

Forest dwellers denied rights

1 Comments
Author(s): Kumar Sambhav S. / PRASAD
Date: Jul 15, 2012

Government considering amending Forest Rights Act

The latest status report of the Union Ministry of Tribal Affairs on the implementation of the Forest Rights Act (FRA) of 2006 confirms the general perception that the law has not benefitted the majority of the country's forest dwellers. The report shows that more than half of the claims filed by the tribal people and other forest dwellers for land titles under FRA have been rejected. What's more, though FRA has the provision for recognising rights for land parcels of up to four hectares (ha) to each legitimate claimant, the average size for which titles have been granted is only 1.4 ha.

The status report, released in the first week of June, shows that 1.8 million ha of forestland has been distributed so far in response to 1,254,456 title claims. FRA was implemented in 2007 with the purpose of recognising rights of forest dwellers over forest resources. However, its execution has been plagued by many problems, including resistance from the forest department in ceding control over the resources. Of the 2.8 million land title claims processed so far, only 0.5 per cent recognise community rights over forest resources, while 46.4 per cent recognise individual rights over forest dwellings. Rest of the claims have been rejected. Community rights under FRA include the right to collect minor forest produce (MFP), like bamboo, which accounts for half of the forest department's revenue. As per an estimate by a committee of the ministry of Panchayati Raj, the annual production potential of MFPs is about Rs 4,000 crore. But because of the unwillingness of forest departments to give up their revenue sources forest dwellers are working as daily wagers for the department or contractors. In the nine states affected by left wing extremism, 55 per cent land title claims have been rejected (see map).

Corrective measures

Two weeks before the release of the report, tribal affairs minister V Kishore Chandra Deo wrote to the chief ministers of forested states, expressing concern over poor implementation of FRA. He said that even after five years of enactment, the flagship scheme of the UPA has not benefitted the majority of the tribal population. The rejected claimants were not given any reason for the rejection nor an opportunity to appeal against it, he added. Recognition of community rights is low. As a result, large number of forest dwellers are facing eviction or harassment by forest authorities, he added. He asked the ministers to give "a clear signal" to the implementing authorities that "all rights of the forest dwellers must be adhered to and that the democratic process under FRA must be respected." To remedy this, Deo sent a list of corrective measures to be taken for effective implementation of FRA. The list calls on states to constitute gram sabhas at the level of settlements or hamlets, instead of the panchayat level.

The tribal affairs ministry is also mulling amendments to FRA and its guidelines. Last year in January, a committee led by former bureaucrat N C Saxena and Sonia Gandhi-led National Advisory Council had suggested modifications in FRA and its guidelines. They did not get immediate attention from the ministry of tribal affairs until Deo took over the ministry in July 2011.

An official in the ministry says, "We have sent a draft proposal of amendments to FRA to the law ministry. After getting their views, we hope to finalise them within couple of months."

FRA guidelines to help forest dwellers freely trade in minor forest produce

0 Comments
Author(s): Kumar Sambhav S...
Date: Jul 13, 2012

Tribals and forest dwellers don't need to obtain transit passes to cart away the produce; minimum support price scheme for MFPs to be in place by January 2013

The Union tribal affairs ministry has issued a set of guidelines aimed at ensuring better implementation of Forest Rights Act (FRA) of 2006 which gives forest dwellers and tribal people the right to collect and trade in minor forest produce (MFP) like *tendu* leaves and bamboo. The new guidelines state that forest dwellers no longer need to get transit passes for carrying MFP, including bamboo, outside the forest. The movement of all MFPs should be exempted from the purview of transit rules of state governments, state the guidelines issued on July 12.

Though FRA recognises the rights of the forest dwellers over forest resources which they have traditionally been using, the implementation of the Act has been obstructed by state forest departments that are unwilling to cede control over forest resources, a major source of revenue for the departments. At many places where communities have been granted community forest rights, forest departments have refused to issue transit passes needed under state laws to transport the produce outside the forest for trading. The most recent incident was reported from Kalahandi where the area member of Parliament was not allowed by the forest department.

"Even a transit permit from gram sabha should not be required. Imposition of any fee, charges or royalties on the processing, value addition, marketing of MFP, collected individually or collectively by the cooperatives and federations of the rights holders, would also be ultra vires of the Act (FRA)," say the guidelines. The ministry also announced that the much talked about minimum support price (MSP) scheme for MFPs will be in place from January next year. Under this scheme, the government will provide minimum support price for 13 important MFPs, including *tendu* leaves and bamboo, to ensure that forest dwellers get proper value for the MFPs they collect.

The implementation of FRA started in January 2008. But even four years after its implementation, it has failed to benefit most of the forest dwellers. Till May 31, more than 50 per cent of the claims filed by the forest dwellers for rights under FRA were rejected by the authorities. To make the Act effective, the ministry has now revised its rules by incorporating at least 60 changes in them. The revised law will be placed before Parliament in the upcoming monsoon season. As an interim measure, the guidelines for better implementation of the Act have been issued to the states.

What the guidelines say

- Movement of all MFPs should be exempted from the purview of transit rules of state governments
- Even a transit permit from gram sabha should not be required

- Imposition of any fee, charges or royalties on the processing, value addition, marketing of MFPs would violate FRA
- Minimum support price (MSP) scheme for MFPs will be in place from January next year
- Guidelines suggest specific measures for the states to modify the process of recognition of individual and community rights, implementation of provisions related to MFPs and to make sure that the forest dwellers are not forcefully relocated
- Sub divisional or district level committee to process forest rights claims should not reject any claim recommended by the gram sabha without giving reasons in writing and should not insist upon any particular form of evidence for consideration of a claim

The move has come exactly one year after V Kishore Chandra Deo took over as the Union tribal affairs minister. In January last year, a joint committee of the ministry of tribal affairs and the ministry of environment and forests, and the Sonia Gandhi-led National Advisory Council had recommended several changes in the Act. But they were shelved by the then tribal affairs minister. Deo, however, said most of the recommendations of the high-level bodies have been accepted by the ministry.

