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# ADIVASIS AND THEIR FOREST



**GLADSON DUNG DUNG**

# **ADIVASIS AND THEIR FOREST**

## Appreciations for the Book

“Adivasis and their Forest” is a timely and important publication. It provides thorough information about the forest rights of Indigenous Peoples/Adivasis in India from pre-colonial times until today. The publication clearly describes the systematic denial of the rights of the Adivasis to their ancestral forests and the natural resources found within these. At the same time, the publication takes us through the equally systematic perseverance and struggles of the Adivasis to claim their inherent rights to the same.

The relevance of the publication is particularly pertinent today, where the Adivasis of India yet again are faced with accusations of destruction of forests and biodiversity by conservationists, state forces, and corporates alike. This publication clearly shows who the actual, true custodians of these resources are; the Adivasis are the true conservationists of the forests of India, which resonates with the global picture.

Traditional territories of indigenous peoples hold 80 percent of the planet’s biodiversity. Globally, many of the remaining standing forests are found where indigenous peoples live. At least 24 percent of global carbon stored above ground in the world’s tropical forests, or 54,546 million metric tons of carbon, are managed by indigenous peoples.

This is a result of the historical stewardship of indigenous peoples in the sustainable management of forests. Indigenous peoples are guardians not only of forests, but also of rivers, seas, hills and mountains. They have cultivated traditional knowledge and customary practices for countless generations which have helped them managing and protecting the ecosystems in which they live.

In today's challenges of climate change, we need to learn from the Adivasis and not deny them their right to protect the remaining natural resources under their guardianship.

IWGIA stands in solidarity with the Adivasis of India in their struggles for respect of their rights as enshrined in the UNDRIP, as well as in the Indian Constitution, FRA and other relevant national and international law, and we hope and believe that this publication will be a useful tool and source of important information for the onward struggles.

Signe Leth  
Activist, Denmark

In the book 'Adivasis and Their Forest' Gladson Dungdung brings together all laws and policies related to forest dating from the colonial period to the present at one place and critically engages with them in relation to tribes in India. He cogently argues how the state and its agencies have consistently acted against the interests of the tribes and thereby posed a great threat to their security and survival. Anyone interested in issues of tribes will find the book greatly handy and rewarding."

Dr. Virginius Xaxa  
Sociologist & Author, India

This book gives an excellent summary, with much human detail, of a history of soul-scorching injustice: the alienation between Adivasis and forests, from the British era laws that started it to new ones that perpetuate it in a situation of extreme internal colonialism.

Dr. Felix Padel  
Anthropologist & Author, UK  
Great-great Grandson of Charles Darwing

This book is a beautifully readable and important story of the forest people of India. It is about their love and dependence on the power of nature and the political history of their alienation from the very force that gives them life and culture.

Dr. Michael Yorke  
Anthropologist & Filmmaker, UK

In this seering indictment of the Indian Government's forest policy in Eastern India the activist Gladson Dungdung carefully outlines and details the deforestation, land evictions and corruption of the state and corporate companies in what is essentially a massive land grab of the lands and forests of the adivasis. This is a powerful book and an insightful document of what is happening to indigenous communities and their forests in contemporary India.

Dr. Vinita Damodaran  
Director,  
Centre for World Environmental History  
(University of Sussex, UK)

I am extremely thankful for this very comprehensive study on forest rights and its implications for the Adivasis

in India. I particularly estimate the combination of argumentation, statistics, empirical evidence and statements made by local people. This allows the book to respond to academic standards as well as to provide a profound political assessment embedded into a consistent historic view.

This is a contribution just in time when fundamental conservationists confound empty wilderness with nature, and when State institutions are weakened to take responsibility for the existing rule of law. Thanks to your wide range of analysis, the book also breathes – at least in some parts – hope when state governments are compelled by Adivasi protest and the Judiciary to admit gross failures in correctly acting on the Forest Rights Act, or the Union government has to withdraw its amendments planned.

Thus, I hope that the learning process reflected in the book may find numerous readers and encouraging the commitment with Adivasi rights, in particular forest rights.

Dr. Theodor Rathgeber  
Adivasi Koordination, Germany

# ADIVASIS AND THEIR FOREST

GLADSON DUNGDUNG

With a foreword by  
FELIX PADEL



Published by  
Adivasi Publications  
Khorhatoli, Kokar, Ranchi - 834110  
Email: adivasipublications2018@gmail.com  
Website: www.adivasipublications.com

Supported by



**IWGIA**

Copenhagen, Denmark

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Cover Photo : Author

Cover Design : Ishwar Dayal

First published in November, 2019

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Price : Rs. 300/-

ISBN 978-81-940838-9-4

Printed at  
I.D. Publishing  
Kokar, Ranchi - 834001

Dedicated to those Adivasis, who  
have been fighting to protect their  
ancestral land, territory and  
natural resources.

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# Abbreviation & Glossary

ASS - Adivasi Samanvay Samity

BJD - Biju Janta Dal

BJP - Bhartiye Janta Party

CAF Act - Compensatory Afforestation Fund Act 2016

CAG - Comptroller and Audit General

CAMPA - Compensatory Afforestation Management  
and Planning Authority

CBF - Central Board of Forestry

CEC - Central Empowered Committee

CM - Chief Minister

CO - Circle Officer

CPI (Maoist) - Communist Party of India (Maoist)

CPI(M) - Communist Party of India (Marxist)

DC - Deputy Commissioner

DFO - Divisional Forest Officer

DLC - District Level Committee

FPIC - Free, Prior and Informed Consent

FCA - Forest Conservation Act 1980

FD - Forest Department

FDC - Forest Development Corporation

FRA - Forest Rights Act 2006

FRC - Forest Rights Committee

FSI - Forest Survey of India

GoI - Government of India

GoJ - Government of Jharkhand

Gram Sabha - Village Assembly

IFS - Indian Forest Service

INC - Indian National Congress

IWGIA - International Work Group for Indigenous  
Affairs

JFM - Joint Forest Management

JMM - Jharkhand Mukti Morcha

Khutkatti village - Traditionally settled village of Mundas

Khatiyani - Land register

MFP - Minor Forest Produce

MoEF&CC - Ministry of Environment, Forest & Climate Change

MoTA - Ministry of Tribal Affairs

MoU - Memorandum of Understanding

MP - Madhya Pradesh

NCA - National Commission of Agriculture

NCS - Nature Conservation Society

NCST - National Commission for Scheduled Tribe

NDA - National Democratic Alliance

NGT - National Green Tribunal

NHRC - National Human Rights Commission

NMDC - National Mineral Development Corporation

NTCA - National Tiger Conservation Authority

OBC - Other Backward Class

OTFD - Other Traditional Forest Dwellers

PCCF - Principal Chief Conservator of Forest

PEKB - Prasa East and Kete Besan

PESA Act - Provisions of Panchayat (Extension) in Scheduled Area Act

PF - Protected Forest

PIO - Public Information Officer

PTG - Primitive Tribal Group

PVTG- - Particular Vulnerable Tribal Group

RAW - Research and Analysis Wing

RF - Reserved Forest

RTI - Right to Information

RTI Act - Right to Information Act 2005

RUVNL - Rajasthan Vidyat Utpadan Nigam Limited

SC - Supreme Court

SC - Scheduled Caste

SCIC - State Chief Information Commissioner

SDLC - Sub-Divisional Level Committee

SLMC - State Level Monitoring Committee

ST - Scheduled Tribe

STR - Similipal Tiger Reserve

TDP - Telengu Desham Party

TMC - Trinmul Congress

TRACT - Tiger Research and Conservation Trust

TRTC - Tribal Research and Training Centre

UNDRIP - United Nations Declaration on the Rights of  
Indigenous Peoples 2007

UNEP - United Nations Environment Programme

WTI - Wildlife Trust of India

# Acknowledgements

Since my childhood, I have seen the torture, exploitation and injustice inflicted against Adivasis by forest officials. I could recall how the forest officials used to visit our village. They would enter the houses without our permission, load the woods in trucks, which were kept to rebuild the houses, and file cases against Adivasis falsely accusing them as woodcutters. They had filed a case against my father too alleging him as a woodcutter.

One day, during the winter, police rushed to our house in the evening while we were warming ourselves sitting near the fire. My father was not at home so we were terrified and started running here and there for protecting ourselves. Unfortunately, my mother was trapped in a bush and fell on the ground. Her left arm was broken. This kind of incident was common for Adivasis those days.

In 2002, when I was studying advocacy in NCAS, Pune, I was upset to read the news about forced eviction of Adivasis from the forests. The news described that the Indian government attempts for eviction of thousands of Adivasis across India upholding the Supreme Court's order. The elephants and earth mover machines were used to raze the houses of those Adivasis in Assam and

Maharashtra, who denied to leave their traditional habitations in the forests, where they had been living for generations. How can the government take such devastating steps I can't even imagine?

In 2003-04, when I was doing field study in the reserved forest located at Konkadahar block in Dhenkanal district of Odisha, where more than 5000 Adivasis were living, I could see the terror of eviction in their faces every day. Fortunately, their rights were somehow recognized by the Forest Rights Act 2006.

After enforcement of the FRA, I have been busy in advocating for its enforcement and finding the ground realities. I have seen that the forest rights of Adivasis are deliberately not recognized because the government(s) intend to handover the natural resources to the corporate sharks. However, the Adivasis, who are protectors, conservators and regenerators of the forests and wildlife were depicted as their enemies. Therefore, I decided to write the book and expose the ground realities.

This book would not have been possible to publish without the courage, commitment and dedication of IWGIA. I am deeply indebted to their support of my mission to find out the ground realities of the FRA. I would specially acknowledge Ms. Signe Leth for helping me in conceptualizing, designing and editing of the book.

I am also indebted to Dr. Felix Padel, a renowned Anthropologist & Writer, who has written the foreword for this book, as well as inspiring, encouraging and supporting my journey.

I'm grateful to Fr. S. Christu Das, who has always supported my initiatives and provided many platforms to expose my potential and realize my vision.

I will always be grateful to the renowned Sociologist & Author Prof. Virginuis Xaxa, Prof. Vinita Damodaran,

the Director of Centre for World Environmental History, University of Sussex, UK and a renowned Anthropologist & Filmmaker Dr. Michael Yorke, UK and Dr. Theodor Rathgeber of Adivasi-Koordination, Germany for their powerful messages for this book, and for their inspiration and great support to my initiatives.

I am grateful to Mr. John Rowley of Gandhi Foundation (London), Mr. Zuky Serper of University of Sussex (UK), Mr. Johannes Lapinge, Ms. Martina and Mr. Sebastian of AK (Germany) for their great support.

I will always be indebted to Mr. John Samuel, Mr. P.V. Rajagopal, Dr. Gyana Prakasham, Fr. Philip Manthara, Mr. Henri Tiphange, Mr. Pradeep Priyadarshi, Mr. Renji Joseph and Dr. Goldy M George without whose support I would not have been what I am today.

I will always be grateful to Mr. Suhas Chakma, Mr. Sudeep Tigga, Mr. Shushil Barla, Fr. George Monippally, Mr. Rakesh Roshan Kiro and Amit Eric Xalxo, who accompanied, supported and helped me a lot during my travels to the forest regions of India.

I would like to thank my journalist friends - Mr. Manoj Lakra, Mr. Sanjay Verma, Mr. Sanjay Krishna, Ms. Shreya Mishra, Mr. Mukesh Balyogi, Mr. Vinay Bhushan, Mr. Sohan Singh, Mr. Surendra Soren, Mr. Ashish Tigga and Mr. Cornelius Minj for their great cooperation, support and encouragement.

