionally owned or used land and resources (Art 26 1), to maintain their traditional health practices including the conservation of medicinal plants (Art 24), to maintain, control, protect and develop their cultural heritage, traditional knowledge, science and technologies including natural resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions and develop their intellectual property over these (Art 31) and to determine priorities and strategies for the use of their lands and resources. International Labor Organization Convention 169 on Indigenous and Tribal Peoples also reaffirm rights of indigenous

peoples over their natural resources, and their rights to be consulted and to participate in benefits of natural resources exploitation (Art 15). In addition, external persons shall be prevented from taking advantage of their customs or of lack of understanding of the laws to take possession of the land or use it (Art 17.3).

**The Biological Diversity Act (2002)** translates at the domestic level India's commitment under the Convention on Biological Diversity. In accordance with the three goals of the Convention on Biological Diversity, it provides a framework for biodiversity conservation, sustainable use and access and benefit-sharing arising from the use of its components and associated traditional knowledge. It specifically requires the Government to promote in situ conservation (art 36) and ensure protection of TK through registration and sui generis means. The Biological Diversity Act also sets up at implementation entities at the national, state, and local level. Their functions are detailed in the Biological Diversity Act rules (2004) :

- The National Biodiversity Authority, main organ, is tasked to:
  - Advise the Central Government on Biodiversity conservation, sustainable use and ABS arising from the use of biological resources and associated TK (Rule 12)
  - Grant approvals for commercial or scientific requests on use of biological resources by Foreigners, based on consultation with the communities and on whether mutually agreed terms and fair and equitable benefit sharing have been negotiated with local communities (Rules 14.3 and 20.5)
- The State Biodiversity Boards undertake decentralized implementation and are tasked to:
  - Advise at the State level on Biodiversity conservation, sustainable use and ABS arising from the use of biological resources and associated TK
  - Grant approvals for commercial or scientific use of biological resources by Indians, based on consultation with the communities and on whether mutually agreed terms and fair and

equitable benefit sharing have been negotiated with local communities.

- Biodiversity Management Committees (BMCs) have to be set up by Panchayats and Municipalities at local level. Their main task is to:
  - Prepare Peoples 'Biodiversity Registers in consultation with local people. The document shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any use or any other associated traditional knowledge (Rule 22.6)
  - Advise the State Biodiversity Board or Authority for granting approval and to maintain data over the local voids and practitioners using biological resources (Rule 22. 7)

Under the **Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006)**, rights of traditional forests dwellers to forests land are recognized in the preamble. So is their authority for sustainable use, conservation of biodiversity and maintenance of ecological balance, thereby strengthening the conservation of forests and ensuring them livelihood and food security. Even if they don't apply on National Parks and Sanctuaries, community rights are notably acknowledged on:

- Ownership and access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries (3c)
- Management, protection, regeneration, conservation of any forestry resource which have been traditionally protected and conserved for traditional use (3i)
- Access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity (3k)
- Traditional rights customarily enjoyed (3l)

The Panchayats (Extension to Schedule Areas) Act, 1996 while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and

the Gram Sabha are endowed specifically with the ownership of minor forest produce.

We feel that national laws do not reflect the recognition of our rights that have been set out under the international law, and thus, we call upon the Government of India to modify the laws in accordance with the new developments in the international arena, eg. the Nagoya Protocol.

## OUR APPEAL

It clearly emerges that while we are committed to the core value of conservation and sustainable use of medicinal and aromatic plants, we are, at the same time, deeply concerned about first user rights and access to biological resources on the principles of equity. We seek the cooperation of institutions and entities across the spectrum of biodiversity management to collaboratively discuss mechanisms to allow for traditional knowledge to thrive, and communities to benefit from it.

### **In reality what our community needs is-**

- Knowledge about and access to external markets and value;
- Technology and capacity to process harvests; and
- Capacity building to add value to our bio-resources and to manage them sustainably.

### **We appeal to the State Biodiversity Board of Chhattisgarh to:**

- Recognize our traditional knowledge and to include it in the Peoples' Biodiversity Register (under Rule 22(6) of the Biological Diversity Act);
- Support for the setting up of Biodiversity Management Committees under local bodies (Panchayats) in Chhattisgarh and to help these Committees in ensuring the conservation and sustainable use of our biodiversity and traditional knowledge (as per Section 41 of the National Biodiversity Act);
- Strengthen in-situ conservation of medicinal plants and include them in the mandate of BMC being set up by the government (under Sections 36 and 41 of the National Biodiversity Act);

- Advise the State Government and coordinate the activities of the State Biodiversity Board and State Medicinal Plant Board to protect our customary rights to access forest areas in order to preserve our culture and values and ensure the conservation and sustainable use of local biodiversity, associated traditional knowledge and the local ecosystem (under Section 36 of the National Biodiversity Act);
- Ensure that our prior informed consent is obtained before any decision impacting our community or any access is granted to our medicinal plants and associated traditional knowledge for research or for commercial purposes, and ensure that we receive a fair and equitable share of the benefits arising from the utilization of our biological resources and traditional knowledge according to terms agreed upon (under Section 21 of the National Biodiversity Act);
- Assist and support us in preparing People's Biodiversity Register and document the fast-eroding traditional knowledge base on medicinal plants.