The guidelines have suggested specific measures for the states to modify the process of recognition of individual and community rights, implementation of provisions related to MFPs and to make sure that the forest dwellers are not forcefully relocated. The guidelines say the sub divisional level committee or the district level committee, formed under the Act to process forest rights claims, should not reject any claim recommended by the gram sabha, without giving reasons in writing and should not insist upon any particular form of evidence for consideration of a claim. No claim should be rejected without giving opportunity to the claimant to present his case against the rejection.

The monopoly of the forest corporations in the trade of MFP should be done away with, say the guidelines. The state governments should ensure that the forest rights relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been doing, are recognised in all villages. In case no community forest resource rights are recognised in a village, the reasons for the same should be recorded, say the guidelines.

Saharias face exile, again

0 Comments

Author(s): Kumar Sambhav S...

Date: Sep 15, 2012

Displaced from Kuno wildlife sanctuary earlier, the tribe is being evicted again for a dam

FIRST it was for the lions, now it is for a dam. People of the Saharia tribe of Kuno-Palpur wildlife sanctuary in Madhya Pradesh have once again been told to leave their homes.

In 1995, the Union Ministry of Environment and Forests had decided to translocate a pride of Asiatic lions from Gujarat's Gir National Park to Kuno. At that time, tribal people from 24 villages in the sanctuary were moved out to make space for the big cat. The lions never arrived (see 'Displaced for Nothing', Down To Earth, August 1-15, 2012). Now, the Madhya Pradesh government has proposed an irrigation project on the Quari river near Kuno. If built, the dam will submerge 1,220 hectares (ha) of 10 villages in Sheopur district that are home to 1,000 families. Three of these 10 villages house Saharia people displaced from the sanctuary.

"The surveys for the proposed dam were started in May last year but no formal notice was given to the villages for a year, as required by the law," says Syed Mirajuddin of Samrakshan Trust, a non-profit working in the region. It was only after the panicky residents seized the instruments of survey from officials in March this year that the district collector came and informed them about the project and compensation package.

Under the proposed plan, every tribal landholder is to get 2 ha and monetary compensation for the rest of his property while the non-tribals will get only monetary compensation. The adults who do not have land holdings in their names will not receive any compensation. "We lost much of our possessions in the last displacement. Now, our children have grown up and have families. It's not fair to leave them out from compensation. Besides, the government compensation is much below the market rate of the land," says Sujan Singh, of Chak village.

Residents allege they are being forced to give consent to the project without settlement of their rights over forest resources under the Forest Rights Act (FRA) of 2006. FRA recognises the rights of forest dwellers on forest resources they have traditionally been using. For instance, apart from farming, the residents have been collecting gum from a small forest patch nearby. The minor forest produce fetches up to Rs 130 per kg. "Each family sells at least 200 kg gum for 6-7 months a year. It forms half of our annual income. They will give us a new house and land but can they give us a new forest?" asks Murari Singh of Chentikheda village.

According to FRA, no forest dweller can be displaced unless his rights under the Act are recorded. The residents allege that when Chentikheda gram sabha refused to give in twice, Gyanendra Patil, the district collector of Sheopur, came and made the residents give their consent for the dam in June. He promised that their forest rights would be settled later. "In the meeting, the collector threatened that if the residents protest against the project they will not be given even the proposed compensation. The tribal people had no choice," alleges Mirajuddin.

Asmita Kabra of the School of Human Ecology at Ambedkar University in Delhi, on behalf of Samrakshan trust, wrote to Union tribal affairs minister V Kishore Chandra Deo about the violation of FRA in the project-affected region. The minister wrote to the chief minister of Madhya Pradesh, Shivraj Singh Chauhan, to look into the matter. But the authorities do not seem to be paying heed. "All those villages are revenue villages. They cannot have claims under FRA. However, if any such claim comes from the villages, we will look into it," says S B Singh, sub divisional magistrate of Bijaypur who is also the chairperson of the sub division-level FRA committee. The fact is that under FRA, tribal people can claim their rights over resources of forests they have been traditionally using, irrespective of the status of the land they are dwelling on.

The Act also mandates that gram sabhas should be constituted at the hamlet level and not panchayat level to keep the decision democratic. But the gram panchayat of Arrod, under which four of the villages affected by the dam proposal fall, gave consent to the project under the influence of district authorities without calling any gram sabha, allege residents.

New rules to make FRA effective

0 Comments

Author(s): Kumar Sambhav S.

Date: Jul 21, 2012

Tribal affairs ministry's draft rules under Forest Rights Act give more authority to the community in the process of settling forest rights

The FRA recognises the rights of the forest dwellers over forest resources including minor forest produce (Credit: Aparna Pallavi) In a much awaited move meant to ensure effective enforcement of the Forest Rights Act (FRA) of 2006, the Union tribal affairs ministry has proposed amendments to the rules under it.

The draft rules, issued on July 20, aim at giving more authority to the community in the process of settling rights and ensuring that the communities can easily claim their rights over community forest resources, including minor forest produce (MFP) like bamboo and *tendu* leaves. The ministry has invited objections and suggestions on the draft rules from the affected people within 30 days before it finalises the new rules.

FRA recognises the rights of the forest dwellers over forestland and its resources which they have traditionally been using. The resources include MFPs and community forest resources like water bodies, sacred groves and pastures. The implementation of FRA started in January 2008. But even after four years, the Act has failed to benefit most of the forest dwellers. Its implementation has been obstructed by state forest departments that are unwilling to cede control over forest resources, a major source of revenue for the departments. Tribal rights activists blamed the ambiguities in the rules of the Act for its ineffective implementation.

In January last year, a joint committee of the ministry of tribal affairs and the Union Ministry of Environment and Forests and the Sonia Gandhi-led National Advisory Council had also recommended several changes in the Act as they were unhappy with its implementation. They had recommended that under the Act, gram sabhas (village councils), which are the basic units for the implementing FRA, should have been constituted in each and every hamlet. However, at many places the gram sabha meetings were called by the panchayats, which have jurisdiction over several hamlets. This resulted in these small villages being left out of the implementation of the Act. The new rules make it mandatory that the gram sabha should be constituted at the hamlet level.