I'll always be grateful to Fr. Stan Swamy, Fr. Mahendra Peter Tigga, Fr. Alex Ekka, Fr. David Solomon, Fr. C.R. Prabhu, Fr. Tomy, Fr. Rezi, Fr. Sibi, Fr. Joseph Marianus Kujur, Fr. Xavier Soreng, Fr. Francis Minj, Fr. Bipin Pani, Fr. Satyaprakash Tigga, Fr. Cyprian Ekka, Sr. Serophina Topno, Sr. Lalita Lakra, Fr. Praful Tigga and Fr. Premchand Tirkey for their support, inspiration and encouragement to work for the people.

I would like to thank my friends – Mr. Abhay Xaxa, Mrs. Vani Xaxa, Mr. Sunil Minj, Dr. Devyani Sarkunde, Ms. Eva God Lakra, Mr. Gopinath Ghosh, Ms. Sapna Surin, Mr. Xavier Kujur, Mr. Sandeep Patnaik, Mrs. Mary Claudia Soreng, Mr. Anil Dungdung, Mr. Philip Kujur, Mrs. Jyoti Lakra, Mrs. Elina Horo, Mr. Bineet Mundu, Fr. Masih Prakash, Mr. Jerome G. Kujur, Mr. Joe Hill and Bhubneshwar Sawaiyan for their support.

I would also like to thank various prominent personalities who have encouraged me at various points – Arundhati Roy, Swami Agnivesh, Dr. Joseph Bara, Adv. Prashant Bhushan, Dr. Nandini Sundar, Dr. K.B. Saxena, Dr. Manoranjan Mohanti, Dr. John Dayal, Dr. Binayak Sen, Mr. Anand Patwardhan, Dr. Rose Kerketta, Mr. Xavier Dias, Dr. Sanjay Bosu Mullick, Mr. Prem Verma, Dr. GS Meena, Mrs. Dayamani Barla, Mr. Sudhir Pal, Mr. Kislaya, Mr. AK Pankaj, Mrs. Vandna Tete, Dr. Mahua Maji, Mr. Mahadev Toppo, Mr. Ranendra Kumar, Mr. Faisal Anurag, Mr. Benjamin Lakra, Mr. Ghanshyam, Mr. Shekhar, Prof. Madhav Sarkunde, Dr. Ramesh Sharan, Fr. Prakash Louise, Ms. Jill Carr Harish, Dr. Deonis Xess, Mr. Joy Tudu, Mr. Bandhu Tirkey, Mrs. Vandna Dadel, Mr. PC Murmu, Mr. Ratan Tirkey, Mr. Prabhakar Tirkey and Mrs. Geetashree Oraon.

I'll always be grateful to my family members – Mr. Gyanchand Kalundia, Mrs. Manju Dungdung and Ms. Suniti Dungdung, who provided me delicious food and good environment while I was working on this book.

Last but not least, I wish to acknowledge my late parents, who not only inspired me during my childhood to fight for justice, but also paved the way for my own work by laying down their lives for others, ensuring that I must continue the fight for justice.

Gladson Dungdung  
15 November, 2019.

# Foreword

This book offers a much-needed summary of the history and present situation of Adivasis and forest rights. At India's Independence, the intention expressed in policies was to bring the freedom and democracy which Indians had won from the British to India's tribal or Adivasi inhabitants. The Constitution established the principle of Scheduled Tribes' inalienable land rights, through the Fifth and Sixth Schedules.

But there were loopholes, especially for industrial projects deemed 'in the national interest', which quickly began to be applied in dozens of cases. Literally millions of ST/Adivasi communities have been dispossessed of their land since Independence - 25 million at a conservative estimate. If mega-dams have displaced most in terms of numbers, other industrial projects, forest plantations and even conservation projects have also dispossessed millions.

During the Constituent Assembly debates, which formulated Schedules Five and Six during 1946-49, Jaipal Singh Munda insisted (against considerable non-tribal opposition) on an overall 'Adivasi' identity. He also challenged Nehru on the idea that democracy was something the Government could introduce to tribal areas:

‘This Resolution is not going to teach Adivasis democracy. You cannot teach democracy to the tribal people; you have to learn democratic ways from them. They are the most democratic people on earth. What my people require, Sir, is not adequate protection as Pandit Jawaharlal Nehru has put it. They require protection from Ministers that are in position today....’<sup>1</sup>

Now, more than ever, there is a need for protection from abuses of power; as well as to learn from these communities about democratic, egalitarian ways of relating and sharing, and about how to use land and natural resources in a truly sustainable way. The custom of protecting sacred groves, for example, represents the essence of real, meaning long-term, sustainability, based on a respect for Nature and restraint in what is taken from Nature, through a range of restrictions or taboos.

For example, Niyam Raja, key deity of Niyamgiri and the Dongria Konds, embodies an Adivasi respect for *nigam* (‘rules’): a sense of higher law, that finds expression in the Niyamgiri Gram Sabhas of 2013 that rejected the mining model of ‘development’ along with a private parceling out of the Niyamgiri forest using the Forest Rights Act, insisting instead on common property rights throughout the range, including the crucial bauxite-capped mountain summits. Dongria custom forbids the cutting of trees on the summits. As Lado Sikoka said (in the Belamba Public Hearing near Lanjigarhin April 2009): ‘People say there’s crores up on Niyamgiri. But it’s not money up there, it’s our Maa-Baap and we must defend her.’<sup>2</sup>

This is the essence of long-term sustainability; and it is expressed in many Adivasi movements, in which local communities do their best to stand up against pressures that are turning life-giving natural resources into short term profits. This insistence on protecting the

forest reveals Adivasis' role as guardians of well-being for future generations. Their economical use of resources represents an 'Adivasi Economics'.<sup>3</sup>

This is also why Noam Chomsky says, of indigenous peoples generally, wherever they survive around the world, that they are humanity's only hope for survival now.<sup>4</sup> For example, following the UN Declaration of the Rights of Indigenous Peoples (2007), many indigenous peoples themselves came together in Bolivia in April 2010, and made the Cochabamba Declaration on the Rights of Nature or Mother Earth.<sup>5</sup>

For Adivasis, British colonialism was immediately followed from 1947 by 'internal colonialism', characterised by 'the State making war on its own people', and an 'unbroken history of broken promises'.<sup>6</sup> Of course, there have been many good and just, 'pro-tribal' officials, from colonial to modern times, who have tried to ensure tribal land rights; but from an Adivasi perspective, these have been few and far between in a long history of cultural racism and vicious repression.

Colonial era 'Permanent Settlement' encouraged and legitimised multiple land grabs. Forest Acts performed a 'Divide and Rule' that split Adivasis from the Forest they had always lived in and depended on. As this book documents, this was done through Forest Policies and Acts from 1855 to 1927 in the colonial era. Post-Independence initiatives reiterated this draconian attitude to forest dwellers, starting with the National Forest Policy of 1952.

By contrast, the Chhotanagpur and Santal Pargana Tenancy Acts tried to establish tribal rights within the overall legal system, as it was realised how sophisticated traditional laws are. This is why Jharkhand witnessed such huge protests during 2016-19 when the state

government tried to revise these Acts with a view to restricting land rights so as to entice investors to the state. The 'Land Banks' that state governments are compiling out of common lands and sacred groves are another outrage aimed at enticing statewise investment.<sup>7</sup> Entwined with this initiative is a new Compensatory Afforestation Fund Act (2016), that aims to increase India's 'forest cover' through plantations that replace natural forests and tribal farmland, in order to 'offset' land taken by industries.<sup>8</sup>

Similarly outrageous was the notorious Supreme Court order in February 2019, responding to a plea by conservationists, that threatens to evict about two million Adivasi families whose applications under the Forest Rights Act had been rejected or ignored. It seems increasingly clear that conservationists need to make common cause with tribal movements, if India's forests are to be protected for future generations, since no-one has protected them better than the Adivasi communities who have always lived in them.<sup>9</sup>

We live in a time when people who are trying hardest to protect their local environment are being criminalised and even assassinated, in many countries. A large proportion of these people are from indigenous communities, in Latin America, Philippines, India and elsewhere.<sup>10</sup>

In Northeast India, many tribal communities are resisting takeovers of their lands by big dams and extractive industries;<sup>11</sup> and the Agartala and Dimapur Declarations of February and May 2013 assert community rights over resources.<sup>12</sup> In neighbouring countries to the East, such as Myanmar, Malaysia and Thailand, the situation is as bad as it is in India or even worse. Like India, Thailand signed the UN Declaration

on the Rights of Indigenous Peoples, but pretends it has no indigenous people; and tribal communities' land is being taken over at an alarming rate, including declaring traditional lands as 'Reserved Forest'.<sup>13</sup>

Philippines has become the most dangerous country for indigenous land defenders, closely followed by Brazil, Colombia, Guatemala and India. The Lumad people in particular, in South Mindanao, who still practice communal land ownership, have recently been thrown off their land in large numbers, with several killings, especially to make way for mining-based 'development'.<sup>14</sup>

Ecuador was the first country to enshrine Rights of Nature in its constitution, thanks to the strength of indigenous activism; and in April the Waorani people in the Amazon region won a historic legal victory to protect half a million acres from oil drilling. Yet the rise of mega mining projects has brought about several assassinations and hounding of indigenous activists.<sup>15</sup>

In Ecuador's neighbours, Colombia, Brazil and Peru, the situation for indigenous land defenders is far worse. In Brazil, President Bolsonaro has openly told indigenous people to conform or disappear, implicitly encouraging colonists to set fire to the forest and invade indigenous lands, resulting in violent attacks and killings.<sup>16</sup> Raoni Metuktire of the Kayapo tribe, made a statement on 2<sup>nd</sup> September 2019:

"You have to change the way you live because you are lost, you have lost your way. Where you are going is only the way of destruction and of death. To live you must respect the world, the trees, the plants, the animals, the rivers and even the very earth itself. Because all of these things have spirits, all of these things are spirits, and without the spirits the Earth will die, the rain will stop and the food plants will wither and die too."<sup>17</sup>

The model for land takeovers and extinction of indigenous people that Bolsonaro openly admires, is the genocide of native Americans in the USA. As Sitting Bull said to General Crooke, after Lakota and Cheyenne warriors had won the Little Bighorn victory in 1876, and took refuge in Canada, refusing to surrender to the US army that had broken the peace treaties and taken possession of 40 million acres of tribal territory in the Black Hills, "We did not give you our lands. You stole them from us".<sup>18</sup>

This takeover of native land continues in the USA and Canada with tar sands mining for oil, and the violent suppression of protest against the XL pipeline at Standing Rock, which had invited unprecedented support.<sup>19</sup> Autumn Peltier, a 13 year old indigenous girl in Canada, has taken a stand as a Water Defender from Canada. As she puts this:

"What I've been told in the ceremonies is: Mother Earth has been surviving for millions of years without us and it's taken us less than a century to destroy her, and Mother Earth doesn't need us, but we need her".<sup>20</sup>

In Australia, a similar story, with Aboriginal groups trying to assert their land rights against massive destruction by mining companies, especially right now by Adani.<sup>21</sup>

Kurds represent one of the largest indigenous people of the Middle East, with strong democratic tradition, and strong identification with and urge to preserve natural ecosystems. Despite resistance over many years, the Ilisu dam has been built on the Tigris river in Turkey, which is about to displace 198 villages, flooding many people's land as well as devastating the ecology.<sup>22</sup>

By contrast, the Whanganui river in New Zealand/Aotearoa has been granted legal personhood under

