
India: The Forest Rights Act, a weapon of struggle

The passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2006 is a watershed event in the hard-fought and prolonged struggle of adivasis and other forest dwellers of the country. For the first time in the history of Indian forests the state formally admits that rights have been denied to forest dwelling people for long, and the new forest law attempts not only to right that 'historic injustice' but also give forest communities' role primacy in forest management.

The Bill, which angered Indian 'conservationists', forest bureaucracy and paper and pulp companies alike took two long years to pass —and a nationwide political campaign by forest movements in the country, backed by a joint parliamentary committee recommending sweeping changes to the original draft. Objections to the Bill, and especially its Joint Parliamentary Committee (JPC) Version ranged from apprehensions (like the law would distribute forest land to tribal families) to assertive statements (that wildlife and people can no longer co-exist, and all tigers would perish). The JPC version of the Bill shifted the earlier 1980 cut-off year to December 2005; included all non-tribal traditional forest dwellers; recognized rights of tribal and traditional forest dwellers in areas declared as protected areas; revised the process for identification of such protected areas to ensure a more transparent process and increased the ceiling of 2.5 hectares on land to 4 hectares. Most importantly, it prescribed that no diversion of forest land would happen without the consent of the gramsabha (the village assembly).

As could be expected, the Government refused to place the JPC report in the parliament, citing serious differences on four major issues: cut-off date, inclusion of non-tribals, rights of gram sabhas and the ceiling issue. The Tribal Affairs Ministry did not want inclusion of non-tribals in the Bill and sections in the Government backed by wild life lobby did not want any change in the cut-off year because it would destroy forests. After months of dilly-dallying, the Government apparently agreed to the JPC report and the bill was finally placed in the Lok Sabha on 15th December 2006. That the Government was up to no good was proved when sixteen major amendments were moved by the tribal minister on the bill he himself introduced in the house. The Amended Bill was passed by the Lok Sabha, and even though there were extensive debates in the Rajya Sabha challenging the last-minute amendments, the Upper House passed the same truncated bill on 18th December after the Tribal Minister gave some assurances about the Rules.

Despite the Government's treachery and its attempts to undermine the positive contents of the bill, the act as legislated by the Indian Parliament marked a radical departure from earlier forest acts in the country, and the forest dwellers of the country can gain from it.

The new law recognises the right to homestead, cultivable and grazing land (occupied, and in use since December 2005), and to non-timber forest produce (partially, since the rights for the time being are limited to produces of 'plant origin' and fish). It accepts that there are legitimate non-tribal forest dwellers (though in a restricted manner), recognises the right to rehabilitation in case of past forcible displacement and prescribes that all future notification of 'inviolable' conservation zones and curtailment of rights in Protected Areas shall require people's consent. Most importantly, the Act

says that recognized rights of forest dwellers include conservation of forests and biodiversity, and people's involvement would strengthen conservation efforts (the bill says people's responsibility and authority.)

In another very significant section, the Act says that all forestlands —irrespective of location and category— traditionally used by communities would be henceforth treated as community forest resource, and forest dwellers can act decisively in conserving those resources.

While the Forest Rights Act contains these positive elements, enough ambiguities and 'loopholes' clutter it. Also, it has been framed in a way to keep large section of forest dwellers out of its purview. For instance, only those residing in forest areas for 75 years will be qualified as 'other traditional forest-dwellers' (other than scheduled tribes), and only those 'primarily residing in' forest areas can claim rights under the Act.

These are concerns which forest movements of the country now plan to address by prolonging and intensifying the campaign for the Forest Rights Bill. Realizing that the Government's sincerity with the Act is suspect, the movements have also resolved to 'implement' the act on their own.

How did the Act happen? Why should a state that steadfastly adhered to the principle of 'eminent domain' (which means that the State owns all natural resources over which people have no proprietary rights), and ignored the just demands of forest dwellers now become sensitive to people's rights? Why should it admit that people have any rights over forests when all its policies and laws have so far —since the colonial take over of forests in 1850 onwards-- been directed towards keeping them out , first for making the forests commercially productive, and then for conservation of wild life?

These are questions that we need to discuss over coming months. Not all of these can be answered, firstly because the law-making process isn't complete yet (the rules are not ready), and secondly, contours of the political process that would determine the question of control over forest are just emerging in India. Time and the course of struggles will make many things clearer.

One thing is however clear. The Act —however well-meaning it may be— by itself solves nothing and just because it is there, the State is not going to hand over forest rights to people on a silver platter. The Forest Department and its coercive bureaucratic apparatus and its cronies like the timber mafia won't just vanish, and neither will Big Conservation NGOs cease to raise a stink each time people really get some rights. The development menace would remain, and both forests and people will be destroyed as usual, for dams, factories, roads and mines. The Act changes nothing until forest struggles lend it teeth and turn it into a weapon.

This is time when forest struggles are seen and defined in the broader political context. The sabotage the government did to the Act showed that there was a conscious attempt to undermine community control over forest resources, which fitted into the larger plan that becomes manifest in other things being done by the government —changing existing environmental regulations of the country so that mines, companies, dams and big industries can be easily built. The drive to forcibly acquire both fertile agricultural land and village commons for Special Economic Zones and for big private companies was on. Grants of mining leases to private companies in forest areas increased enormously in recent months.

Forest movements in India now need to oppose this whole agenda of selling people's lives and resources to capital. The Forest Rights Act gives communities a political space in forest governance. For movements, this is an important weapon to assert themselves and challenge both the present

forest authority and forces of capital, who move into forests in a big way. Other anti-people forces active in the forests —‘hard-line’ wild life groups, feudal forces, traders etc— needed to be challenged.

Movement groups have been engaged in recapturing land in the forest areas in some regions. This process has to be strengthened and such action programmes need to be extended in other areas. So-called participatory structures created by the Forest Department like Joint Forest Management need to be smashed, so that neither state nor private capital aided by International Finance Institutions find further footholds in forests.

The passage of this limited bill gives us a promise to build up an alliance of movements. From now onwards forest peoples' movements will also be for a truly democratic and pluralistic nation, based on environmental and social justice. The State-capital nexus has to be challenged at operational and ideological levels, both nationally and internationally, and involving all progressive forces active in other social, cultural and political spheres.

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