The draft rules also propose to increase the mandatory tribal membership of village forest rights committees that verify forest right claims from one-third to two-third. They reduce the present requirement of quorum of gram sabha meetings from two-third of its members to half.

Rejecting claims difficult under new rules

The ministry data shows that till May this year, more than 50 per cent of the forest rights claims have been rejected by the authorities. The draft rules mandate that no claim should be rejected without giving opportunity to the claimant to present his case against the rejection. The rules also say that the sub-divisional and divisional level committee will have to give the reason in writing before rejecting any claim approved by the gram sabha or before modifying any resolution of gram sabha. At many places where communities have been granted rights over MFP, forest departments have refused to issue transit passes needed under state laws to transport the produce outside the forest for trading. The new rules allow transportation of minor forest produce within and outside forest area through "locally appropriate means of transport" for use or sale of such produce.

The new draft rules also spell out the procedure for communities claiming rights of conserving, managing and protecting community forest resources, which was not part of the rules in force at present. This includes the rights of habitation for the particularly vulnerable tribal groups of the country and the grazing rights of the pastoralist communities.

They also put greater responsibilities on the state-level monitoring committees for better implementation of the Act. The committees will have to meet every three months and furnish quarterly reports on the implementation to the ministry as against half-yearly report that they furnish now. They will also have to consider and address the field level problems in implementation.

Old V New

- The draft rules end the ambiguity over the meaning of "bonafide livelihood needs" by saying they include the sale of surplus forest produce
- Existing rules restrict the transportation of MFPs "in forest area through head-loads, bicycle and handcarts", the new rules give right to transport MFP within or outside the forest area "through locally appropriate means of transport" for their use or sale
- Draft rules say that all unsurveyed/ unrecorded hamlets and settlements will be recognised as villages under FRA
- They propose increase in the mandatory tribal membership of Forest Rights Committees from the present one-third to two-third
- Reduce the present requirement of quorum of two-thirds in the gram sabha meetings to half. At least one-third of the members of the quorum will be women
- Under the draft rules, the state level monitoring committees will have to meet every three months and furnish a quarterly report on the implementation of FRA to the Union environment ministry as against half-yearly

report that they do now

- In addition to the rights over forestland and community rights such as minor forest produce, grazing, fishing, the new rules spell out the procedure of claiming the right to manage, conserve and protect the community forest resources

Lies, deceit and relocation

1 Comments

Author(s): Kumar Sambhav S...

Date: Mar 15, 2012

People shifted from Sariska tiger reserve allege they have been deprived of forest rights

It has been a year since Jairam Gurjar was shifted from his village inside the core area of Sariska Tiger reserve in Rajasthan. But the pucca house he has been given at Mojpur Rundh near Alwar and the ripening mustard fields he owns do not make him happy. Jairam, along with 24 other families, was shifted from his generations-old home in Umri village by the forest department to make space for the big cats in the reserve.

According to the National Tiger Conservation Authority (NTCA) guidelines, a non-dependant person and his adult sons are considered individually eligible for compensation. In Jairam's household, only he and one of his two sons received compensation. "The department officials said my younger son and nephew (both adults) will get the package once we shift," says Jairam. "The entire village has been relocated but we have not received the compensation. When we asked for it, they said that was all they had for us," he adds.

Umri is one of the 28 villages inside the core area of the tiger reserve. After Sariska lost all its tigers in 2006, the state government decided to relocate the villages from the core. Since then, only one village has been completely relocated before Umri.

Of the 84 families in Umri, 28 were relocated last month. The forest department said the relocation was voluntary and the residents were happy. But the ground reality is different. "More than 10 adult men and a few widows in the village have not been given compensatory package," says resident Ranjeet Singh Gurjar. He says his 25-year-old son has not yet been given compensation. But R S Shekhawat, field director of Sariska Tiger Reserve, says he personally verified and all the residents have been given compensation.

The Forest Rights Act (FRA) mandates that forest dwellers cannot be evicted from forestland unless their traditional rights over forest resources are recognised. In Alwar, the implementation of FRA has not started yet, claim residents and NGOs. "The committees to process the claims under FRA have not been formed in the district. When we tried to mobilise the villages to demand their forest rights, the forest department restricted our entry in the villages," says Aman Singh of NGO Krishi Avam Parishitiki Vikas Sansthan in Alwar.

Under FRA, it is mandatory to acquire written consent from the gram sabha for resettlement process and the proposed compensatory package. Umri residents say they gave no such consent. "They took signatures of individual families on the consent form by putting pressure. They even threatened us with false charges of forest offences," says Chhotelal Gurjar.

Sariska officials refute the claim. "We obtained the consent of the gram sabhas long back. People want unlimited access to resources which we cannot allow because it will affect wildlife. When we restrict their activities as per the law, they allege we are forcing them to leave," says Shekhawat. "We processed their claims under FRA in 2010 itself," he claims.

The NTCA guidelines propose two options for compensation. One, a family can take Rs 10 lakh and move out of the reserve without any involvement of the forest department. In Umri, 31 families opted for the cash package. Two, they can opt for relocation by the department. Under this option, 35 per cent of the total package (Rs 10 lakh) is used to acquire agricultural land, 30 per cent is spent on settlement of forest rights, 25 per cent goes into house construction and 10 per cent is given for developing community facilities.

In keeping with NTCA guidelines, Sariska officials offer cash package but have modified the second option. They provide 1.5-hectare (ha) agricultural land, a 500 sq m plot and Rs 2.5 lakh for house construction. It also offers Rs 1 lakh per family for developing community services, but provides nothing for the settlement of rights.

