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The ineffective Forest Rights Act

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It seems like an eternal struggle for community members of Tamparkela , a remote village in the tribal dominated district of Sundergarh in Orissa , to get rights over forest lands which they have been depending upon and fighting for even before Independence.

Dongrias in Niyamgiri, a primitive tribal group (PTG), still have to march to the hill top to assert their rights over their habitat and sacred forest drawing parallel with the struggle of the Na'vi tribe of Avatar. The Tongia settlements in Sonbhadra district of UP fight threat of eviction by the forest department .

People in tiger reserves and protected areas like Valmiki TR (Bihar), Achanakmar (Chhattisgarh), Tadoba Andheri, Pench, Melghat (Maharashtra), Simlipal (Orissa) are fighting violation of forest rights and relocation. The list is endless.

In March 2008, the process of implementation of the Forest Rights Act had started. But even as the law completes two years, the struggle for forest land, rights over community resources, habitat, and community conservation in Orissa as also in other parts of India intensifies more than ever. In view of continuing community struggles for forest rights across the country the key issues and problems that have influenced and affected the process of implementation of the law in the last two years needs discussion and analysis.

The noble objectives of the law are lost in the hysterical ways of implementation by the authorities. In many places, it is not the Gram Sabha but the field-level functionaries of the forest and revenue department who are dominating the proceedings .

Cases are reported where claimants have received forest land less than the claimed area, where the subdivisional and district level committees have arbitrarily decided on the area of claim without considering the actual extent, where claims only in revenue forest are considered leaving the land in the reserve forest, where claims are left out on land whose type has changed from forest category in the earlier settlements (SABAK) to revenue category in latest settlement (HAL).

Community tenures and rights on common resources form a significant part of the livelihood of the forest communities . But recognition of community rights lag that of individual rights. Comparison of the community claims (30,000) with the number of forest fringe villages (170,000) makes it evident that only 20% of forest communities have so far been able to claim community rights. Provisions with regard to community rights are neither understood nor implemented.

Therefore, barring a few examples like Mendha Lekha in Maharashtra, fishing rights of Chenchus in Andhra Pradesh, and community rights to forest protection groups in Orissa, there is not much progress in the community rights process.

From the core area of the Simlipal Tiger Reserve, 62 tribal families were relocated on March 11, 2010 to a far off colony . In last two years relocation were reported from other tiger reserves like Tadoba-Andheri , Melghat, in Maharashtra , Achanakmar in Chhattisgarh, and Buxa in West Bengal.

This is not only in violation of the Forest Rights Act and Wildlife Protection Amendment Act, but also of a circular issued by the National Tiger Conservation Authority on September 8, 2008. Declaration of critical wildlife habitats is similarly taking place in deference to the provisions of the Forest Rights Act. In some PAs the forest department has raised the issue of the Supreme Court's 2000 order to object to recognition of rights on minor forest produce.

In Orissa, forest communities have started exercising rights and authority under the Act to deal with activities that have affected the forest and wildlife. In Lakhari Wildlife Sanctuary, people have issued notice to the authorities to stop stone quarrying and crushing in the forest areas. Communities are also preparing their own plans for management of the community forest resources.

But the assertion of the rights and empowered authority provided under the Act is not accompanied by any discussion or debate at the government level on corresponding changes required in the existing institutions and in the role of the conservation agencies. Ironically, the government continues with the policy of joint forest management and plantations under CAMPA and other government programmes which has often come in conflict with the community forest rights.

In a recent consultation on Forest Rights Act, cases were cited by people from Chhattisgarh where the government and private companies have reportedly started acquiring the land on which claimants have received titles under the Forest Rights Act. Community lands claimed under the Act are also targeted for development projects and commercial plantations like Jatropa. Forest lands are diverted for developmental

projects without recognition of rights of local communities under Forest Rights Act.

This has raised questions about the sanctity of the Act especially section 4 (4) which provides non-transferable and nonalienable rights and section 4 (5) which provides that forest communities shall not be removed or evicted from the forest land till the recognition and verification procedure is over. Just recently the environment and forests minister Jairam Ramesh , referring to ministerial committee report, admitted to violations of the Forest Rights Act in Niyamgiri.

Comparison between the claims processed so far (27.16 lakh claims filed and 7.59 lakh titles issued) and forest dependents (275 million) shows that the law has covered only a minuscule population of the forest dependent communities.

As compared to the NREGA, FRA lack in political support, administrative back up, budgetary and infrastructure support for implementation. So a large number of claims are pending for want of manpower and financial support to complete the verification , mapping and recording of rights.

FRA will not meet the fate of PESA if government commits to ensure that, the structures of implementation at the central and state levels are strengthened; civil society groups and PRI members are involved and the provision of social audit is built in; funds are allocated to support the verification and recognition of rights; the information system on Forest Rights Act is updated; action is initiated to bring in changes in laws and policies like Wildlife Protection Act, joint forest management (JFM), plantation programmes; and above all implementing agencies become proactive in the implementation process.

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