Finding a Pragmatic Policy Solution for Dhibra (Mica Scrap) Pickers of Jharkhand
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**Summary**

More than three hundred thousand poor people in the mica belt of Koderma and Giridih districts of Jharkhand in India are dependent on the collection and sale of mica scraps or *dhibra*, as it is locally known. Because of the widespread poverty in Jharkhand, approximately 90% of families in a village, in the mica blocks of these two districts survive on *dhibra* whose price unfortunately has stagnated at Rs. 10/per kg for over a decade. Ten hours of hard work inside the dumpsites in the forests hardly fetches them a dollar per day. Additional income from wage work and sale of minor forest produces is negligible. Moreover, being a water scarce area with skewed land distribution, farming operation is almost non-existent.

Abject poverty leaves the local youth with no choice but to migrate outside the state in search of work, leaving women and children to fend for themselves, primarily from *dhibra* collection. While uninterrupted collection of *dhibra* affects the health of women, it invariably disrupts children’s education as well. What is even more dangerous is when they become additional hands for *dhibra* collection and accompany their mothers to the dumpsites. For the *dhibra* picking rural women, its double jeopardy; children cannot be left at home nor exposed to life risk at the *dhibra* dumpsites.

**Recommendations**

Since the lives and livelihoods of hundreds of thousands of poor families is in question, along with growth of mica sector and revenue therefrom for the Jharkhand Government; it is important and urgent that serious policy attention is provided to create legal clarity on *dhibra* trade and enable local communities to have increased access to this local natural resource based livelihoods option.

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1. An assessment was carried out on the status of dhibra trade in selected villages of Koderma and Giridih mica belts by Sanjoy Patnaik, on behalf of TdH NL and BKS, Ranchi during April-June 2019
2. Mica is a shiny and transparent mineral produce (Phyllosilicate) having a wide variety of exotic use including automotive paints and cosmetics - face powder and lipsticks. Mica is also used for food colouring, pharmaceuticals and being a superior insulator, it is used in electrical appliances like toasters and electric irons.
3. The Bihar Mica Act of 1947 that regulates trade till today in Jharkhand specifies mica that are less than 6 inches in size are mica scraps or dhibra.
Some selected policy actions could be;

- State Government to bring in clarity around legal type and classification of dhibra, its definition and management so as to incorporate them in relevant laws so that the state Government recognises the existence of dhibra trade
- As per Central Government orders, state Government to notify mica as a minor mineral to introduce relevant management changes and develop guidelines and rules so as to formalise price fixation of dhibra
- State to consider defining dhibra as a forest produce to ensure community ownership under community forest resource rights in Forest Rights Act
- State Government may consider designing innovative and specific livelihoods programmes to supplement income from dhibra

**Introduction**

India is one of the world’s largest producers and exporters of mica, accounting for almost 60% of the net mica production in the world. About 95% of India’s mica is distributed in the three states of Jharkhand, Andhra Pradesh and Rajasthan. Mica mining in undivided Bihar dates back to the late 19th century that flourished post-independence, where mining sites used to be auctioned by state Government on the basis of term lease given to miners. According to British Geological Survey, the world’s largest deposit of mica is at Koderma district of Jharkhand.

**Context**

During its peak, when underground mica mining was banned inside forest areas with the commencement of Forest Conservation Act, 1980, local villagers started collecting dhibra that were left in large volumes on the ground as wastes in the dumpsites inside the forest areas. Local villagers collected dhibra from the mounds and sold them in local markets. The demand for dhibra slowly increased, when block mica was legally unavailable because of the ban.
Over the years, especially post 1980; *dhibra* trade has largely been clandestine and opaque. Once the product moves beyond the first point of sale at the level of the primary picker, it's almost impossible to find out the price variations at different stages of the supply chain. The speculations for increase in price varies from markups of 100 to 300% until it reaches the end point, the exporters. Similarly, it has been equally difficult to assess the volume of trade and trace the route it traverses within the supply chain geography.

This growing invasion of mica market space by *dhibra* not only brought in technological innovations but also caused technology induced product development inventing multiple and varied use. Products that earlier used block mica (bigger flakes) slowly switched over to recycled mica reducing the price of the finished products, thereby, increasing the demand for *dhibra*. As a result, *dhibra* captured close to 95% of the recycled mica market globally. While India produced large quantity of sheet mica from *dhibra* and exported to China, using the same raw mica sheets Chinese value added products invaded south and south-east Asian markets, including the huge Indian market. The irony is when both in the domestic and overseas market *dhibra* has been experiencing a high demand, its sale price at the primary pickers' level has stagnated for decades.
Considering the growing significance of dhibra collection in sustaining village economy and the disparity in access to dividends, there have been a number of efforts in the past to identify policy windows to benefit dhibra collectors. Broadly, there have been two varying policy processes impacting dhibra procurement and trade in Jharkhand. The first is a direct process intended to benefit the dhibra pickers; for instance; in March 1987 at Hazaribag, the state Government decided that picking and transporting in head loads to be considered as a livelihood action and not a commercial exercise, and the head loaders to be allowed to carry up to 50 kg of dhibra. The second policy process is where the state Government tried to legalise the source of mica by identifying legal mica sites to formalise the trade, which would eventually benefit the picker. In May 2017, the Jharkhand State Mineral Development Corporation identified 17 dhibra dump sites to be auctioned.