As per the NTCA guidelines, residents should have the choice to decide which type of compensation they want. However, during a meeting of the district relocation committee of Sariska in 2008, a cut-off date was announced for residents to decide the type of compensation they want. The committee said if a family failed to zero in on an option, they would be given the cash package. Singh says in many villages even if the residents want the package involving land and rehabilitation, the forest department forces them to opt for cash. "For many families, Rs 10 lakh is not enough to compensate for what they had in the forests. They prefer land package as market value of land has increased manifold over the years. But the department insists on cash, citing land shortage as the reason," adds Singh.

During the meeting, the Sariska administration also said it would provide basic facilities like electricity, roads, school and a community centre in Mojpur Rundh. Sultan Gurjar, new resident of Mojpur Rundh, says, "They promised one electricity connection for borewells for a group of five families. Most of the families have invested in borewells but have not yet received the connections. We are forced to buy electricity at Rs 125 per hour." As per FRA, resettlement cannot take place until land allotment and the promised facilities are complete. Shekhawat explains the amount for

community service development has been transferred to the eco-development committee of the village. "Now it is up to the committee to decide how to spend the money. We are guiding them," he says.

Jairam, meanwhile, is struggling to regain his livelihood. "I had around 100 goats in Umri. I would earn Rs 500 every day by selling milk. Now, most of my goats have died as there is no arrangement for grazing," says Jairam. "For the initial six months we did not know how to practice agriculture. It was only three months ago that we sowed mustard in the fields," he adds. The compensation money he received has been spent on the house and levelling of fields. The borewell, pump and electricity connection have landed him in debt.

Maldharis demand FRA titles over grasslands

1 Comments
Author(s): Kurnai Sambhav S.
Date: Feb 9, 2012

Gujarat forest department's working plan denies pastoral community their customary grazing rights over Banni

The Maldharis, a pastoral community, have been living in the Banni grasslands of Kutch for centuries and have enjoyed customary grazing rights over the land. Of late, their arcadian peace has been shattered by the Gujarat forest department's forest working plan for the area. The plan makes the grasslands off limits for grazing livestock—the main source of living for the Maldharis. The department recently deputed a divisional forest officer and three range officers to the Banni division to implement the forest working plan.

Pushed to a corner, 15 of the 19 village panchayats in the region sent notices to the state government in the first week of February, demanding their right to manage the grasslands under the Forest Rights Act (FRA) of 2006. The community has asked the government to withdraw the Banni working plan and has threatened legal action if the government fails to respond to the demand.

FRA recognises the traditional rights of the forest dwelling communities over forest resources. It says the scheduled tribes and other forest dwellers who have been dependent on forest resources for their livelihood for 75 years or more up to 2006, have the right to use, protect and manage such forest resources. The Maldharis are not scheduled tribes but they have been living in the Banni grasslands, the second largest grasslands in Asia, for centuries. The erstwhile ruler of Kutch, Maharav Khengarji, had given the land to the Maldharis in the 19th century for grazing.

As of now, around 25,000 Maldharis live in 48 villages inside the Banni. The grasslands are spread over 2,400 sq km between mainland Kutch and the Greater Rann of Kutch. The area was declared a protected forest in 1955. However, villages continued to function under the revenue gram panchayats. No survey was carried out to settle the rights of the villagers as the forest and the revenue departments kept passing the buck to each other.

Turning point

The state forest department prepared the working plan for the management of Banni grasslands in 2009. It justified the action by saying the villages were within protected forest and hence their rights would be altered. The working plan disallows open grazing on the grassland. Around 600 sq km of the grassland is already off limits as it is a part of the Kutch desert sanctuary and the Chhari Dhandh Conservation Reserve. In the remaining grasslands, the forest department proposes to protect 30 percent land as grass plots, 38 per cent will be used for harvesting *Prosopis juliflora* commonly called *Vilayati keekar* by the forest development corporation and 30 per cent will be utilised for plantation and regeneration of forests. The plots will be fenced off for five years on by rotation. The Union Ministry of Environment and Forests (MoEF) approved the working plan in 2010 and now the forest department is in the process of implementing it.

"Six months ago, the forest department called the village panchayats to sign a MoU with them for harvesting the wood of *Prosopis juliflora* (the forest department had planted these along the coasts in the 1960s to check salinity ingress; the trees have now spread in more than 80 per cent of the grasslands). Under the MoU for harvesting *Prosopis juliflora*, villagers are promised labour employment for cutting the trees. The villagers said they would sign the MoU only if the forest department promised these trees would be uprooted and open grazing allowed on the land. The forest department did not agree as it has plans to sell the wood from these trees to some power companies to be used as fuel for their power plants. The villagers refused to sign the MoU.

A fortnight ago, the villagers refused to sign the MoU allowing fencing of the grass plots because the forest department was not ready to promise in the MoU that it will open the plots after five years," says Sabyasachi Das, chief executive officer of Sahjeevan, a Kutch-based non-profit working for the rights of Maldharis.

Livestock economy at stake

The Maldharis fear the working plan, if implemented, will jeopardise the livelihood of the community. There are about 100,000 cattleheads in the region which graze in the Banni. The Kankrej cow and the Banni buffalo, a breed raised by the Maldharis, are known for their good milk yields. Kankrej bullocks are used for agriculture in the Saurashtra region of the state. According to an estimate by Sahjeevan, the grasslands produce 110,000 litres of milk every day. The livestock economy—sale of milk, milk products, live bullocks and buffaloes—contribute Rs 100 crore per annum to the region, estimates Sahjeevan. "There are around 60,000 Banni buffaloes in the region. They are night grazers and need 8-15 kilometres of free grazing. If the forest department closes the grasslands in the name of the working plan, where will our animals graze?" asks Ramzan Halepatra, a community leader.

The Maldharis, hence, have demanded that the current working plan be shelved and the village gram sabhas allowed to prepare a new working plan for the region, for which the government should provide technical assistance.

The Gujarat government has not started implementing FRA in the region. The requisite committees at the village, sub-division and division level for processing titles over forestland under FRA have not been constituted yet. "When we asked the authorities to start the process of implementing FRA in our region, they said their priority was tribal districts of the state. Since Kutch is not a tribal district, they will think about it later," says Salim Naode, another community leader.