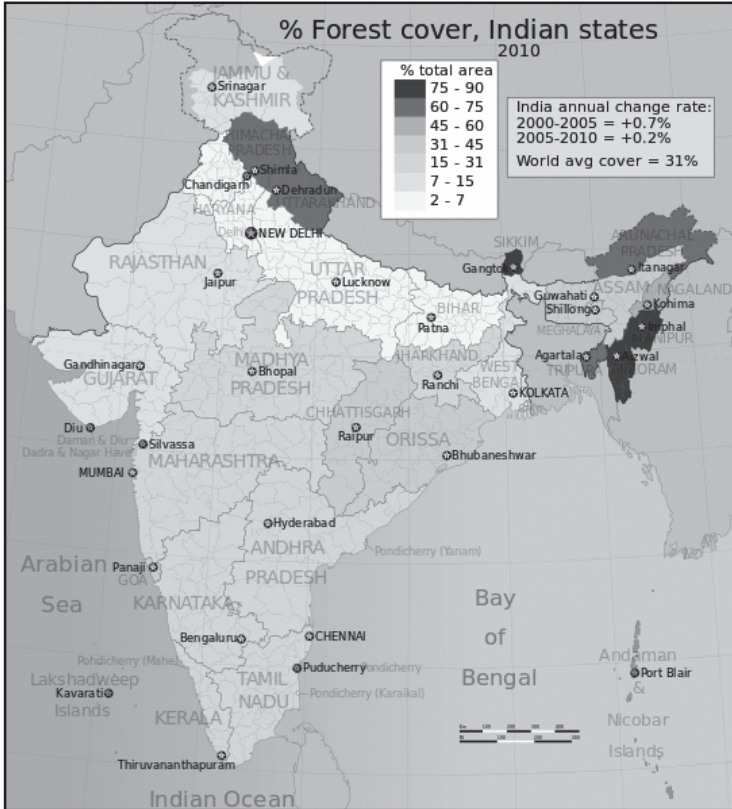
Maori inspiration,<sup>23</sup> which has also revitalised Maori-language education, and moved to decolonize anthropology.<sup>24</sup> Where in India can Adivasi or tribal students pursue higher learning and do a PhD in their own languages, that are uniquely attuned to the forest? 'Land as First Teacher' is a concept implicit in indigenous values, from Canada to every other country.<sup>25</sup>

This book documents a monumental injustice. This started from the British creation of India's Forest Service through legislation that legally alienated Adivasis from the forests where they had always lived, and which they understood far better than any forest official. In India, as in Brazil, it seems that, after hopes that the Government was finally starting to correct this historic injustice, the situation has got worse than ever before. Bizarre new legislation aims at 'compensatory afforestation' in the form of plantations, with none of the biodiversity of the forest lands being sold off for industrial exploitation.

A considerable number of conservationists joined the call to cancel the Supreme Court order in February 2019 that ordered the eviction of all forest dwellers whose claims under the FRA have been rejected.<sup>26</sup> In India, as worldwide, it is recognised that the biodiversity in forests where indigenous people live and gather produce is generally far higher than in 'managed' forests.<sup>27</sup> It is therefore vital that conservationists, and all democratically minded citizens, understand the message of this book and join hands in protecting tribal land rights. The forest has ensured the well-being of Adivasis and countless others. It is a symbiotic relationship: India's future depends on its forests, and Adivasis are key defenders of the well-being of these forests.

Felix Padel  
Anthropologist & Author

# A Forest Map of India



## Introduction

*“Forests can be protected through Adivasis’ rights vested in the FRA. We worry so much about forest biodiversity, why should not we worry about the people staying there? Communities living in the forest areas for ages cannot be evicted from the forest.”<sup>1</sup>*

**- Arjun Munda, 16 September, 2019  
Union Minister, MoTA (Govt. of India)**

On January 1<sup>st</sup> 2008, the government of India (GoI) enforced a historic legislation: the ‘Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006’, widely known as the Forest Rights Act (FRA). It was first time in the history of Indian democracy that the government attempted to undo legally the historical injustice faced by the Adivasis and other Traditional Forest Dwellers (OTFDs). The objective of the Act is stated in its preamble, which promises the righting of the historic wrongs committed against the Adivasis and OTFDs.

However, the so-called conservationists and tiger lobbyists attempted to halt the Act arguing that implementing it would be a grave threat to the forests and wildlife. Consequently, the Act was halted for two

years, and when it was enforced, they approached the Supreme Court (discussed in chapter 24) and pleaded to declare it unconstitutional.<sup>2</sup>

The FRA was a ray of hope for the Adivasis and OTFDs. They hoped to get their due rights over the forest lands and forests they have occupied, cultivating and using for generations. Gradually, this hope has diminished, seeing that the central and state governments are engaged in not only diluting the FRA, but also enforcing the Compensatory Afforestation Fund (CAF) Act 2016, which contradicts the FRA (discussed in chapter 18).

At the same time, the central government has also brought in a Draft National Forest Policy 2018 and a draft Indian Forest (Amendment) Act 2019 (discussed in chapter 20), which also contradict the FRA. These legislations strengthen the forest administration and deny the forest rights of the Adivasis and OTFDs. These efforts show that the Indian State is not willing to right the historic wrongs.

In these circumstances, an essential question is: who really owns the forests? Is it the State, the Adivasis, or the corporates? With deeper insight one realizes that over the centuries, the Adivasis, who are the Indigenous People of India, had ownership rights over the natural resources, i.e. land, forest, hills, water and minerals, and they judiciously used these resources for their survival (discussed in chapter 1). For instance, they produced food-grains from the land, collected minor forest produce from the forests and hills, used the water bodies for daily consumption and made traditional weapons using the iron-ore and coal.

They didn't just use the natural resources however, they also protected, conserved and preserved these for

the future generations. They had their own traditional methods and rules for doing this, often closely linked to their religious and spiritual beliefs and practices. These rules were undermined after formation of the Indian State. Therefore, one needs to go back in history to understand how the community-owned natural resources were taken over by the State.

Soon after the East India Company established control over India, they realized the enormous commercial potential of the country's natural resources and systematically went about acquiring control over them. In 1793 the 'Permanent Settlement Act' was enforced, which affected the socio-economic and cultural life of the Adivasis, as their lands slipped into the hands of the Zamindars (landlords).

In 1855, the government declared the forests as government property through a memorandum, with individuals having no right or claim<sup>3</sup>. In 1865 the first Forest Act came into force, and an avalanche of regulations followed this. Wherever a loophole was detected in the existing laws a new law would be passed. Under the Indian Forest Act 1927, for the first time a tax was imposed on all forest produce and forests were classified as 'reserved', 'protected' and 'village' forest.

Post-independence, the situation went from bad to worse. The marginalisation and impoverishment of the Adivasis increased. The National Forest Policy in 1952 emphasizes a plan for weaning Adivasis away from the forest by dissuading them from the practice of shifting cultivation, while increasing the efficiency of forest administration through tighter rules and more stringent training, research into utilisation of forest products, and stricter control of grazing in forests.

The GoI also issued a directive in 1974 to convert forest villages into revenue villages, but the pace was very slow. Consequently, very few villages were converted into revenue villages.

The GoI constantly empowered its control over natural resources by enacting numerous policies (discussed in chapter 3). The 'Forest Conservation Act 1980' fully denied people's access to the forests, which were not allowed to be used for non-forest purposes, while the process of de-reserving reserved forests was stopped. Power over the forests was now completely centralised by the State. This resulted in massive protests and outcry.

In response, the government introduced another new policy in 1988 called the 'National Forest Policy'. This affirms Adivasis' rights and concessions, though it is seldom practiced. Again, in 1990, the government issued a guideline for the settlement of forest land to those eligible. But inefficiency of government officials made this ineffective.

The 21<sup>st</sup> Century has witnessed even worse atrocities. The GoI issued an order following a Supreme Court's verdict in 2002, to evict 'illegal encroachments' of forests and forest land. This was meant to include encroachment of forests by powerful lobbies. But ironically none of these powerful lobbies were touched; and nothing was done to front-line staff of the forest department who did nothing about these encroachments by powerful lobbies.

Instead, Adivasis labelled as 'encroachers' were targeted in large numbers. Although exact figures are not available, estimates are in the region of 100,000 evictions. This is how India's forest policies have not only deprived Adivasis from their livelihood resources,

destroyed their social, cultural, economic and political systems, but also depicted them as encroachers and enemies of the forest, and a threat to wildlife.

Nevertheless, after a long struggle, the government of India finally enacted the FRA, which recognizes the rights of the Adivasis and OTFDs over forest land and forest. The act, as mentioned, was vehemently opposed by the wildlife conservation lobby, and the Ministry of Environment, Forest and Climate Change (MoEF&CC) GoI, even termed it an ideal recipe to ensure the destruction of India's forests and wildlife by 'legalizing encroachments'.<sup>4</sup> By seeing the Adivasis and OTFDs as encroachers and enemies of forests and a threat to the wildlife, the State has been denying their right to a livelihood for decades.

In fact, one could say that the wild animals, trees and bushes were in a better position than the Adivasis and OTFDs, as the GoI showed such concern for their protection, expressed through the Wildlife Protection Act 1972 and Forest Conservation Act 1980, while Adivasis and OTFDs are constantly pushed out of their traditional habitations, even after enactment of the FRA.

The status report on implementation of the FRA up to 31<sup>st</sup> December 2018 shows beyond doubt that it has not been implemented properly. This status report, prepared and released by the Ministry of Tribal Affairs (GoI)<sup>5</sup>, reveals many interesting facts about the ground realities of forest rights. As per the report, 4,227,666 claims were filed in 20 states of India, which includes 4,079,278 individual claims and 148,388 community claims.

Out of the total, 1,903,134 claims were converted into entitlements - 1,827,256 individual and 75,878 community entitlements. Interestingly, 90.8 per cent of the claims were disposed of, but only 44.9 per cent were

converted into entitlements, while 45.8 per cent of the claims were rejected. The ground realities of FRA have been discussed in chapter 8.

Strangely, the FRA status report reveals that the Naxal affected states have performed much better than the non-Naxal affected states. Out of 4,227,666 total number of claims of FRA, 3,243,195 claims were filed in the Naxal affected states, (73.4 per cent of the total): 3,112,702 individual and 121,495 community claims. This clearly indicates that the Naxal outfits have not much interfered or halted the FRA processes.

However, FRA claims have not yet been filed in many villages where anti-Naxal operations are ongoing. In the awarding of FRA titles too, the Naxal affected states have performed somewhat better. Against the national average of 44.9 per cent positive awards, the average in the Naxal affected states is 47.7 per cent. The chapter 9 focuses on the reality of FRA in the Naxal affected states.

The FRA status report clearly shows that India's political parties are not very much committed to the forest rights of the Adivasis and OTFDs, which has been discussed in chapter 10. The analysis shows that the regional political parties are better in this regard than the national parties. For instance, the BJD (Biju Janta Dal), ruling party of Odisha, is in top position, since 68.6 per cent of claims were awarded in Odisha.

Similarly, the Telengu Desham Party (TDP) of Andhra Pradesh and the Telangana Rashtra Samity (TRS) of Telangana have also performed well in the distribution of entitlements with 54 percent and 50.5 percent respectively. Interestingly, over half the claims were rejected in the BJP ruled Chhattisgarh, Madhya

Pradesh and Maharashtra. This suggests it may be better for the Adivasis and OTFDs to advocate with the regional parties for the forest rights, which would surely bear sweet fruits.

The vital question remains: why were such a huge number of claims rejected? Were they not genuine claims? Why is the rejection rate so high in some states? Who is responsible for what appears to be the mass rejection of genuine claims? What will happen to those genuine claims that have been rejected? Does a high level of disposal and rejection of FRA claims have links with mining interests? These questions have been addressed in several chapters of this book with data and case studies.

During the research, I found that the government authorities are deliberately rejecting genuine claims as well as cutting down the areas of land that are awarded. For example, 36 Adivasis of Kudagada village in Jharkhand filled claims forms, and after proper verification, the Gram Sabha (Village Assembly) submitted these claims with recommendations to the SDLC, which rejected all but six of them, and these six were smaller patches of land than had been asked for.