Two critical policy developments in this indirect category are; a) Government of India, in February 2015, transferring 31 major minerals including mica into the minor mineral category, and b) Government of Jharkhand is considering mining in 4 fresh blocks both in forest and non-forest areas in Koderma and Giridih mica belts. The above efforts have not been very effective for several reasons; rules have not been framed, auctioning have not been successful due to inordinate delays in price fixation, or the state Government has not been proactive in drafting orders and notifications to simplify operational procedures, and so on.

Moreover, if mica is a minor mineral, its management needs to be decentralized and handed over to the District Collector as the lease processes of minor minerals are handled by revenue authorities who are empowered to operate the Minor Mineral Concession Rules. A decentralized leasing mechanism creates an opportunity for panchayat bodies at different levels to participate in the trading process, where community rights over dhibra can be established.

It is important to keep in mind that in 1987, a process of recognising usufructuary rights over dhibra was initiated and considered a policy priority. The authorities then didn’t apprehend any legal complications that could have been encountered for no mention of the word ‘dhibra’ in the mica guiding law, the Bihar Mica Act, 1947. The consideration of the proposed usufructuary rights had humanitarian concerns primarily for survival of the poor and the marginalised. A concern and policy move that merits serious attention now.

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1 For instance, the Jharkhand State Mineral Development Corporation (JSMDC) may jump into the fray with a buy back arrangement with the Gram Panchayats.

2 Usufructory right is a right that emerges out of continuous use of a resource.
Key policy opportunities and action

The key questions that need serious policy attention are; a) the physical and legal type of dhibra, defining what kind of produce it is, b) based on its legal classification, what is the ownership pattern – whether the communities and/or the Gram Sabha have any ownership rights, and c) whether dhibra as a community resource or as a forest produce (or both) could be guided by protective legislations like Panchayat Extension to Scheduled Areas Act 1996 or the Forest Rights Act 2006.

Dhibra is considered a non-mineral at the point of collection. But once processed and made a tradable commodity, it becomes a mineral whose extraction becomes mining. Secondly, under section 2(4) of the Indian Forest Act, 1927, the legal definition of forest produce includes 'minerals' when found inside or brought from a forest. This implies that for any produce to be forest produce under section 2(iv) (b) of The Indian Forest Act (IFA) 1927, the forest has to be the starting point of transit and not in transit. With this logic, dhibra becomes a forest produce. On the 15th of September 2017, Hon'ble Supreme Court has observed that 'if the processing of the forest produce does not result in bringing out a new commodity but preserves the same and renders it fit for markets, it does not change its character; hence, it remains a forest produce.
In the context of rights over natural resources for local communities, it is crucial to recognize and identify legal space and opportunities, especially within the two important protective legislations like the Forest Rights Act, 2006 and the Panchayat Extension to Scheduled Areas Act (PESA), 1996 to decentralize the governance of dhibra collection.

FRA provides for a community ownership framework over forest resources and produces within the traditional boundary of the village including forests of any legal type. It is, therefore, not legally inconsistent to argue that the Forest Dwelling Scheduled Tribes and Other Traditional Forest Dwellers can have ownership rights over collection and sale of dhibra found inside and brought from nearby forests.

Under the PESA, it is mandatory to have prior recommendation of Gram Sabha and Panchayat at appropriate level to grant of prospecking license or mining lease for minor minerals and for grant of concession for the exploitation of minor minerals by auction in the Scheduled Areas. PESA also provides that 'the villagers may use minor minerals for their individual needs as per the traditional practice with the permission of the Gram Sabha'. If any permission is given by any Government Department for the exploitation of minor minerals, it shall be mandatory for the said Government Department to obtain necessary concurrence of the Gram Sabha. Since PESA Rules have not been prepared in many states including Jharkhand, Government of Jharkhand must consider providing 'ownership rights to Gram Sabha over collection and sale of minor minerals', while finalising the PESA Rules in the state.
Conclusion

What continues as an area of concern is the confused legal status of *dhibra* that makes state Government ignore the existence of *dhibra* trade operations. As a result, neither the state Government nor the local panchayats seem to be having any legal authority to regulate *dhibra* sale price. Besides, it is also important and necessary that communities and local panchayat has a defined ownership rights over a local natural resource based livelihoods option also in a non-scheduled area. There is a need to review the conventional thinking through legal reforms that rights over local natural resources should only be limited to scheduled areas.

Considering the fact that *dhibra* impacts the lives and livelihoods of three hundred thousand poor people, it is important and urgent that; a) specific policy reform initiatives are taken to formalize the trade so that *dhibra* price is fixed and monitored by appropriate authorities, b) additional livelihoods programmes are introduced to eject these families from the clutches of abject poverty, c) allow collection of *dhibra* from inside the forests as a conservation strategy with the condition that such operations must not damage tree crops, d) leverage existing public expenditure spaces like MGNREGA, CAMPA, DMF and GPDP to ensure that *dhibra* collection ceases to become a distress livelihoods option, and e) considering the similarity with regard to the extent of poverty and deprivation, Government may consider extending the spirit and provisions of PESA to non-scheduled areas so as to enable communities to have ownership over local natural resources, produce.

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