The Maldharis have demanded that the activities of the forest department in the Banni should be stopped till the recognition of the community rights is settled under FRA. The notices say if the government does not respond to the demands in 60 days, the residents will take legal action as provided in the Act. The villages are collecting Rs 10 per livestock the Maldharis possess to fund a legal battle if need arises.

Government says it owns grasslands

S K Nanda, additional chief secretary (forest and environment) of Gujarat says the maldharis were being irrational. "The Banni grassland, which was famous for its nutrient-rich grasses, has decayed over the past few decades because of lack of protection. The government's first priority is to restore the grasslands and this working plan is necessary for that. We have no problem in implementing FRA in the region. I have been personally pushing the district administration to implement FRA. Once the Act is implemented, we are open to make necessary changes in the working plan," he says. He, however, adds that the management of the grasslands cannot be handed over to the people. "It is a government-owned property," he added.

The Maldharis, it would seem, have to prepare for a long haul to win their rights.

Finally, community forest rights

0 Comments
Author(s): Kumar Sambhav S...
Date: Oct 31, 2011

Tribals of BR Hills can now manage resources in Karnataka reserve

THE Soligas' long struggle ends in victory. After bearing the brunt of wildlife protection measures for years, the inhabitants of the Biligiri Rangaswami Temple Wildlife Sanctuary in Karnataka can now access and manage the forest resources. On October 2, 25 gram sabhas of Soligas got community forest rights (CFR) recognised under the Forest Rights Act (FRA) of 2006. The tribals can now collect, own and dispose of minor forest produce (MFP) from the reserve. Besides protecting and regenerating forest resources for sustainable use, they can also hold customary practices like worshipping sacred places.

The sanctuary, home to about 30 tigers, was declared a tiger reserve in January this year. This was met with protests by Soligas, who feared eviction. About 20,000 in number, Soligas' lives for generations have been inextricably linked to the BR Hills.

But thanks to FRA, as much as 60 per cent of the reserve, which includes parts of the core area, will be under the management of the Soligas. "Of the five ranges of the reserve, our CFR rights cover three. We have applied for the rest," says C Madegowda, a community leader.

Soliga in Kannada means children of bamboo. The very name suggests their harmonious existence with nature and traditional knowledge to manage forest ecology by collecting forest produces in a sustainable manner. In the past four decades, however, their rights have been eroded by the state. The area was declared a wildlife sanctuary in 1974 which led to forcible settlement of the Soligas into hamlets. Shifting cultivation and hunting were also banned. In 1980, their traditional practice of setting litter fires, which has ecological significance, was banned (see 'Let the wind chase fire', Down To Earth, July 16-31, 2011). In 2006, the state forest department banned collection of MFP, such as honey, lichen, gooseberry and amla, in the sanctuary. "This was the ultimate blow to Soligas as up to 62 per cent of their earning came from the collection," says Nitin Rai of non-profit Ashoka Trust for Research in Ecology and Environment (ATREE).

The Soligas turned to FRA to regain their rights. After the implementation of the Act in 2007, the first thing they did was file community rights claims for MFP collection. Later they applied for other CFR claims. The claims for individual rights for land were filed in 2009.

While 1,516 Soliga families were given land rights within a year, CFR claims faced much resistance from the forest department. "The officials rejected our claims several times, saying collection of MFP from wildlife sanctuaries is not permitted under the Wildlife Protection Act. For the last two years we have been meeting officials almost every week, demanding community rights," says Madegowda.

Even on the day the CFRs were distributed to the Soligas by the district administration, forest officials were not present at the function. "This shows that a tough battle lies ahead for the communities in implementing their right to manage forest resources in the reserve," says Rai. This is perhaps the first case where mass CFR claims have been recognised by the government in a protected area, he adds. "Now the government must shift to a community-based management model for the reserve," suggests Rai.

The Soligas are now working on a proposal to jointly manage the tiger reserve with the state using their traditional knowledge. "Soligas have great traditional knowledge of their forests which will be beneficial to both the forest and the communities," says Rai.

They propose a three-tier management structure: a hamlet-level forest management committee (deriving its legal backing from FRA), three taluka-level committees and one at the sanctuary level.

"While the village-level committee will have representation of all adult members of the hamlet, the taluka- and sanctuary-level committees will be represented by village committees, the forest department and civil society groups," wrote Rai along with Shiba Desor and Ashish Kothari of non-profit Kalpavriksh, in an article summarising the outcome of a workshop organised by the Soligas and civil society groups to finalise the proposal for community-based management of the reserve in July this year. The Soligas, in consultation with civil society groups, have also proposed that village-level committees should have the power to penalise members who breach the rules framed by the committee. But offences of criminal nature would be reported to the forest department or the police, the trio wrote.

'Forest department is the encroacher'

0 Comments

Author(s): Richard Mahapatra, Kumar Sambhav &

Date: Oct 15, 2011

When V Kishore Chandra Deo became the Union Minister for Panchayati Raj and Tribal Affairs three months ago, both the ministries were in inertia. Recently, the two have gained political profile, courtesy the prime minister's mandate to revitalise the Forest Rights Act and ensure community governance under the Panchayats (Extension to Scheduled Areas) Deo speaks to Richard Mahapatra and Kumar Sambhav Shrivastava on the challenges ahead Panchayats Extension to Scheduled Areas (PESA) Act was enacted 15 years ago. Do you feel helpless because it has not yet been implemented?

As the minister of panchayati raj, my first job is to remind people about the existence of PESA. If need arises I can go for further legislation to ensure that states comply with the provisions of PESA. For this, I will talk to chief ministers and ministers in charge of panchayati raj activities.

How could states hold the implementation of PESA for so long?

Unfortunately, they have done this. It is a constitutional violation. Why and how I cannot answer.

You recently said no privately owned company should be allowed to mine in the Scheduled Areas. Please elaborate.

