

## Forest rights - and why the new law needs to be implemented

Like a bad penny that never stops coming back, the issue of forest rights is in the news again. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, has returned to the headlines for all the wrong reasons. Opponents slam it as the 'most dangerous act of any Indian government since 1947', handing out 'forest for votes' and 'privatizing a national resource.'

A handful of conservationists issue dire warnings to the government, politicians and reporters about the terrible disaster that will ensue from implementing this law. Meanwhile, this Act has become the first legislation in India's history to be attacked through a TV ad campaign.

In all this sound and fury, the real issues around this Act have mostly been lost. For, in reality, this Act has nothing to do with 'handing out' land to anyone, nor is it a 'welfare scheme' for tribals. It is a law intended to deal with one very basic problem: what are called 'forests' in Indian law, presumed by many to be vast stretches of 'pristine wilderness,' are nothing of the kind. Literally, millions of people live inside the areas described in law as forest. The reason why is a story in itself.

India's forest and wildlife laws are built around a model of excluding people. Created to ease timber extraction, the Colonial Forest Act (later changed to Indian Forest Act) aimed to bring all forests under the centralised control of the forest department and to take over the lands and rights of people who live there. This was initially justified as necessary for 'scientific management' for higher timber yields; then, post-Independence, for the nation's industrial requirements; and finally for conservation. Whatever the justification, the policy has remained the same.

Thus, in law, at the time of declaring a 'forest', a settlement officer is supposed to survey and 'settle' the rights of people in that area. Anyone familiar with India's social reality can predict what happened. These settlement officers either did nothing or only recorded the rights of those who were powerful. The result is that millions of people, mostly tribals, found themselves declared 'encroachers' in their own homes. To this day, for instance, 82 percent of Madhya Pradesh's forest blocks have not been surveyed, 40 percent of Orissa's forests have undergone no process of settlement of rights, and 60 percent of our country's national parks have no settled rights either.

Both forests and people lost as a result of this. Those deemed 'illegal' entered a twilight zone existence, vulnerable at any time to extortion, assault, jail, or eviction. Forests themselves came under the highly centralised control of a government bureaucracy, which treats them as a property to be sold to the highest bidder. The latter happens both through corruption and through legal 'diversion' of forests for industrial, mining and development purposes. The latter process destroyed 500,000 hectares of forest between 2001 and 2006. Forest dwellers who oppose the destruction of their homelands find themselves facing criminal cases, arrest and eviction.

The Forest Rights Act aims to address this through two steps: recognising people's rights to land and forest resources that they were using as of 2005 (for tribals; non-tribals have to prove 75 years of residence), and, second, giving communities a legal right to protect forests. No land is 'given'; no one receives title to land that they are not already cultivating. Moreover, the Act provides a clear and transparent procedure for how people can be resettled where necessary for wildlife, a procedure supported by environmental organisations.

But such change is not liked by the powerful forest bureaucracy, or by the handful of conservationists who now equate that bureaucracy with conservation. Hence the government has decided to stall the implementation of the Forest Rights Act, possibly indefinitely. On Thursday, it informed parliament that it first needs to decide the areas from which people need to be resettled - an issue which the Act itself provides for, on condition that this will take place after people's rights are recognised, so that they can claim proper compensation. Moreover, the government's official guidelines for identifying these areas are self-contradictory (at one point assuming that the Act has already been implemented), inconsistent and badly drafted. Clearly, this is a pretext for keeping forests in the control of the bureaucracy.

Meanwhile, evictions continue apace, with two villages destroyed in Chhattisgarh 10 days ago and thousands of families facing eviction in Rajasthan, Gujarat, Orissa and elsewhere. Forest destruction also continues, with the ministry hastily clearing new industrial and mining projects. The opposition to this Act is upholding a system that has done far worse than merely fail. It has reduced millions of people to destitution and starvation, facilitated a spiral of environmental destruction and made conservation increasingly a battle of desperation. Those so fiercely opposing this law would do well to pause and rethink.

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