One of the successful claimants, Bando Munda, had filed a claim on 8 acres of land, but was given patta (entitlement) for merely 7 decimals of land.<sup>6</sup> A genuine question is that if Bando Munda is eligible for 7 decimals of land then why is he not eligible for 8 acres? There are millions of such cases, where the rights of the claimants were recognised only after decreasing the area of forest land, while a majority of claims were rejected. In these circumstances, it does seem that the government authorities are responsible for sabotaging the FRA.

Adivasis and OTFDs have also been denied their forest rights under the guise of protecting wildlife. There are 500 wildlife sanctuaries and 90 national parks in India. In many of these, Adivasis live there sustainably, and protected the forests long before these areas were declared parks and sanctuaries.<sup>7</sup> These genuine claimants of forest rights are being harassed, severely beaten and chased out from their habitations by forest officials (discussed in chapter 23). There have also been proposals for making wildlife corridors in several states.

'Land banks' are another means that have denied legitimate Adivasi and OTFDs land claims (discussed in chapter 15). For example, the state government of Jharkhand constituted the land bank in 2016, enlisting 2,097,003.81 acres of so-called government lands, which were actually community and forest lands and sacred groves. Out of this, 1,016,680.48 acres are forest lands (48.4 per cent of the total in the land bank).

The state government has been attempting to hand these lands over to the corporates. For instance, 42 acres of land registered in the land bank at Dimbuli village in West Singhbhum district were allotted to Vedanta company. This fact substantiates the argument that government officials do not care for the forest and wildlife, but want to exploit the natural resources for commercial purposes.

The villagers are also being denied their forest rights in the process of implementing the 'Compensatory Afforestation Fund' (CAF) Act 2016 (discussed in chapter 18). The government has collected <sup>1</sup> 90,000 crore, or about \$15 billion<sup>8</sup> from the developers, who have destroyed the forests with their mining, steel and other projects.

The fund is supposed to be used for afforestation on non-forest land. But the government authorities are

actually making plantations on forest land. For instance, in Gumla district of Jharkhand, forest officials have planted 50,000 saplings of teak, acacia and sisso in 50 hectares of forest land.<sup>9</sup>

Similarly, forest officials of Kandhamal district in Odisha fenced a 300-acre area of village forest called 'Dadapada' with metal gates, and planted 60,000 saplings<sup>10</sup> of commercial trees on it. The villagers had filed a claim for community title under the FRA, so the Gram Sabha opposed this fencing of the forest. In practice, the forest department has so far allowed the villagers to use it.

The Forest Conservation Act (FCA) 1980, which prohibits the diversion of forests for non-forest purposes, has been used as a legal weapon by the so-called conservationists, tiger lobbyists and the MoEF&CC (GoI) for evicting the Adivasis and OTFDs from the forest land and forests. Yet the far greater diversion of forest lands for mining, power and steel projects was never questioned.

In fact, the MoEF&CC (GoI) has been busy granting forest and environment clearance for such projects on a vast scale. The figures of diversion of forests for so-called development projects is very high (discussed in chapter 19). Between October 1980 and December 2018, 1,510,059.89 hectares of forest land was diverted for 26,194 non-forestry purposes, including mining, irrigation, power, road construction and defence projects.

In the last five years alone, 57,864.446 hectares of forest land was diverted for 2,347 projects; and this year (2019), by the end of June, 9,421.488 hectares of forest land has already been diverted for 957 projects.

The diversion of forests for non-forestry purposes is not only posing a threat in terms of climate change and protection of wildlife and biodiversity, but it has also caused huge damage to Adivasis and OTFDs, since they depend on agriculture and forest for their survival, as well as cultural and spiritual practices, which is drastically affected by climate change.

Adivasis and OTFDs who submit claims for their forest rights are also victimised and criminalised by government authorities (discussed in chapter 21). For instance, inhabitants of Jagtu, Jerua, Kope and Lanka villages, in the jurisdiction of Manika development block in Latehar district of Jharkhand, were terrorised and criminalised by being implicated in false cases and some of them were even jailed for claiming their rights on forest land, which they have occupied and cultivating for years.

The Forest Department (FD) has accused these villagers of deforestation and termed them illegal encroachers on forest land. From 2007 to 2013, the FD filed 31 cases against 99 members (including 9 women) of these villages. Thirteen of these were imprisoned for 45 days. Now they are struggling for survival.

One of the worst atrocities is forceful eviction (discussed in chapter 17). Among many such cases, 47 houses in Gadia and Sinjo villages of Jharkhand were destroyed by forest officials using JCB dozers in the freezing cold of December 2016. The forest officials justified their acts by alleging that these Adivasis had encroached on forest land.

After these evictions, there was nothing left for the villagers to eat, or to protect them from the freezing cold. The right to food, clothing and shelter of 220 villagers, guaranteed under Article 21 of the Indian Constitution,

was grossly violated by the Law enforcement agencies themselves. Yet no one was made accountable for denying the forest rights and right to life of these villagers.

The Supreme Court's eviction order of 13 February 2019, regarding the writ petitions (c) No. 109/2008 Wildlife First & Ors Versus Ministry of Forest and Environment & Ors, brought these matters to a head, and created unrest in the forest regions of India yet again (discussed in chapter 14 & 29).

Though the court stayed its order on 28 March 2019, after an intervention petition was filed by the Central government to modify the order, apprehending its consequences for the general election, the court may take any decision in the next hearings. Meanwhile, the government has also brought the draft Indian Forest (Amendment) Act 2019 (discussed in chapter 20).

As per the new draft, forest officials have been given the absolute authority to shoot Adivasis for 'violation of laws'.<sup>11</sup> This means that if a forest guard kills a so-called 'offender', this will invite no prosecution by the state governments without first initiating an inquiry into the matter under an executive magistrate. Under the new amendment, state government can also declare any forest as reserved and alienate the Adivasis and OTFDs from their ancestral lands.

If we calculate all the risks, 90 million Adivasis, who are struggling for their survival, are under the gravest threat of being alienated from their forest lands and traditional habitations, and also losing access to the forests. As per the Census data 2011, Adivasis are 8.6 per cent of the total population of India, which is 104 million people. Out of this total, just 10.1 per cent are estimated to have shifted to small towns and cities, while 89.9 per cent still live in or near the forests.

This book is an attempt to understand the relationship between Adivasis and forest, unfolding the ground realities of FRA. It exposes the dual role of the State, and tries to find out the various threats to Adivasis and OTFDs. It also attempts to gauge the climate crisis and its threat to the existence of agro-forest based communities. Finally, it raises a fundamental question that who is the real custodian of the forests? The book answers with the fact that it's none other than the Adivasis. They are the real custodian, protectors and conservators of the forests.

# 1

## Adivasis and Forest

*“There is a symbiotic relationship between the Adivasis and the Forests. Our identity, culture, tradition, ethos, spirituality, autonomy and existence rely on the forest.”*

*- Sushila Barla, Adivasi Activist  
Manoharpur, Jharkhand*

The Adivasis identify themselves as the Indigenous Peoples of India, whose ancestors were living in the territory much before the Aryan invasion.<sup>1</sup> They live in a symbiotic relationship with nature. This has been their way of life for generations, and this is the way of life they enjoy and know how to lead. This is why 89.9 percent of them still live in or near the forests,<sup>2</sup> even today. However, globalisation, liberalisation and privatisation have forced them to abandon their land, territory and resources. For decades, they have been struggling to survive.

Their land and forest are not only essential livelihood resources but their sole ‘identity, culture, tradition, ethos, spirituality, autonomy and social security,’<sup>3</sup> and they rely on them. Their customary rights over land and forests have been recognised and legitimised by various domestic legislations, i.e. Chhotanagpur Tenancy Act 1908, PESA Act 1996 and Forest Rights Act 2006.

The forest plays a vital role in the life of Adivasis, and in the same way Adivasis play a significant role in protecting trees and conserving the forest.<sup>4</sup> Adivasis consider the forest as part of their lives, and maintain a unique relationship with it. Hence their worship of sacred groves. They judiciously and sustainably use the forest to meet their needs but do not exploit it for economic gain.

Interestingly, when the so-called civilised world has been striving to make life easier by moving towards more luxurious lifestyles, most Adivasis still prefer to live in the forest regions. Therefore, the question arises in one's mind, whether they love to live in the forest or have become its prisoners? One must discover the truth.

### **Relationship between Adivasis and Forest**

In the ancient period, Adivasis mostly relied on hunting of wild animals and gathering of minor forest produce, especially fruits, flowers and roots for their survival)<sup>5</sup>. Later, hunting and gathering activities gave way for the most part to agriculture, which gradually became their major source of livelihood. Yet their dependence on the forest remained.

However, it is important to emphasize that they do not merely use forests as their livelihood resource but they also cultivate plants, protect and conserve the forest and scientifically use many resources to meet their needs. For instance, they cut some branches of a tree for domestic use rather than the whole tree, so that the tree survives and new branches branch out next year; and they avoid cutting bamboos in the rare years when bamboo flowers.

They maintain a unique relationship with the forests, like a relationship between mother and child or fish and water, or like two inseparable sides of the same coin.

This unique relationship has not only been acknowledged by the world community but also accepted officially as a 'symbiotic relationship' by the GoI through the National Forest Policy 1988.<sup>6</sup> This phrase denotes the dependence of two living creatures on each other<sup>7</sup>. This is the major reason why Adivasis prefer to live in the forests rather than in plains areas.

Far from being prisoners of the forest, instead they are her lovers, protectors and conservators. They perceive the forest as a garden of co-existence, which the so-called civilised world is not yet ready to accept. 'Civilised' people, with a capitalist mindset, see the forest merely as a resource, or source of economic gain, for which the Adivasis often present a major obstacle, which is why they so often get pushed out of forest areas.

But the fact of the matter is that Adivasis will not survive without the forest and vice-versa. This is substantiated by the 'India State of Forest Report 2017', which states that '215 tribal districts in India, have 37.43 percent forest coverage of the total geographical area',<sup>8</sup> which is much higher than the national average, which is merely 21.54 percent. Therefore, one would surely say that this co-existence of Adivasis and Forest is the only way for both to survive.

### **Forest as Adivasi Identity, Culture and Autonomy**

For many, it is a fundamental truth that Adivasis are aboriginals, original inhabitants or Indigenous Peoples of India. Constitutionally they are called 'Scheduled Tribes'. Adivasis are recognised by their surnames, which generally relate to nature, associated with animals, birds, fishes, trees, harvest, rocks, etc. This is evidence of their close association with nature.

The communal way of life, co-existence with nature, autonomy, equality and self-determination are significant

features of Adivasi civilisation. For instance, they work in agricultural fields collectively, and go to the forest for collecting firewood, fruits and flowers collectively, and perform folk dance collectively. This emphasis on communal sharing of work, food items and leisure is a hallmark of their rich culture. Often commented on are their honesty, efficiency in archery, culture of self-rule, and their extensive knowledge about the forests, wildlife and herbal medicines.

Exclusion from the forests would result in the destruction of their identity, culture, autonomy, equality and dignity. The so-called 'modern development' has denied them access to the natural resources they depend on, forcing them to migrate to the cities and adopt the culture of the other communities, where they tend to lose their own identity, culture, autonomy, equality and dignity. They become daily wage labourers, domestic servants and slum dwellers, at the cost of their indigenous identity. Thus, one can say that their identity, culture, autonomy, equality and dignity completely depend on the forests.