States have their own laws to prevent alienation of land in the Scheduled Areas. An individual cannot just go and buy land there. If a couple of people form a company and call themselves corporate, how can they be allowed to own and exploit mines in such areas? By allowing a private firm to mine, one is giving a go-by to the protection of land alienation acts.

What is your opinion on mining by public sector undertakings (PSUs)?

Even for PSUs I have my reservations vis-à-vis minerals and mines exploration. PSUs should do mining for their own consumption. By PSU, I mean a public sector undertaking that requires minerals for its own production and not the companies that trade minerals.

Are you suggesting that one should mine only for domestic consumption?

Minerals are our national wealth. Just mining and exporting raw mineral is a criminal act. There should be no outright mineral lifting for trade. Most developed countries mine the necessary amount and save the rest for future needs. India is still at a nascent stage of development. If we extract all our minerals today, from where will we get them when our economy takes off? We need to evolve a national policy on minerals.

In land acquisition compensation is based on the market value. How can this parameter be applied to tribal land?

If a tribal land has to be acquired, the first criterion is to give pattas (land titles) for the tribals under the Forest Rights Act (FRA). Otherwise, how will one know how much land is in whose possession? Secondly, under PESA the village will have to give its consent for land transfer. Here village means hamlet unit, not the panchayat. As far as compensation in tribal areas is concerned, it should be land-for-land.

You say FRA has not been implemented the way you expected. Explain.

Since the implementation of the Act began in 2008, I have noticed many impediments and difficulties. Many of them arise not from the Act but from the rules and guidelines. I am working to eradicate them.

And what are the key impediments?

There are many. For instance, there is a provision that says forest dwellers can transport the minor forest produce (MFP) only as head-loads or on bicycles. This is not a practical proposition. How much bamboo or tendu leaves can one carry on his or her head? One will have to use some other appropriate mode of transport. The purpose of the Act is to ensure that dwellers enjoy full rights over MFP. If they are not allowed to transport or sell MFP then the spirit of the Act is defeated.

Take community rights, for example. Pattas for community rights on forest resources are supposed to be given to the gram sabha. But they are giving these pattas to the Joint Forest Management (JFM) committees, formed by the forest department to protect and manage the land assigned to them. This is in contradiction to the provisions and the spirit of the FRA. The Act is my top priority. I will make sure such a distortion does not happen in the future.

How will you ensure that?

If the Act needs to be amended, I will go for it. If some problems can be sorted out by amending rules or giving directions, I will do it.

Do you think JFM is still relevant in the context of FRA?

In areas where FRA is applicable it is irrelevant. JFM is not about rights.

Is the forest department at loggerheads with the tribal ministry?

People complain it does not want to respect the FRA.

This needs to be settled. The Indian Forest Act came into being in 1927. So technically speaking, the date of birth of forests is 1927. But forest dwellers have been living there for centuries. In my view, it is the forest department that encroached the land of the original inhabitants of forests. By using a piece of paper coming out of a gazette the department cannot own the land.

Do you blame the forest department for non-implementation of FRA?

Non-implementation is too mild the term; they have been negative.

Do you think the Union Ministry of Environment and Forests is a hurdle in taking FRA to the next logical step?

Earlier it was. At the time I was chairing the joint committee on FRA many obstacles were created by the ministry.

However, it is receding now. The bureaucracy realises that this is a genuine cause and something needs to be done on forest rights front.

What's your say on the department's refusal to accept the MFP definition under FRA which includes bamboo and tendu leaves?

This is a settled matter now. Bamboo and tendu leaves are the two most lucrative MFPs. Forest departments have no locus standing on it. Now I just have to ensure the definition is implemented.

How will you ensure that rights to MFP are given to forest dwellers?

For MFP, the ministry is trying to prepare a package.

On the basis of the report by the T Haque Committee on minimum support price (MSP) for MFP and other representations, we are closely working with the Planning Commission and other ministries concerned to prepare a report. We will soon meet the secretaries of the states because they have a stake in this. Based on the consultations a cabinet note will be prepared for its approval within a month.

What are the provisions of the package?

This is still in the pipeline. The main intention is to ensure that forest dwellers get the optimum benefit out of the MFPs they collect and there is no exploitation by the middleman and state agencies.

Is it feasible to have MSP for MFP? We will have to make it feasible.

Forest rights act under scrutiny

0 Comments

Author(s): Kumar Sambhav S.

Date: Feb 15, 2011

Environment ministry does not seem open to criticism

THE Union government is reviewing its landmark initiative, the Forest Rights Act, four years after enacting it. The aim is to find how to strengthen the law which was legislated to ensure the traditional rights of 100 million forest dwelling people in the country. Two high-level groups submitted their assessment in the first week of January.

But it seems the Union ministry of environment and forests has made up its mind not to accept their criticism. On January 13, Director General of Forests (DGF) P J Dilip Kumar circulated a note in the ministry tearing apart the review report submitted by the [National Forest Rights Act Committee](#) (NFRAC). Criticising the role of the forest department and tribal affairs ministry, the report said there are problems with the way the law has been implemented.

The joint committee of the environment and tribal affairs ministries, set up under former bureaucrat N C Saxena in April last year, conducted meetings and public consultations across the country. It pointed out the law is yet to be implemented in 11 states. In most states, majority of individual claims over dwellings and farms in forestland were rejected. Traditional rights of communities over forest resources like forest produce, waterbodies and pastures were hardly recognised. Institutions not constituted as per the law and faulty ways of processing claims are major hurdles, the committee noted. It has called for a second phase of implementation with focus on community and rejected individual claims.

A few days later, the [National Advisory Council](#) (NAC), the advisory body of the UPA-led Central government, said it is unhappy with poor implementation of the law. It prepared a set of draft amendments and sent it to the environment and tribal affairs ministries. Both the ministries have sought a month's time to review NAC's draft recommendations. When asked about the NFRAC report, a senior official in the environment ministry said, "The tribal affairs ministry is 95 per cent responsible for implementing the law. Our role is just of a facilitator." Despite repeated attempts, no one in the tribal affairs ministry was available for comments.