### **We also call upon the Department of Environment and Forests to:**

- Re- open dialogue with us on forest conservation. We require access to the forest produce in order to sustainably harvest and collect required quantity of medicinal plants needed for our traditional care and livelihood. We want to be recognized as village conservators, so as to be able to assist the Department in its conservation efforts;
- Approach us, in particular, representatives from the State Medicinal Plant Board and explore how our community can collaborate with them on their programmes on access and benefit sharing and create models of benefit sharing arrangements. We also call upon them to re-evaluate our potential as collaborators in conservation and livelihood projects, as well as renew efforts to understand our needs and situation. We feel that a participatory approach to address these issues is essential to bring necessary changes to the current situation;

- Initiate and support initiatives to link bio-diversity conservation with livelihood creation for traditional communities where upholding cultural values are fortified with tangible returns;
- Recognize that often rights over customary resources is not enough; it needs to be reinforced by enabling communities to generate livelihoods from these resources that will, in turn, act as incentives for their sustainable management and conservation;
- Recognize that if indeed true sustainable management of medicinal plants is to be achieved, the SMPB must act as the connection between markets and the community so that livelihoods can be earned and bio-cultural resources conserved.

## LOCAL DIALOGUES

To share experiences about our own practices within the community, we call on the following local groups to work with us and start a dialogue on our roles in the lives of our community and the sharing of benefits: traditional leaders, local self-government representatives, local health facilitators, political organizations and religious leaders.

This Protocol represents a declaration of solidarity with all practitioners of traditional healing systems and users of medicinal plants in India and with other traditional healers across the world who share our bio-cultural values.

### **For further information, please contact :**

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# ANNEXURE 1

## Model Agreement

Agreement for the access of biological resources / Traditional Knowledge /both

1. This Agreement is between the Provider and the recipient having the following details: (Append additional sheets if required – marked as Annexure A)

PROVIDER	RECIPIENT
Indicate if Individual <input type="checkbox"/> , Village <input type="checkbox"/> , BMC <input type="checkbox"/>	Indicate if Individual <input type="checkbox"/> , Company <input type="checkbox"/>
Name(s):	Name :
Community name (if applicable):	Individual / company :
Nationality :	Nationality :
State & District:	Address:
Address:	
Phone number:	Phone number:
Fax :	Fax:
Email id :	Email id :

2. Type of bioresource (BR) accessed (Plant/Animal/Microorganism/By-products):

S.No.	Plant/Animal/ Microorganism/ by-product	Part accessed & geog. location of access	Local name	Scientific name (mandatory)

(Append additional sheets if required – marked as Annexure B)

3. The period /duration of access of biological resource :
  - a. If one time access, date of access : .....(dd/mm/yy.....); Quantity : .....
  - b. If for a duration : From (dd/mm/yy) to .....(dd/mm/yy); Quantity : .....
4. Will you access traditional knowledge relating to bioresource? ☐ Yes ☐ No  
If Yes provide details; append additional sheet if required-marked as Annexure C):

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5. Will you access any other traditional knowledge not relating to BR? ☐Yes ☐No

If Yes provide details; append additional sheet if required-*marked as Annexure D*):

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6. Purpose of access (please provide details) of the bioresource(s) and / or traditional knowledge (hereinafter together referred to as 'Accessed Resource') :

☐ Research ☐ Commercial Use ☐ Other

If Other, please specify \_\_\_\_\_

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7. Mode of payment for accessing "Accessed Resource" (please see schedule A)

a. For Bioresource : ☐Monetary ☐Non-Monetary ☐Other

b. TK relating BR : ☐Monetary ☐Non-Monetary ☐Other

c. TK not relating to BR : ☐Monetary ☐Non-Monetary ☐Other

8. If the response to paragraph 7 above is "Monetary" please provide details:

a. For Bioresource: INR..... by way of cash / cheque / draft

b. TK relating BR : INR..... by way of cash / cheque / draft

c. TK not relating to BR : INR.....by way of cash / cheque / draft

If the response to question 7 above is not "Monetary", then please indicate the mode  
(*append additional sheet if required-marked as Annexure E*).