### **Forest as a life support system of Adivasis**

Forest plays an important role in the whole life cycle of Adivasis. Approximately half of their economy comes from the forests.<sup>9</sup> They collect so-called minor forest produce, i.e. Mahua flowers and fruits, Sal seeds and leaves, gum, Lac, firewood, vegetables, roots, Tendu leaves, etc. for their daily consumption. The surplus is sold in the market to meet other needs (such as clothes and tools). They mostly use herbal medicines to cure diseases and sickness.

Adivasis don't depend on government hospitals or private dispensaries except in serious cases. Thus, they avoid as much as possible paying large sums to doctors,

and live more economically. Adivasi livestock helps them to maintain their economy during food scarcity. They rear cows, goats, pigs, chickens, etc on grazing lands and forests. They gather fodder from the forests and sometimes use forests as grazing fields. Thus, forest is not only a source of livelihood but also a major life support system of Adivasis.

### **Forest as a source of social security of Adivasis**

Food, clothing and shelter: these are the three basic social security measures for human beings. While speaking about the social security measures of the Adivasis, the forest plays a key role. They collect minor forest produce, which helps them to ensure their food needs, including vegetables. Again, the surplus is sold in the market to meet other needs like clothes. While constructing a house, they get wood, roof materials, clay etc. from the forests and streams. This is how the forests fulfill their social security needs. Adivasis have been suffering from intense social insecurity ever since colonial era forest legislation started to deprive them from free access to their forests.

### **Forest as conscience, faith and belief of Adivasis**

Adivasis have their own way of conscience, faith and belief. Basically, they believe in the super-natural spirit called 'Bonga'.<sup>10</sup> According to the belief of the Santhal community, this World is inhabited by numerous spiritual beings of different kinds; and the Santhals consider themselves as living and doing everything in close association with these supernatural beings.<sup>11</sup>

They perform rituals under the Sal trees at a place called *Jaher* (sacred grove). The Mundas and Kharias call it *Sarna* and Hos call it *Deshawali*. Generally, the *Jaher*, *Sarna* and *Deshawali* stand at the edge of the forest. Their belief in

Bongas' presence in Sal trees gives rise to Jharkhand Adivasis' name for their own, indigenous religion as 'Sarna'.

The genesis of the *Sarna* is very interesting. According to Santal mythology, the Santhal Adivasis had gone to the forest for hunting and they started the discussion about their 'Creator and Saviour' while taking rest under a tree. They questioned themselves about who their God is? Whether it is the Sun, the Wind or the Clouds?

Finally, they concluded that they would shoot an arrow up to the sky and wherever it landed would mark the God's abode. The arrow they shot into the sky fell under a Sal tree. So they started worshipping the Sal tree and named their religion as 'Sarna' from this derivation.<sup>12</sup>

That is how the *Sarna* religion came into existence. Generally, there is a *Sarna* priest and assistant priest in every village. This is how the forests also determine the conscience, faith and belief of the Adivasis.

## 2

# Socio-Economic Status of Adivasis

*"Adivasi society is casteless, classless, based on equality, community based economic system, co-existence with the nature, consent based self-rule, dignity and autonomy."*<sup>1</sup>

*- Dr. Ramdayal Munda*

The word 'Adivasi' is a combination of *adi*, meaning 'beginning' or 'of earliest times,' and *vasi*, meaning 'resident of,' is generally translated as "original inhabitants."<sup>2</sup> Adivasi identity is uniquely different from neighbouring peoples, in many ways. The major difference is that Adivasis are out of the 'Varna and Caste' system of the Indian society. All evidences suggest that Adivasis are the first inhabitants of India. Internationally, they are what is known as Indigenous Peoples.

The term 'Adivasi' was popularised by the Adivasi scholar Jaipal Singh Munda during the Jharkhand statehood Movement.<sup>3</sup> In the Indian Constitution, they are classified as Scheduled Tribes (STs), who are guaranteed certain special rights and privileges under the fifth & sixth schedules, Part XVI and Article 46 of the Constitution.<sup>4</sup> Out of an estimated 744 Adivasi/tribal

ethnic groups in India, 705 are notified as Scheduled Tribes in 30 States and Union Territories.<sup>5</sup> However, several Adivasi ethnic groups are yet to be notified. If they were, the percentage of the Adivasi population would certainly go up, which would have direct impacts in the demography and politics of the country.

Unfortunately, the Indian government has repeatedly denied Adivasis' status as Indigenous Peoples of India, before the United Nations' Working Group on Indigenous Populations, even though, on September 13, 2007, it became party to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). In effect, this was the first official admission that Adivasis are India's Indigenous Peoples.

This admission received legal support from the Apex Court of India on January 5, 2011: while hearing an appeal (the special leave petition (Cr) No. 10367 of 2010 *Kailas & Ors Vs State of Maharashtra*), the Supreme Court (SC) said that the tribal people (Scheduled Tribes or Adivasis) are the descendants of the original inhabitants of India and as a group one of the most marginalised and vulnerable communities in India, whose historic injustice must be corrected.<sup>6</sup> However, the Indian Government has failed spectacularly to take adequate measures to protect their fundamental rights.

According to the census 2011, the Adivasis are 8.6 percent<sup>7</sup> of India's total population, which is 104 million. About 85 percent of them live in Rajasthan, Gujarat, Maharashtra, Madhya Pradesh, Chhattisgarh, Odisha, Jharkhand and West Bengal. About 12 percent live in Assam, Arunachal Pradesh, Nagaland, Meghalaya, Manipur and Tripura and the remaining three percent live in other states.<sup>8</sup> The sex ratio for India's overall population is 940 females per 1000 males, whereas the sex ratio of Adivasi community is 990 females per

thousand males,<sup>9</sup> which shows the extent of gender-based equality in the community, which is much better than mainstream Indian society, where female foeticide and infanticide are the major reasons for the declining sex ratio.

The country's Minister of women and Child Development, Maneka Gandhi acknowledged this officially when she said that 'two thousand girls are killed in the womb every day. Some are born and have pillows on their faces choking them. Female infanticide is a historic problem in India's highly patriarchal society, as daughters are often viewed as a burden because of the continuing prevalence of the dowry system.'<sup>10</sup>

Adivasis have been living in or around the forests in a rhythm close to nature, and their life cycles move around nature. They do not just depend on natural resources for their livelihood: their identity, culture, autonomy, conscience, tradition, ethos and existence are based in nature.<sup>11</sup> The government data suggests that 89.9 percent of Adivasis still live in rural areas: just 10.1 percent<sup>12</sup> have shifted to urban centres.

Another Adivasi scholar Dr. Ramdayal Munda, himself a record of Adivasi achievement, describes the true character of the Adivasi community as 'casteless, classless, based on equality, community based economic system, co-existence with the nature, consent based self-rule, dignity and autonomy'.<sup>13</sup>

The Adivasi economy could be termed as need-based or community-centric. It is also termed a subsistence or non-monetary economy, with little emphasis on making a profit.<sup>14</sup> Traditional rural markets were more a place for sharing commodities than selling goods to gain profit. Most of the goods were produced by the community, for instance, oil from seeds, broom, mat, edibles, agricultural

equipment, etc. Modernisation, despite all its positive impacts, has become detrimental to Adivasi community by imposing on it the profit based economic system and thus all the ills of a market-dominated economy.

Adivasis who produced goods to exchange for other goods in the rural markets have been strangled by the profit-based markets, which limits them by defining them as consumers. For instance, businessmen buy forest produce from Adivasis with money, instead of with other essential commodities.

Economic liberalisation, globalisation and privatisation have had terrible impacts on the social fabric, economy, politics, culture and idea of community development. The self-dependent community has been almost compelled to become government-dependent due to various factors arising out of wrong policies, for example, providing foodgrains at just one rupee per kilo through the public distribution system (PDS), housing schemes and forced land acquisition without free, prior and informed consent (FPIC).

Adivasis are being alienated from their land, territory and resources, and pushed out of the forests to serve the corporate interest, resulting in resourcelessness, landlessness and impoverishment of the community.

## 3

# Overview of Forest Policies

*“They fought against the colonial rule to ensure their autonomy in the forests. In response, the government called them criminal tribes and enforced the laws to eliminate them.”*

*- Dr. Rose Kerketta  
Educationist and Writer*

Forest policies are always a matter of debate in India. The ruling elites, forest Conservators and environmentalists see them as necessary for the protection, management and conservation of forests. Others see them as a threat to the very existence of the Adivasis and OTFDs. Therefore, it is very significant to see the forest policies in their historical context to understand them.

### **Before British Rule**

Frankly speaking, in the ancient period, land, forests, hills, water bodies and mineral resources were not perceived as ‘property’, instead these natural resources were considered as the commons, under the control of local communities. Common property rights were the norm, and people’s survival depended on this. Lands were cultivated on a community basis. ‘The

Mundari and *Bhuinhari* system in Chhotanagpur, the *Pradhani* system in Santhal Pargana and the *Bhaichara* system in eastern Uttar Pradesh are crucial examples of these ancient practices.<sup>1</sup> The essence of this system is prevalent in Adivasi society even today. For instance, there is no individual ownership of land in the 156 villages of Khunti district in Jharkhand which are recognised as the traditional *Mundari Khutkatti* under the Chhotanagpur Tenancy Act of 1908.

Natural resources were never over-exploited but used according to the needs of communities. 'Before the advent of the British rule in India, there were customary restrictions on the uses of forests. Certain types of trees were regarded as sacred and never cut. Certain areas were regarded as 'Deveraya' (God's grooves) and not a leaf could be taken from these areas.<sup>2</sup> The community used to have ownership of the forests. The Adivasis even today worship the Sal trees of sacred groves called *Sarna*, *Jaherthan*, *Deshawli*, etc. People are not allowed to take even dried leaves from these sacred groves.

As the situation gradually changed, forests increasingly caught rulers' interest, and forests began to be monitored. The first forestry administration can be said to date from 300 BC, during the reign of Chandra Gupt Maurya, who appointed a 'superintendent of forests to protect valuable trees and wildlife.'<sup>3</sup> References about forest management continue during the reign of Ashoka, when 'much importance was given to tree plantation along the roads and on camping sites.'<sup>4</sup> But there wasn't any restriction on community access to the forests.

During the Mughal period, emperors were not much concerned about forest conservation. 'However, Akbar was keen in planting trees along canals and highways.'<sup>5</sup> Peoples had free access to the forests. They 'met their

needs with the forest produces without any restriction.<sup>6</sup> The rulers and peoples did not have any conflict for utilizing the forest resources.

## **During British Rule**

Community control over natural resources (especially land and forest) faced severe setbacks with the enactment of the Permanent Settlement Act in 1793. It was the British policy to generate 'as much revenue from land as possible.'<sup>7</sup> This is how the land and forests, which were earlier 'considered to be the community owned natural resources, became private property of individual owners'<sup>8</sup> or was placed under State control. The Act created chaos and upheaval among Adivasis.

High levels of resource exploitation began: minor forest produce were used to 'support British industries'<sup>9</sup> and 'heavy destruction of the forests occurred in the later part of the 18<sup>th</sup> and early part of the 19<sup>th</sup> centuries in India. The colonializers carried away much of the produces to their countries. In the early years of the British rule large indents were made on the timber wealth of the country.

Teak forests along the coast of Malabar were over exploited to meet the requirements of the British Navy, following the appointment of a Commission in 1800 to inquire into the availability of teak. Apart from this species, Sandalwood trees of south India were exploited to cater for the demands of the European markets.<sup>10</sup> Forests were snatched from the communities and exploited in the name of protection, conservation and plantation economies.