DGF Kumar also refused to buy NFRAC's recommendation, which said the government should not insist that the prior occupation of 75 years is a must for other traditional forest dwellers to claim forestland. "This will open the floodgates to parcelling of unbroken forestland to private users," he said (see Forest department's snub).

Activists and those within the committee have also picked holes in the main report of the NFRAC, though for different reasons. They have criticised the report for its soft stand on issues that impinge on several other rights guaranteed by the law—right to collect and sell minor forest produce (MFP), for instance. The report recommends that trade of all MFPs, except tendu leaves, be deregulated and state governments should announce minimum support price for them. Ten dissenting members of the 20-member committee, however, recommend deregulating all MFPs and shutting the forest development corporation that acts as a broker between the community and government. Their view has been appended as "alternative recommendations".

The trade of MFPs like tendu leaves, mahua and saal seeds is controlled by state governments. The monopoly curbs competition as well as restricts benefits to collectors and earns high revenue for the government (see [Major battle over minor produce](#), Down To Earth, November 1-15, 2010). Civil society groups have long been demanding free flow of MFPs so that communities can earn good prices from them. "Why can't tendu leaves be deregulated like other MFPs?" asked Shankar Gopalakrishnan of Campaign for Survival and Dignity, a Delhi non-profit that works for tribal rights. "This is nothing but an attempt to protect the revenue that the government earns from tendu leaves."

Besides, NFRAC recommends that the right to protect and manage forest resources can be transferred from the forest department to gram sabha only if the community's claim is recognised under the Forest Rights Act. In case the gram sabha is not keen to manage community forest or their claim is declined, joint forest management (JFM) committees should work under gram sabha, the main report notes. JFM committee is a village-level committee that is formed and governed by the forest department.

Talking to Down To Earth, Saxena said, transferring power to communities without their claiming right may not work because forest management depends on how "cohesive and capable" the communities are. "Where the communities are not cohesive to protect and manage the resources, JFM should continue as an interim measure. Gradually the forest department should withdraw and JFM be converted into community forest management," he said.

"We did not agree on the coexistence of the Forest Rights Act and JFM," said Roma, a dissenting committee member. Though JFM committees will be under gram sabha, their structure is such that they will be governed by the forest department, she added. Roma and the other dissenting members have suggested scrapping of JFM and creating an alternative model on the line of the forest rights law in areas where community claims are declined.

"Communities have the right to democratically manage the forest they use, regardless of whether they are ready or capable or cohesive," says the alternative recommendations.

Such differing opinions have left the government with a good scope to interpret the recommendations according to its convenience, rued Gopalakrishnan. Activists are pinning their hopes on the draft recommendations of NAC, which calls for giving more authority to gram sabha over forest rights and curtailing the role of forest department. It calls for suo moto transfer of power to manage community forest resources to gram sabha in all villages irrespective of the claims filed. It also suggested scrapping the confusing marginal note in section 5 of the law that limits community rights of protecting forest resources to areas where forest rights are recognised.

Saxena panel highlights problems in implementation; NAC has concrete suggestions

Issues of contention	Recommendations of NFRAC	NAC's recommendations
Gram sabha is formed at panchayat level. This makes it difficult to recognise community rights	Constitute gram sabhas at hamlet or revenue village level	The government should accept village self-rule as mentioned by Panchayat Extension to Scheduled Areas (PESA) Act in all villages
People's participation in process of recognition of rights is not followed	Civil society groups should be involved at all levels of implementation. Ministry should clarify that the rights which claims are often wrongly rejected or modified, settlement records and the land with individual rights be treated as private land. It must clarify if it should be converted to revenue land	Forest officials' consent isn't needed to accept claim. Higher committees should not reject a claim or modify it unless an appeal is filed against it. In case of insufficient evidence, claims should be remanded to gram sabha. Lands rights be recorded and converted to revenue land
Right to protect and manage community forest resources have hardly been implemented; the right is not even mentioned in many states	The village and government can have a flexible arrangement of sharing authority over forest resources as an interim measure. Gradually the forest department should walk out and communities should take over	Villages should be presumed to have community forest resource and hence rights over them. Failure to recognise this be explained. Forest department should respect gram sabha's powers. Confusing marginal note in the Act that limits forest rights to areas where the rights are recognised be removed
Joint Forest Management	In areas where the claim of a community to manage its forest resources has been accepted JFM committees should be dissolved. If claims are not accepted, JFM should work under gram sabha	JFM should be replaced with Community Forest Management under the Act. Funds for forestry should be channelled through National Rural Employment Guarantee scheme
Rights over MFP are not recognised in most areas. The right is not even mentioned in the claim form in many states	State governments should stop subsidising MFP to industries, and de-regularise all MFPs, except tendu leaves. Governments should announce minimum support price (MSP) for MFPs	A rule should be introduced giving collectors the freedom to sell and transport MFP, subject to regulation by the gram sabha. State procurement agencies should be mandated to provide MSP

No mining by PSUs for trade in Scheduled Areas: tribal affairs minister

0 Comments
 Author(s): Richard Mahapatra, Kumar Sambhav S...
 Date: Sep 20, 2011

'Forest department is worst enemy of Forest Rights Act'

The Union minister for tribal affairs and panchayati raj, V Kishore Chandra Deo, says he does not want public sector companies (PSUs) to undertake mineral exploration in Scheduled Areas or tribal-dominated areas as listed in the Fifth Schedule of the Constitution. These areas enjoy special powers and privileges. In an interview to Down To Earth (DTE), Deo pointed out that the Constitution does not allow private companies to mine in Scheduled Areas. But mining by PSUs for trade purposes also violates the Constitutional provision in 'spirit', he says.

"Minerals are our national wealth. Even PSUs should undertake mining only for their own consumption. There should be no mineral lifting for outright trade. And when I say PSUs, I mean state enterprises that require minerals for their own production and not the companies that trade in minerals," he says.