## TERMS AND CONDITIONS OF THE AGREEMENT:

9. The Recipient agrees that all proprietary rights in the traditional knowledge vests with the Provider
10. The Recipient shall use the said Accessed Resource solely for the purpose mentioned in Point 4 above.
11. The Recipient shall maintain the conditions stipulated for the duration of the field work conducted. In the event of any changes, the Agreement shall be re-negotiated, taking into account: (conditions).
12. The Recipient shall pay the Provider for the said Accessed Resources as mentioned in paragraphs 7 and 8 above
13. Publications if any, pertaining to the Accessed Resources or their use or application in any media including print or electronic shall be in the joint name of the Recipient and the Provider.
14. The Recipient shall duly acknowledge the source of the biological resources as well as the traditional knowledge accessed in all publications related to the said Accessed Resources.
15. The Recipient shall send copies of the publications and preliminary report related to the accessed resources used and its modifications to the appropriate body established under the Biological Diversity Act and related laws.

16. The Recipient shall take all necessary measures to ensure the respect, preservation, and maintenance of the knowledge, innovations, and practices of the Provider.
17. The Recipient shall likewise take all necessary measures to ensure compliance with all the applicable laws, rules, guidelines and regulations of both countries.
18. If the use/study of the said Accessed Resource(s) leads to commercialization, the Recipient agrees to inform the Provider and enter into a separate agreement for equitable benefit sharing as detailed in Section 21 read with Rule 20 of the Biological Diversity Act 2002.
19. The Recipient covenants that the said Accessed Resource shall not be used to produce any goods that could be considered as the geographical indication under the Geographical Indications of Goods (Registration and Protection) 1999.
20. In the event the Recipient fails to comply with any of the obligations set forth herein, the Agreement may be terminated by the Provider by giving certified notice for compliance within 30 days of receipt of the said notice failing which the Provider shall be at liberty to take legal action under applicable laws including the Biological Diversity Act, 2002.
21. Disputes if any, shall be referred to the Gram Panchayat under notice to the Biodiversity Management Committee, State Biodiversity committee and the National Biodiversity Authority for adjudication / settlement.

Dated this the ..... date at .....place

Provider :

Recipient:

Witness 1:

Witness 2:

BDA	Biological Diversity Act 2002
BR	Biological Resource
PIC	Prior Informed Consent
TK	Traditional Knowledge
Schedule A	Suggestive list of forms of benefit sharing as laid out in the Nagoya Protocol
Annexure A, B, C, D & E.	Additional sheets appended if required under points 1, 2, 4, 5 & 8 respectively

## SCHEDULE A

1. Monetary benefits may include, but not be limited to:
  - (a) Access fees/fee per sample collected or otherwise acquired;
  - (b) Up-front payments;
  - (c) Milestone payments;
  - (d) Payment of royalties;
  - (e) Licence fees in case of commercialization;
  - (f) Special fees to be paid to trust funds supporting conservation and sustainable use of biodiversity;
  - (g) Salaries and preferential terms where mutually agreed;
  - (h) Research funding;
  - (i) Joint ventures;
  - (j) Joint ownership of relevant intellectual property rights.
2. Non-monetary benefits may include, but not be limited to:
  - (a) Sharing of research and development results;
  - (b) Collaboration, cooperation and contribution in scientific research and development programmes, particularly biotechnological research activities, where possible in the Party providing genetic resources;
  - (c) Participation in product development;
  - (d) Collaboration, cooperation and contribution in education and training;
  - (e) Admittance to ex situ facilities of genetic resources and to databases;
  - (f) Transfer to the provider of the genetic resources of knowledge and technology under fair and most favourable terms, including on concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity;
  - (g) Strengthening capacities for technology transfer;
  - (h) Institutional capacity-building;
  - (i) Human and material resources to strengthen the capacities for the administration and enforcement of access regulations;
  - (j) Training related to genetic resources with the full participation of countries providing genetic resources, and where possible, in such countries;

- (k) Access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;
- (l) Contributions to the local economy;
- (m) Research directed towards priority needs, such as health and food security, taking into account domestic uses of genetic resources in the Party providing genetic resources;
- (n) Institutional and professional relationships that can arise from an access and benefit-sharing agreement and subsequent collaborative activities;
- (o) Food and livelihood security benefits;
- (p) Social recognition;
- (q) Joint ownership of relevant intellectual property rights.

This Bio-cultural Community Protocol has been developed by the members of the Biodiversity Management Committee of Tatidhar village with help from Care for Earth Society, State Medicinal Plant Board, Traditional Healers Association, local experts and UNDP. We also acknowledge the support received from SKS Law Associates in developing the model contract template for us. This BCP has been supported under the Global Environment Facility – United Nations Development Programme – Ministry of Environment and Forest, Govt of India project “Mainstreaming Conservation, Sustainable Use and Cultivation of Medicinal Plants in Policies and Practice of Forestry Sector in Three Indian States”.



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***Pictures Credit: Dusty Foot Production, Traditional Healers' Association, Olga Boaz***