Gradually, British rulers empowered their actions by enacting numerous laws. The first Conservator of Forests was appointed 'in 1806 to organise timber

supplies from the west coast.<sup>11</sup> This is how the problems of forest conservation started. 'In 1855, the government of India issued a memorandum outlining the rules for the conservation of forests for the whole country.'<sup>12</sup> Lord Dalhousie, the Governor General of India, proclaimed through the [1855] policy that 'timbers standing on state forests were the state property and that other individuals had no rights or claims.'<sup>13</sup>

The Indian Forest Service (IFS) was introduced for the first time in India to implement this 1855 policy. 'The conservation and protection of existing forests'<sup>14</sup> were the primary objectives of the IFS. In 1864, 'Dr. Dietrich Brandis, was appointed the first Inspector of forests.'<sup>15</sup>

All these steps were taken to enhance State control over the forests and to make sure that they were not plundered for profit. Yet this State control resulted in depriving and alienating Adivasis and OTFDs from the forests.

## **The First Forest Act of 1865**

The first Forest Act was introduced in 1865, under Brandis, for 'the management and preservation of the forests.'<sup>16</sup> The Act empowered the government to declare any piece of land covered with 'trees or brush-wood as government's forest and to make rule regarding the management of it.'<sup>17</sup> This is how communities were alienated, excluded and denied the free access to the forests.

## **The Forest Department**

The next step was establishment of the Forest Department (FD) in 1866.<sup>18</sup> The FD claimed that India's forests were fast disappearing due to the 'spread of cultivation.'<sup>19</sup> It was alleged that people who had lived

uncounted generations in forest areas neither had the capability to 'manage forests properly nor to understand how forests may be conserved and utilized to the best advantage.'<sup>20</sup>

The activities of the FD were confined to 'preservation and development of large timber forest such as the Sal forest of Dudh and deodar forest of Himalayas and forests of the western Ghats.'<sup>21</sup> The FD 'ensured continuous revenue to the government.'<sup>22</sup> Communities were forcefully evicted from the forests in many ways, denied access and any role in management and conservation.

### **The Indian Forest Act of 1878**

The Forest Act 1865 was superseded by the Indian Forest Act 1878, which was 'more comprehensive than the earlier one.'<sup>23</sup> Forests were classified into three categories - i) Reserved forests, ii) Protected forests, and iii) Village forests. 'Several restrictions were imposed on the people's rights over the forest land and forest produce in the protected and the reserved forests.'<sup>24</sup>

A duty (tax) was imposed on timber through the Act, which, later became 'one of the major sources of government revenue.'<sup>25</sup> This Act took away peoples' free access to minor forest products in the reserved and protected forests. In 1891, the Provincial Forest Service was inaugurated to implement this policy on the ground.

### **The National Forest Policy of 1894**

The 'National Forest Policy 1894' recognised three vital needs: i) promotion of general well-being of the country, ii) fulfilling the needs of the people, and iii) preserving climatic and physical conditions. But 'the policy emphasized the need for the State control over

forests and the need to exploit forests for the purposes of augmenting of State revenue'<sup>26</sup> more than for people's well-being, or for the health of what we would now call the ecosystem as a whole.

### **The Board of Forestry**

The government introduced frequent, significant changes. 'In 1910, the Board of Forestry was created at the national level under the chairmanship of the Inspector General of Forests.'<sup>27</sup> Again 'the national character in forest administration was considerably diluted with political changes in 1921 when forests became a provincial subject and their administration came to rest in the government of the concerned provinces.'<sup>28</sup>

### **The Indian Forest Act of 1927**

In 1927, another Act called the 'Indian Forest Act, 1927' was introduced, which consolidated 'all the major provisions of the earlier Acts'.<sup>29</sup> This empowered the government to declare any piece of land as forest and to control the collection of forest produce. Another major provision imposed a duty or tax on all forest products in addition to timber. One ray of hope for the people allowed state governments the power to de-reserve reserved forests (section 27). Forests were now classified into three designations - i) Reserved Forests, ii) Protected Forests and iii) Village Forests.

#### **i) Reserved Forest (RF)**

These are reserved exclusively for use by the State. State governments could constitute any forest or waste land which is the property of the government, 'or over which the government has proprietary rights or to the whole or any part of the forest produce of which the

government is entitled, reserved forests.<sup>'30</sup> When forest is demarcated as RF, no one can enter it, and it cannot be used for non-forest purposes. Violators of this law 'shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.'<sup>31</sup>

## **ii) Protected Forest (PF)**

'The state government may, by notification in the official Gazette, declare the provisions of this subject applicable to any forest land or waste land which is not included in a reserved forest, but which is the property of the government or over which the government has proprietary rights, or to the whole or any part of the forest produce of which the government is entitled.'<sup>32</sup> The forest and wasteland comprised in any such notification was termed 'Protected Forests', and communities were banned from using them.

## **iii) Village Forest**

The rulers also demarcated some forests as 'village forests' so that communities could meet their everyday needs. As per the 1927 Act, 'the state government may assign to any village community the rights of the government over any land, which has been constituted a reserved forest and may cancel such assignment. All forests so assigned are called village forests.'<sup>33</sup> State governments were empowered to make rules regulating the entire management of village forests, undermining traditional practices for protecting and improving forests.

## **After Independence**

On 15 August 1947, where forests and Adivasis were concerned, everything remained the same except

the rulers. In some ways the situation got even worse. After Independence, the first step of the GoI was setting up a Central Board of Forest (CBF) in 1950 to provide guidance to the government of India in formulation of the forest policies and programmes. The functions of the CBF were defined<sup>34</sup> as:

- Co-ordination and integration of the forest policy pursued by states in the management of their forests.
- The adoption of conservation measures affecting forest resources and soil.
- Integration of plans for land use and national reconstruction in which forestry must play a progressively important role.
- Promotion of legislation considered necessary in the various states for the management of private forests.
- Regulation and development of forests in inter-state river valleys, which are the concern of the central government.
- Maintenance of adequate standards of the training of officials.
- Co-ordination of forest research conducted in central and state institutions.

### **The National Forest Policy of 1952**

A revised Forest Policy was drafted in 1952. This targeted Adivasis directly by advocating weaning them away from their traditional agricultural practices and barring them from grazing their cattle in the forest. The policy laid emphasis<sup>35</sup> on:

- i) Weaning tribal people by persuasion from the practice of shifting cultivation, which was seen as inherently destructive.
- ii) Making forest administration increasingly efficient.
- iii) Giving requisite training to the staff of all ranks.
- iv) Providing adequate facilities for the management of forests and for the conduct of research in forestry and forest products utilisation.
- v) Controlling grazing in forests.
- vi) Promoting the welfare of the people.

### **The Orissa Forest Act, 1972**

Meanwhile, the State governments also took initiatives in the formation of forest policies. The state government of Orissa introduced the Orissa Forest Act in 1972, due to a perceived contradiction between the Indian Forest Act of 1927 and the Madras Forest Act of 1882, which 'imposed an extra strain on the government machinery with no commensurate advantage and this could be avoided by one unified Act'.<sup>36</sup> The main features of the Act were:

- i) Power to reserve forests.
- ii) Rights not to alienate without sanction.
- iii) Power to stop ways and watercourses in reserved forests.
- iv) Power for punishment.
- v) Suspension of rights in reserved forest.
- vi) Power to declare Forest no longer reserved.
- vii) Power to constitute village forests and protected forests.

- viii) Power to make rules for protected and village forests.
- ix) Power to assume management and acquisition of forests.
- x) Power to make rules to regulate transit of forest produce.

## **Amendment of the Constitution**

After Independence, the subject of forest was included in the State list in the seventh schedule (item 19) in the Constitution. However, a major change was done through a constitutional amendment in 1976. 'The subject of forest was transferred from the state list to the concurrent list through the 42<sup>nd</sup> amendment to the Indian Constitution.'<sup>37</sup> This empowered the central government by seizing the state governments' role in forest affairs.

## **1974 Directive of the Government of India**

The GoI first issued a directive to state governments in 1974 to convert forest villages into revenue villages, collecting land tax from revenue villages in exchange for some basic development works, while forest villages retained a degree of autonomy from the government. State governments began this conversion process but the pace was very slow, and relatively few villages were so converted.

## **The National Commission on Agriculture**

In 1976, the National Commission on Agriculture advocated for a commercialisation of forests 'at all costs and with disregard to the sustenance of Adivasis in the forests.'<sup>38</sup> The NCA completely denied the rights and privileges of Adivasis and OTFDs, alleging that 'free supply of forest produce to the rural population and

the rights and privileges have brought destruction to the forests and so it is necessary to reverse the process. The NCA alleged that the rural people have not contributed much towards the maintenance or regeneration of the forests.<sup>39</sup>

The NCA recommended that a revised national forest policy of India should be based on important needs of the country and forests should be classified into i) protection forests, ii) production forests and iii) social forests (a reclassification of village forests).

It further recommended for 'strengthening legislation on forestry for effective implementation of forest policy and enactment of a revised All India Forest Act.'<sup>40</sup> From a blatantly biased perspective, the NCA denied any people's participation in forests' management and regeneration.

## **The Forest Conservation Act, 1980**

The NCA excluded the people from forests to an unprecedented extent. The GoI enacted the Forest Conservation Act, 1980 in order 'to provide for the conservation of forests by checking the indiscriminate diversion of forest land for non-forest purposes.'<sup>41</sup>

This Act restricts the de-reservation of RFs and the use of forest land for non-forest purpose (section-2), with stringent provisions to punish people who violate this law. 'Tea cultivation, coffee cultivation, spices, rubber, oil-bearing plants, horticulture crops and medicinal plants were all defined as non-forest purposes'<sup>42</sup> in the Act.

Ironically, this Act allows the government to exploit forests in the name of conservation, development and management of forests and wildlife, 'namely the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and

culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.<sup>43</sup>

The Act shows no concern about the Adivasis and OTFDs at all, denying their rights and privileges completely. At the same time, it strengthens the power of the Central Government and takes away the power from the state governments.

The Forest Act of 1927 left some scope of negotiation for Adivasis and OTFDs pertaining to their rights and concessions on forests, where reserved forest can be de-reserved (as per section 27) by state governments etc. The Forest Conservation Act of 1980 allows no such provision for negotiation and de-reservation. This means that people who have been living in such forests must be thrown out and the state governments can only be mute spectators rather than protecting the rights and privileges of the Adivasis and OTFDs.

### **The National Forest Policy, 1988**

The implementation of the Forest Conservation Act of 1980 created unrest across the country, with protests from communities, civil society organisations and people's movements, which forced the government to bring a more community centred policy. Hence the more comprehensive forest policy of 1988, which aimed to avoid conflicts.

The principal aim of this National Forest Policy was to ensure 'environmental stability and maintenance of ecological balance including atmospheric equilibrium, which are vital for sustenance of all life forms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim.'<sup>44</sup> The policy also recognizes the rights and concessions of the Adivasis and OTFDs.

The policy advocates for protecting the livelihood of Adivasis and OTFDs living within and near the forests. Their rights and concessions were to be fully protected (section 4.3.4). 'Their domestic requirements of fuel-wood, fodder, minor forest produce and construction timber should be the first charge on forest produce there and substitute materials should be made available through conveniently located depots at reasonable prices.'<sup>45</sup>

This policy recognizes the 'symbiotic relationship between Adivasis and forests'<sup>46</sup>(section 4.6), as well as wildlife conservation. It prohibits shifting cultivation and promotion of forest based industries, and attempts to end 'encroachments' on forest lands. It also emphasizes the idea of creating a people's movement with the involvement of women, for achieving these objectives and to minimize pressures on existing forests.

## 1990 Guideline

In 1990, the GoI issued a guideline for the State governments aimed at regularising the status of forests, regarding encroachments on forest lands prior to 1980. This was done through FP-1, FP-2 and FP-3, which are formats for claiming forest land and village forests : Regularisation of Encroachments (FP1), Review of Disputed Claims (FP2), Regularisation of *pattas* and leases (FP3), and Conversion of Forest Villages to Revenue Villages (FP5).

