

CAMPAIGN FOR SURVIVAL AND DIGNITY, ODISHA CHAPTER

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To

Date 3rd November 2009

**The Honble Tribal Minister,
Govt. of Odisha,
Bhubaneswar**

**Sub:- Notice to the Govt. of Odisha against the non recognition of
Community Forest Rights and Violation of Forest Rights Act, 2006
harassing the Tribal and Forest dwellers of the State in the name of
Climate Change and Military operation.**

Respected Sir,

You are aware that it is one and half year gone of the implementation of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the state. For your information, this law is the result of a huge struggle and mobilization of tribal and forest dwellers all over the country including Odisha to obtain justice and rights over forests. Starting from the initiation of this Act in the Parliament to the final notification of the Rules, the tribal and the forest dwellers have struggled for realization of their rights. We, the member of National Campaign for Survival and Dignity (NCS), which is a nationwide coalition of tribal organizations, individuals and loksangathans was one of the major forces which campaigned for the passage of this law and is currently working to ensure that the Act is implemented in its letter and spirit .

After the implementation of Forest Rights (Recognition) Act, in Odisha, CSD, Odisha has been constantly reviewing the implementation process at different level. In this regard, CSD, Odisha has submitted its memorandums on 6th May 2008, 22nd August 2008, 21st January 2009 and in last recently on 3rd August 2009. While the Government of Odisha has addressed some of the issues raised, many issues are yet to be addressed. Even after the issuance of many positive circulars by the government, there is no reflection of them in the ground and at the field level officials. The problems have been increased after the field verification process initiated by the SDLC.

We, the member of CSD, Odisha want to bring to the notice Government of Odisha the major concerns and issues relating to the implementation of the forest rights in the state and again want to suggest the following ways to address them as soon as possible. Otherwise, the state government will be responsible for the upcoming strong protest in the coming times.

Problems Identified and recommendation made by CSD, Odisha

Problem -1

Forest Rights (Recognition) Act provides for community rights of people over Community Forest Resources (CFR) apart from the individual land rights. It empowers the Grama Sabha for forest protection, management, regeneration and conservation of wild life and biodiversity. It has been noticed that the government of Odisha is primarily focusing on the individual forest rights claims leaving aside the community claims (which has greater significant on the socio-cultural heritage and livelihoods of the forest dwelling scheduled tribe and other traditional forest dwellers). Though the government of Odisha has clarified the doubts through Frequent Question Answers 2008 circular, the SDLC has not provided form "kha" for the community forest rights, not receiving them, not verifying them etc.

CSD, Odisha demands Government of Odisha to expedite the community forest claims submission process and special direction should be made in this regards. Thereafter, the verification of the community rights and the individual claims should be verified at a time. Other wise CSD, Odisha will take state wide protest against the violation of Forest Rights (Recognition) Act, in Odisha.

Problem - 2

While forest rights Act, 2006 totally disregard the current forest protection and management system through JFM(VSS) in which Forest Department play a divisive role in the village community and the Act is very clearly empowered under Section 5 of the Act and Under Section 4(1) (e) that the Gram Sabha/ village community to protect their forest, wildlife and biodiversity and have provision to form Forest Protection Committees at the Gram sabha level, the Govt. of Odissa is violating the constitutional rights for the forest dwellers by not banning the JFM/VSS and by not recognizing the community forest rights. Beside, the forest department which has been the hurdle of the forest dwellers, and filed case against the Act in the High Court, still evicting the forest dwellers through its plantation programme under different foreign based projects

like JBIC, OTELP, FDA, and Compensatory Plantation etc. Even many NGOs at different level involved in these forestry programmes helping the Government in forming VSS under JFM and are diluting the spirit of the forest rights Act with the Government. This has been creating confusion amongst the forest dwellers.

We Demand If the government is thinking that the crores of rupees is really needed for the regeneration and protection of the forest, we demand to ban the VSS first and let the money should be transfer/given to the Forest Protection committees (which will also be responsible for the protection of biodiversity and wild life protection) to be formed under Section 5 of the Forest Rights (Recognition) Act,, 2006 and Section 4 (1) (e) of the Rules.

Problem-3

In the name of fighting the Maoists, the government is deploying large numbers of troops in forest and adivasi areas. We have already seen the result in Bastar, where paramilitary deployment helped the salwa judum militia destroy more than 644 villages and drive lakhs of people from their homes. Also the military operation have been started in the tribal areas of Odisha as a result of which thousands of tribal have left their villages being tortured by the Para military forces.

We demand if the government truly wants to reach out to aliases and forest dwellers, why is it not respecting its own laws(forest Rights Act and PESA, 1996) and people's self-governance and resource rights?

Problem-4

By 30th October Govt. of Odisha has reported to have approved 55,000 individual forest rights claims out of the 3,04,509 individual claims filed at the Gram sabha level. But According to our information there are more than 10 Lakhs forest rights Claimants in the State. Most of the claimant are yet to know about the provision of the Act and have failed to claims for there rights because the government administration have failed to reach them till now. **Even there is a big gap in the 55,000 individual forest land pattas distributed.** Pattas of individual forest rights have been distributed only to the ST forest dwellers and the claims of the Other Traditional Forest Dwellers have not been considered. Beside, there is a vast gap of the amount of land being occupied and claimed by the forest dwellers and the pattas which have been distributed to them. These pattas also mostly belong to the revenue

forest category and claims in the other forest categories i.e as reserved forest, proposed reserved forest and sanctuary have not been covered.