Deo spoke to DTE on a wide range of contentious issues relating to the tribal areas of the country, plagued by Naxalite violence. He disclosed that by the end of October, or even before that, he would bring out a 'package' that would streamline the implementation of key legislations, like the Forest Rights Act (FRA) and Panchayats (Extension to the Scheduled Areas) Act (PESA). Terming the forest department as the worst enemy of FRA, he says the department must now 'realise' that tribal development is a 'serious' national issue, attracting the right political attention. Going by sources in the ministry, the Prime Minister called Deo last month and mandated him to take measures to revitalise FRA and PESA.

Implementation of PESA has been afflicted by non-issuance of guidelines at the level of individual states for the past 15 years. Saying this as a Constitutional violation, Deo warned a legislation would be brought into effect to ensure states comply with the provisions of PESA. The legislation, enacted in 1996, gives rights to own and manage the forest resources to the village in the Scheduled Areas of the country. But the Act has not been implemented in several states as they have not even formulated the rules required to implement it. "That is a violation of the Constitution. I am taking up the issues with States, and if I feel it is necessary to go for a further legislation to ensure states compliance with the provisions of PESA, I will have to do that," says Deo.

On FRA, he assured changes that will make it effective. FRA recognises the rights of the forest dwellers over forest resources they have been traditionally using; the Act's implementation is beset by many problems. The minister is

now working on the changes required to be made in the rules of the Act to make sure it is properly implemented. He said the changes will be presented before the Cabinet within a month. "If the changes in the rules will not solve the purpose, we can also go for an amendment in the Act when Parliament is in session," the minister says. He said joint forest management (JFM) is a violation of FRA where it is applicable. "Giving FRA recognition to areas under JFM is a scandal. It must stop," he says.

Wealth of forests withheld

1 Comments

Author(s): Sayantan Bera, Kumar Sambhav S., Aparna Pallavi, Ankur Pallwal, Sumana Narayanan

Date: Sep 15, 2011

Forest departments across the country owe millions of rupees to communities. For 20 years communities toiled under the Joint Forest Management programme in the hope of getting shares in revenue from timber and bamboo sales. As forests mature for harvesting, forest departments apply mathematical tricks to bring down monetary share to almost nothing; a few states do away with giving cash to communities. Disillusioned, people are now abandoning the programme. One school of experts questions carrying on with the programme of joint management when Acts giving communities legal rights to manage forests on their own have come into existence.

Sayantan Bera, Kumar Sambhav Shrivastava, Aparna Pallavi, Ankur Pallwal and Sumana Narayanan travel to West Bengal, Madhya Pradesh, Maharashtra, Gujarat and Andhra Pradesh respectively—five states with substantial forests under the programme—to find out how joint management of forests has fared

Some 40 years ago an experiment began in Arabari forest range of West Bengal that caught the fancy of the nation. The forest authorities roped in the people living in the area in regenerating degraded forests. In return they offered them a share in forest resources and revenue. It worked. Two decades later the Centre adopted the Arabari model to start the Joint Forest Management programme. The response was such that today it involves 25 million people.

West Bengal promised 25 per cent share in profit from the sale of timber after five years of protection, besides free access to grass. In southern parts of the state where forests were most degraded communities joined hands with the forest department. They volunteered to plant saplings, prune plantations and patrol the forests. It was a win-win proposition. The department got help in regenerating forests and the people got fuel wood, fodder and the hope of income from timber sale.

After nearly two decades of labour they have regenerated 400,000 hectares (ha) of sal forests in the state, according to Atanu Raha, principal chief conservator of forests, West Bengal. Their monetary value is immense. Nearly half of the total forest in the state is thus regenerated and ready to be harvested. Time for economic boom? Turned out participants in the joint forest management (JFM) have received just a few hundred rupees each for a year of labour.

Rs 140/member/year

According to the residents of the first village covered under JFM, Sakhishol, in Arabari range in West Midnapore district, each of the 42 families has got Rs 318 every year from timber harvesting. At current daily wage rate, it is two days' worth of labour of one person. None of the members knows the total revenue the department earned from timber.

The 40 ha of forest patch regenerated by the nearby Jharia village was harvested thrice between 2005 and 2008. Each of the 73 families earned Rs 14,000 for 20 years of protection, that is Rs 700 a year. Or Rs 140 for every person. "The money from the last felling in 2008 is still due to us. We don't know the exact amount, perhaps Rs 2,000 per member," says Gopal Mahato, a member of the forest protection committee, a nodal village-level organisation jointly managed with forest officers. The committee is mandatory under JFM. A community's share is credited to its account which it distributes among participants.

Nearly half a million families in the state have participated in JFM. In southern parts of the state that account for close to 70 per cent of total JFM area, each of the participating families got Rs 1,220 for two decades of protection as per official records.

The forest department has applied a deceptive formula to minimise benefits to communities. It distributed 25 per cent of the net revenue, which is generally two-thirds of the gross, among forest protection committees. The result is the initial euphoria has died down and in many forests under JFM illegal felling has gone up. "There is no legal framework to ensure benefits under JFM reach the people. The forest department has all discretionary powers," says Ajit Banerjee, the architect of the Arabari experiment (see [interview](#)).

Arabari everywhere

Across the country, inadequate benefit sharing from timber and bamboo revenue has weakened the JFM programme. Speaking to Down To Earth, P J Dilip Kumar, director general of forests, had in October last accepted that a third of the forest protection committees are not functioning well. However, the programme remains the country's sole participatory forestry programme.

When it began in 1990 it marked an evolutionary step in forestry in India. Failure of social forestry programmes during 1970s and 1980s prompted the government to revise its forest policy. It required forest departments to make commercial exploitation of forests secondary to forest management for environmental benefits and for meeting the subsistence needs of the people living in and around forests.

Under JFM communities manage both degraded and good forests with the forest department. For the 170,000 villages in and around the country's degraded forests, accounting for India's poorest tribal population, the programme was a big draw. It spread fast and far. Area under JFM grew from seven million ha in 1998 to 22 million ha in 2009. It