This guideline fixes a boundary termed the 'eligible category.'<sup>47</sup> People who have been living in the forests are required to produce proof of their residence there prior to 1980. This guideline has not fulfilled its intended purpose, since hundreds and thousands of people who have some documents to prove their presence in the area have been kept waiting by the authorities, who have

failed to validate them in a timely manner; while huge numbers lack such documents, or have even witnessed them destroyed by ill-disposed officials.

### **The Joint Forest Management Circular of 1990**

Another major development took place the same year, when the GoI issued a circular called 'Joint Forest Management' (JFM). This was based on the recommendation of the National Forest Policy 1988. It represents the first time the government accepted the involvement of Adivasis and OTFDs in afforestation and management of the forests. The objectives of the JFM are:

- i) To improve forest based biomass resources base in degraded forest basis for the domestic needs of the identified communities.
- ii) To involve local Adivasis and other rural poor in protection and development of degraded forests.
- iii) To provide gainful employment and a sustainable economic base to Adivasis and other rural poor near their habitations.

Ironically, the JFM also failed to bear the sweet fruits intended, since officials of the forest department manipulated and dominated the programmes. For instance, according to the JFM guideline, decisions should be taken jointly with local communities; but in reality, officials took all major decisions on policy matters and implementation.

People were only empowered on paper in Joint Forest Management. As for women, who were supposed to play a leading role, they continued to be completely marginalised.

## **The Eviction Order 2002**

This 'Eviction Order' inflicted the worst atrocities on Adivasis and OTFDs. The Ministry of Environment and Forest (GoI) issued an order following the Supreme Court's verdict in 2002 to 'evict the illegal encroachments of the forests and forest land in time bound manners'.<sup>48</sup> The order also describes the encroachment of forests by the powerful lobbies, which caused great harm to forests conservation, particularly when these are carried out in the remote areas in a honeycomb pattern.

The order further states that 'these encroachments are also seriously threatening the continuity of the wildlife corridors between the various National Parks and Sanctuaries'.<sup>49</sup> Ironically, none of the powerful lobbies (resorts, hotel and other business entities built on the forest land) were discouraged, but the Adivasis and OTFDs were targeted immediately by the government officials. Adivasi houses were razed, using elephants and JCB machines. Besides, the forest officials also set fire to many houses.

## **Central Empowered Committee**

The Central Empowered Committee (CEC) was constituted by the order of the Supreme Court in 2002. The committee had responsibilities to provide suitable relief to 'any individual having any grievance against any steps taken by the Government or any other authority in purported compliance with the orders passed by the Court'.<sup>50</sup> The Committee was also asked to send a quarterly report on the developments. The committee was empowered to:

- i) Call for any document from any person or the Government of the Union or the State or any other official.

- ii) Summon any person and receive evidence from such person on oath either on affidavit or otherwise.
- iii) Seek assistance in relation to its work.

## **The Forest Rights Act 2006**

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 known as the Forest Rights Act 2006 is a historical legislation, notified into force on 31 December 2007 and enforced from 1<sup>st</sup> January 2008. It represents the first time that Indian rulers officially accepted the historical injustices done to the Adivasis and OTFDs by not recognising their rights over the traditional lands and habitations.<sup>51</sup>

The Indian State aims to right the historical wrongs through the Forest Rights Act by recognising individual and community rights on the forest lands, commons and forests. The following rights are recognised:

- (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
- (b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
- (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal other traditional forest dwellers.

- (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
- (f) rights in or over disputes lands under any nomenclature in any state where claims are disputed;
- (g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any state government on forest lands to titles;
- (h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
- (i) rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
- (j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribal under any traditional or customary law of the concerned tribes of any State;
- (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

- (m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes or other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

The Forest Rights Act is a unique act in several aspects; it democratizes the forest management by vesting the decision-making power to the communities themselves (through the Gram Sabhas). Capturing the highly complex nature of Indian society, it provides for the restitution of deprived forest rights across the country, including both individual rights to cultivated land in forest land and community rights over common property resources, and it provides scope and historic opportunity for integrating conservation with people's livelihood rights.

The FRA thus reinstated the rights to access, manage and govern forest land and resources, and resources within village boundaries, which had been controlled by the forest department since colonial times.

## **CAF Act 2016**

The Indian government enforced the Compensatory Afforestation Fund(CAF) Act 2016, which claims to providing for the establishment of funds under the public accounts of India and the public accounts of each State, crediting there to the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value and all other amounts recovered from such agencies under the FCA, 1980.

It constitutes an authority at the national level and at each level of State and Union territories for administration of the funds, and to utilise the monies so collected for undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure development, Green India Programme, wildlife protection and other related activities and for matters connected there with or incidental there to.<sup>52</sup> However, this Act has become one of the biggest obstacles to proper recognition of the rights of Adivasis and OTFDs (discussed in detail in chapter 18).

### **Draft National Forest Policy 2018**

Meanwhile, the MoEF&CC (GoI) introduced a draft National Forest Policy in 2018. This Policy claims to safeguard the ecological and livelihood security of people of the present and future generations, based on sustainable management of the forests for the flow of ecosystem services.

In order to achieve the national goal for eco-security, the country should have a minimum of one-third of the total land area under forest and tree cover. In the hills and mountainous regions, the aim will be to maintain two-third of the area under forest & tree cover in order to prevent soil erosion and land degradation and also to ensure the stability of the fragile eco-systems. Following are the objectives of policy:

1. Maintenance of environmental stability and conservation of biodiversity through preservation and conservation of natural forests.
2. Reverse the degradation of forest by taking up rehabilitation without compromising its natural profile.

3. Improvement in livelihoods for people based on sustainable use of ecosystem services.
4. Contribute towards achieving forestry related Nationally Determined Contribution Targets (NDC's) of the country.
5. Checking denudation and soil erosion in the catchments of rivers and the wetlands through integrated watershed management techniques and practices.
6. Maintenance of the health of forest vegetation and forest soils for augmenting water supplies through recharge of underground aquifers and regulation of surface water flows.
7. Safeguard forest land by exercising strict restraint on diversion for non-forestry purposes, and strict oversight on compliance of the conditions.
8. Increasing substantially the forest/tree cover in the country through Afforestation & reforestation programmes, especially on all denuded and degraded forest lands and area outside forests.
9. Manage protected areas and other wildlife rich areas with the primary objective of biodiversity conservation and for enriching other ecosystem services.
10. Conserve and sustainably manage mountain forests to ensure continuous flow of ecosystem services, including watershed, biodiversity, cultural and spiritual services to both upstream and downstream population.
11. Factor green accounting, valuation of ecosystem services and climate change concerns adequately into the planning and management of all forests, protected areas and other ecosystems.

12. Increase substantially the tree cover outside forests by incentivizing agro-forestry and farm forestry, facilitating assured returns, with enabling regulations and by promoting use of wood products.
13. Integrate climate change mitigation and adaptation measures in forest management through the mechanism of REDD+(Reducing Emissions from Deforestation and Forest Degradation plus) so that the impacts of the climate change is minimized.
14. Incentivize sustainability in community managed, community owned private forests and creating a sustained peoples' movement for achieving these objectives.
15. Managing and expanding green spaces in urban and peri-urban areas to enhance citizens' well- being.
16. Ensure effective translation of this policy into action by establishing credible measuring, monitoring and evaluation framework, ensuring good governance, providing commensurate financial support and developing an implementation framework with periodic review.

The National Forest Policy, 2018, being drafted by the MoEF&CC (GoI) is another threat to the forest rights of Adivasis and OTFDs in India.

This draft National Forest Policy provides for the adoption of a completely new legal framework that is not only discriminatory towards the Adivasis and OTFDs, but also further seeks to take away their rights that have been already recognised under existing laws.

In particular, for the purpose of exploitation of natural resources, an estimated 4,429,818 hectares of "community forest" is to be taken away, for which titles have been issued to the indigenous peoples under the

Forest Rights Act (FRA) as of August 2018<sup>53</sup>, and 22,938,814 hectares of forest area<sup>54</sup> covered under the JFM Committees since 1990.

The area constitutes about one-third of India's total forest cover – equivalent to the size of the UK and Belgium combined, or double the size of Bangladesh.

### **The Eviction Order 2019**

On 13 February 2019, the Supreme Court of India, while hearing the Writ Petitions (c) No. 109/2008 Wildlife First & Ors Versus Ministry of Forest and Environment & Ors, passed an order for evicting the claims rejected under the Forest Rights Act 2006<sup>55</sup>.

However, on 28 March 2019, the Court stayed its order after an intervention petition was filed by the Central government. The Court ordered all secretaries of the state governments to file affidavits regarding the reverification of the FRA claims.

The Court also ordered the Forest Survey of India to make a satellite survey and place on record the encroachment positions as far as possible before the next hearing.<sup>56</sup> Therefore, there is an apprehension that if the Supreme Court orders the central and state governments to execute its earlier order, there would be eviction of more than 2 million Adivasis and OTFD families.

### **Draft amendment to Indian Forest Act 1927 by the Forest Act 2019**

On 7th March, 2019, the Inspector General of Forest (forest policy) MoEF&CC (GoI) wrote a letter to the Principal Conservators of forest and HOFF's All States/

UTs expecting their comments/views on the proposed draft for so-called comprehensive amendments to the Indian Forest Act 1927. The letter reads that the process must be completed by 7th June 2019. The proposed amendments exposes the intention of the State against the Adivasis and OTFDs.

The proposed Act empowers the state governments to declare any forest as reserved forest.<sup>57</sup> Forest guards are also given power to shoot anyone found with axes or other traditional weapons in the forest – a customary practice since time immemorial.<sup>58</sup> The Act guarantees impunity, as a legal action cannot be initiated against perpetrators without prior permission of the government.<sup>59</sup> In such circumstances, there is likely to be a bloodbath in the forest if the Act is enforced.

## **Conclusion**

With the exception of the forest rights act (2006), the forest policies were imposed with a clear intention to alienate the communities from their forest resources. The policies were framed and enforced very cleverly by the State. During the pre-British rule, the rulers watched forests but communities were not restricted or denied the utilisation of forest resources to meet their everyday needs. There was also no such conflict between the rulers and communities regarding their access to the forests. The Adivasis and OTFDs enjoyed their rights, privileges and concessions over the forest resources.

During British rule, the people's rights over natural resources were completely denied. A duty (tax) was imposed on forest produce. At the same time, forest resources were overexploited in order to generate revenue. The rulers empowered their control over the natural resources (land and forests) by imposing

numerous policies and laws, establishing various forest administrations, with cruel provisions for violators of the new laws. Adivasis and OTFDs were badly affected by these initiatives of the British India government. Their socio-economic, culture and political systems were almost destroyed.

During the post-independence period, two major, contradictory developments took place in the country regarding the forests. On the one hand, the people's free access to forest has been prohibited in the name of preservation, conservation, protection, plantation and management, and on the other hand, historical injustices, the rights and privileges have also been also recognized.

Indeed, the forest policies do not only deprive Adivasis and OTFDs from their livelihood resources, destroying their socio-economic, cultural and political systems, but also falsely depict them as 'encroachers; and enemies of the forests and wildlife.

It is evident that the government is simply not concerned about the welfare of the Adivasis and OTFDs, but under the guise of protecting and conserving the forests, it actually intends to generate as much revenue from them as it can. Therefore the need to recognise, respect and protect the rights of Adivasis and OTFDs on forest lands and forests has never been more urgent than it is today.

## 4

# Forest, Adivasis and the Constitution

*“The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.”*

*- Article : 48(a)  
Constitution of India*

Forest has been a prominent space in India's Constitution. Historically, in 1935 the British Parliament, through the government of India Act of 1935, created provincial legislation and what is known as the dual system of government came into operation.