We demand for the wide awareness on the Act to all the forest Dependents, to consider the claims of the Other Traditional Forest Dwellers giving regards to the decision of the Gram Sabha, proper verification of the occupied land distribution of the correct pattas to the claimants. We also demand to give special instruction to the SDLC/Forest Department in this regard and ask them to verify all claims falling in all categories of forest areas

Problem-5

We appreciate the Government to form the Technical Committee to accelerate the field verification process. However, it has been noticed that the Technical Committee is doing as it wishes (Manmani) during field verification without giving importance to the recommendation of the Pallisabhas and without any notice to the pallisabha/FRC. The TC is dominating the Filed verification process and rejecting the claims submitted without having such authority violating the provisions of the FRA.

We demand that the claims duly verified and recommended by the Pallisabha can not be rejected by the Technical team. Any claims rejected at the Sub Division Level Committee should be duly intimated to the claimants and the respective Pallisabha/Forest Rights Committee specifying the reason thereof to maintain the greater transparency. Before rejecting the recommendation of the Palli Sabha against any claim, the representatives of the SDLC should visit the site and has to take the approval of the PalliSabhas, and then only SDLC can take decision over a claim.

We also demand to issue special direction to the SDLC that before sending its Technical Team to a village it must send prior notice before 15 day to the Pallisabhas and to the claimants. At the same time, the TT should be oriented on the provisions of the Act, rules and the circulars served by the government of Odisha from time to time. The TT should involve the Grama Sabha during the field verification process and no claim can be rejected during the filed verification process.

Problem-6

Even after the FRA enactment, the government of Odisha declared Sunabeda and Satkosia as Critical Tiger Habitats flouting all the norms and procedures laid down mentioned in Wild Life Protection (Amendment) Act, 2006 and also Forest Rights (Recognition) Act, 2006. And now it has been seen that the filed verification team is not verifying the individual and community claims of the forest dwellers coming under sanctuary areas, National Parks, the Tiger Reserves. While there is special guideline issued for the determination of CWH involving the PalliSabha, the Forest department is going ahead determining the CWH without following the provisions under FRA, 2006, but also the guidelines for determination of CWH disregarding the Pallisabha.

We demand the SLMC to issue special direction to the SDLC and Forest Department to act as per the provision under Forest Rights (Recognition) Act, and ask the filed level worker to cooperate in the whole process.

Problem-7

Many CSD, Odisha members coming from different districts have raised that the Verifications Teams are not verifying the Claims submitted in the SDLCs in the project areas coming under the OTELP, FDA and JBIC projects. Even the government of Odisha is handing over many forest areas under the occupation of the community people since generations to the private companies without consulting the depended forest dwellers. Eviction are still continued in Koraput, Bolangir, keounjhar, Sundargarh , Ganjam districts under different plantation programme.

We demand while the Forest Rights (Recognition) Act, is talking of restoration of justice to historical injustice done to the people over the period, not verifying the forest land claims submitted by the community people is the gross violation of the Forest Rights (Recognition) Act, and the Constitution of India.

We demand immediate direction to the forest Department to stop eviction in any areas.

Problem-8

While the Forest Rights (Recognition) Act, has made provision for the conversion of all Forest Villages/un-surveyed villages/hamlets into Revenue villages. The Government of Odisha even after one year of enactment of the Act has not initiated any effort for the survey and settlement of these categories of villages.

We demand, government of Odisha should immediately come up with the detailed survey and settlement plan for these forest villages/un-surveyed areas and convert them in to revenue villages and extent all the development programme to the forest dwellers residing in those areas including the sanctuaries.

Problem-9

The 13 PTGs of our State are struggling for their existence and are about to extinct from the soil due to the lack of basic requirement for their subsistence. While the Forest Rights (Recognition) Act has made special provision to determine and protect their Habitat protecting the live and livelihood PTGs, the government of Odisha is yet to initiate any action even after one year of the enactment of the FRA in the state.

We demand the state government should immediately take action in this regard protecting the existence of the PTGs of our state by determining and protecting their Habitat.

Problems-10

Despite of many memorandum submitted to the Government of Odisha after the enactment of the FRA and despite the assurance of the Chief Minister in Keonjhar district to withdraw all forest cases filed against the forest dwellers, the Government has not addressed the issue till date.

We once again demand the government of Odisha to withdraw all the forest cases filed against people as per the provision of the preamble of the FRA which admits that historical injustice were done to the forest dwellers over the periods and this Act is enacted to address them.

Problems-11

While the Forest Rights (Recognition) Act, has given the ownership rights over the MFP like Kendu leaf and bamboo under Section 2(i) of the Forest Rights (Recognition) Act, 2006 to the community. The forest department (KL) is continuing its RAJ over these MFPs and excluded community rights violating the FR Act. Even collection of MFP is restricted in the sanctuary areas like Sunabeda Sanctuary.

We demand that The Government should issue Special Circular including Kendu leave and bamboo in the list of NTFP in Odisha and immediately stop regulating on these produces and handing over

the ownership rights to the community.

Problems-12

Diversion of forest land to the mining/river valley projects/dams and for other purpose is the greater threat to the conservation of forest and wildlife. While the determination and claim making of CFR is going on by the community under the provision of FRA, 2006 and it is yet to be completed, the diversion of forest land by the Government is unjustified. Even the Ministry of Forest and Environment on dated 30th July 2009 has issue a circular on this.

So State Government should immediately stop the transfer of forest land for mining and other purposes before the completion and determination of entitlement of CFR to the community and no diversion of forest land can be further done without the consent of the concern Gram Sabha.

Problems 13-

Don't try to end the implementation of forest Act, 2006 till each and every forest dwellers and tribal are not get rights over their forest and occupied forest land.

Once again we notice your authority to look into the matter and take immediate action otherwise CSD, Odisha will go for a Statewide protest against the violation of the Forest Rights (Recognition) Act, 2006

Yours Faithfully,

Members of CSD, Odisha