The subject of forest was included in the provincial legislative list (under item 22).<sup>1</sup> Using the authority, several provinces made their own laws to regulate forests. Most of these laws were within the framework laid down in the Indian Forest Act, 1927.

After India's independence, the same policies continued and 'the subject of forest was included in the State list in Schedule VII (item 19)' in India's Constitution.<sup>2</sup> Another major development took place in 1976. 'The subject of forest was transferred from the State list to the concurrent list<sup>3</sup> through the 42<sup>nd</sup>

amendment to the Constitution. This resulted in the diminution of states' powers and enhancement of the centre's powers over forests.<sup>4</sup>

The emphasis has also been given on protection and improvement of environment and safeguarding of forests and wildlife in the Constitution of India. It is clearly mentioned in Article 48a that 'the State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country.'<sup>5</sup>

Indeed, right from the beginning, the State made safeguarding laws and policies for the forest a priority, and after India's independence this was incorporated in the Constitution. But at the same time, the Adivasis were completely neglected in the Constitution as per their rights and concessions over the forest land and forests are concerned.

There is not a single word written in the Indian Constitution in relation to forest and Adivasis. Even after the 42<sup>nd</sup> amendment of the Constitution, the priorities were restricted merely to forests conservation and protection of the wildlife.

The naked truth is that the Indian State excluded the Adivasis from the forest and wildlife by rejecting the idea of co-existence. That way the protection and conversation of the forest and wildlife was ensured and the Adivasis were portrayed as enemies of the forest and wildlife through various Acts and policies.<sup>6</sup> But the fact is that the Adivasis are the real custodians of forests and wildlife.

## 5

# Forest in the Five-Year Plans

*"The main objectives of the MoEF&CC (GoI) include protection of the environment; conservation and survey of flora, fauna, forests and wildlife; prevention and control of pollution; afforestation and regeneration of degraded areas; ensuring welfare of animals; and international cooperation in forestry and environment."*

**- 12th Five-year Plan  
Planning Commission of India**

Five year plans have played a significant role in the growth and development of India. Historically, they were first implemented by Joseph Stalin in the Soviet Union in 1928.<sup>1</sup> Later, several communist, socialist and capitalist governments adopted it to accelerate the process of growth and development in their countries. India launched its first five year plan in 1951, immediately after independence, under socialist influence of the first Prime Minister, Jawaharlal Nehru.<sup>2</sup>

India has implemented 12 five-year plans so far. As far as the subject of forest is concerned, special attention has been given in most of the plans. Afforestation, preservation, conservation, management and development of the forests have been discussed and included. The main points of the plans relating to the forests are described in Table (5.1).

**Table : 5.1: Forest in Five year Plan**

<b>Plan</b>	<b>Year</b>	<b>Major Provisions</b>
The First Plan	1951 - 1956	In the first plan, the focus was on the afforestation and rehabilitation of the degraded forests and the creation of plantation of economically important species suitable for matchwood and other uses.
The Second Plan	1956 - 1961	This time the emphasis was given to the conservation of wildlife, and several wildlife sanctuaries were planned to be established for the purpose.
The Third Plan	1961 - 1966	The plan emphasized measures to meet the long-term requirements of the country and to ensure a more economic and efficient utilization of valuable products.
The Fourth Plan	1966 - 1974	This time, the plan stresses those measures, which would meet immediate and long-term agriculture and industrial requirements. The plan set objectives to increase the productivity of forests, to link up forest development with various forest-based industries and to develop forests as a support to rural economy.

<p>The Fifth Plan</p>	<p>1974 - 1979</p>	<p>The fifth plan was to take up a dynamic programme of production forestry, aiming at clear felling and creating long scale man made forests with the help of institutional financing. The produce from clear felled areas should be utilized in wood-based industries by locating additional units wherever required. The other important things were to develop farm forestry and to improve degraded forests so as to increase the fuel and timber supply in rural areas. A system of meaningful forest surveys should be conducted to assess the present growing stocks, increments and potential increments by forest divisions, natural regions and states.</p>
<p>The Sixth Plan</p>	<p>1980 - 1985</p>	<p>The major objectives of the Sixth Plan were the conservation of existing forests and the launching of countrywide afforestation and social forestry programmes. Apart from maintaining a proper environmental balance and ensuring the conservation of natural resources the forest policy and programmes aimed at providing for the fuel, fodder and other domestic needs of the population and the needs of</p>

		<p>village, small-scale and large-scale industries. The major area of thrust would be the promotion of a people's forestry movement.</p>
The Seventh Plan	1985 - 1990	<p>The Plan gives the highest priority to restore the forest cover. Reduced soil erosion, reclamation of marginal lands, reduced wind velocities, and an increase in the organic matter, content of soils and water holding capacity are some of the benefits that will result from the plan. Besides, a significant improvement in the rural economy was the goal. Increasing forest cover would create additional rural community assets such as fuel, timber, fodder, fruits and other products traditionally derived from forests, as also organic matter. Special efforts will be made to step up resumption of the country's flora and fauna.</p>
The Eighth Plan	1991 - 1997	<p>The plan concerns itself with environment stability. It identifies that the destruction and degradation of forests has a heavy toll on our soil and water resources. Loss of topsoil, vegetative cover, unregulated surface</p>

		<p>run-off with poor recharge of aquifers seriously affects the society and in particular tribals. The plan also stresses on removal of poverty, generation of employment, raising the levels of education and increasing awareness of the people are crucial for protection of environment.</p>
<p>The Ninth Plan</p>	<p>1997 – 2002</p>	<p>The ninth plan talks about the environment sustainability. It stresses conservation, management and development of the forests. The plan also identifies the role of major groups i.e. the NGOs, farmers and other communities and stresses strengthening environmental programmes through their direct involvement in the process of identification, formulation and implementation. The important role of capacity building, legal instruments and mass media for promoting public awareness is fully recognized.</p>
<p>The Tenth Plan</p>	<p>2002 – 2007</p>	<p>The plan stresses on supply of timber, fuel wood, fodder, and a wide range of non-wood products. It also describes the country's forest resource being under tremendous pressure. Intensified shifting cultivation,</p>

		<p>indiscriminate removal of timber, fuel wood, fodder and other forest produce, forest fire and encroachment has led to forest degradation and deforestation according to the plan. Forests meet nearly 40 per cent of the country's energy needs and 30 per cent of the fodder needs. It is estimated that about 270 mt of fuel wood, 280 mt of fodder, over 12 million m<sup>3</sup> (cubicmeter) of timber and countless non-wood forest products (NWFPs) are removed from forests annually. Emphases is put on i) The future management must, ii) Take into account this compelling need for meeting the requirements of the community. iii) The role of Panchayat Raj Institutions (PRIs) and voluntary agencies in the management of forests needs to be formalised.</p>
The Eleventh Plan	2007 - 2012	<p>It has been stated that the government is committed to promote such development processes, which are environmentally sustainable. The strategies would be adopted for the management and conservation of the natural resources. It has also been stated that the</p>

<p>The Twelfth Plan</p>	<p>2012 - 2017</p>	<p>developmet without the environmental balance, will lead to degradation of life. Therefore, the environment has been given high priority in the development agenda.</p> <p>Constitutionally, Environment is a residual subject, with both the Central and the state government responsible for regulation and enforcement. Thus, there is a need to include 'environment' as a concurrent subject in the constitution. This will help the State governments and the local authorities enact and notify their own enforcement laws and rules to ensure compliance of relevant environmental norms. This issue, which was highlighted in the previous plan as well, not only remains relevant but needs to be pursued on priority. This initiative will also be important for integrating environmental concerns into planning and developmental activities across all the sectors. The MoEF is concerned with protection and management of the environment in the country. It is mandated with the responsibility of planning, promotion, cooperation</p>
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and overseeing the implementation of various environmental and forestry schemes/programmes. The main objectives of the MoEF include protection of the environment; conservation and survey of flora, fauna, forests and wildlife; prevention and control of pollution; afforestation and regeneration of degraded areas; ensuring welfare of animals; and international cooperation in forestry and environment. The MoEF is also concerned with environmental management: to promote health considerations; to focus on poverty alleviation by enhancing access to poor of natural resources for livelihood; and to enhance the awareness regarding environmentally sound living process by focusing on nature-man synergy. MoEF is also designated as the nodal agency for the United Nations Environment Programme (UNEP) and the International Centre for Integrated Mountain Development and looks after the follow-up of the United Nations Conference on Environment and Development (UNCED).

		<ol style="list-style-type: none"> <li>1. Greening 5 million hectares under Green India Mission including 1.5 million ha of degraded lands, afforestation and eco- restoration of 0.9 million ha of ecologically sensitive areas.</li> <li>2. Technology-based monitoring of forest cover, biodiversity and growing stock including change-monitoring on periodical basis through dedicated satellite by 2017 and establishment of open web-based National Forestry and Environmental Information system for research and public accessibility by 2015.</li> <li>3. Engagement of Village Green Guards/Community Foresters for every Joint Forest Management (JFM) village by 2016.</li> <li>4. Establish forestry seed bank in forest circles and Model Nursery in every district with information on public portal by <b>Source: Desai, Vasant "Forest Management in India" and "Report of Planning Commission"</b></li> </ol>
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The earlier five year plans were merely concerned about afforestation, preservation and conservation of the forests and wildlife. Since the 1980s, the needs of the forest dwelling communities, especially the Adivasis were also taken into consideration.

The plans emphasize supply of people's basic needs, i.e. construction timber, fodder, etc. But at the same time, the plans describe intensified shifting cultivation, indiscriminate removal of timber, fuel wood, fodder and other forest produce, as well as forest fires and encroachment as the main reasons for degradation and deforestation of the forests.

## 6

# Historical Injustice and Adivasi Resistance

*“Saranda Forest belongs to our ancestors, which we have reoccupied after a long struggle in the 1980s; many innocent Adivasis were brutally killed in the police firings, hundreds of them were mercilessly tortured and thousands of them were imprisoned, therefore we’re not going to desert the forest at any cost.”*

*- Mangal Honhaga, Village leader,  
Forest Movement, Saranda*

In the history of Indian democracy, it was first time when the Indian State officially accepted the historical injustice meted out against the Adivasis and OTFDs. The government claimed that it has brought the Forest Rights Act 2006 with a clear intention to right historic wrongs.<sup>1</sup> The Act recognized the individual and community rights of Adivasis and OTFDs on the forest land and forest. Saranda forest is one of the best examples to understand the historic injustice against the Adivasis.

The 'Ho' and 'Munda' Adivasis are known to be the first settlers of Singhbhum and hence of the Saranda Forest region. They settled down in the forest after clearing trees and bushes. The region is also known as

'Ho-land' or 'Kolhan Estate',<sup>2</sup> where Ho and Munda have their own traditional system of self-rule.

The conflict began between Adivasis and the State on the issue of ownership rights over natural resources (land, forest, water, hills and minerals) only after the British invasion in 1765. The issue of these rights, which the colonial rulers essentially took away, has never been resolved to this day. Right from the beginning, the State has been suppressing the Adivasis of this and neighbouring regions, who in turn have continued to insist on their prior ownership rights over the land, territory and natural resources where they live.

The Adivasi resistance against the British invasion into the Chhotanagpur and Santhal Pargana regions started over the imposition of revenue on the individual's farming land. In 1831, Ho Adivasis joined the rebellion commonly called the Kol rebellion, alongside Oraon and Munda Adivasis. There had long been smouldering discontent among the latter, owing to the way in which their villages were granted away to outsider farmers in suppression of their headmen.

The explosion was actually occasioned by the treatment of the Mundas resident in or to the north of Singhbhum. Harnath Sahi, the brother of the Maharaja of Chhotanagpur, gave farms of some of the villagers in his estate as personal favours to Muslims, Sikhs and others, in utter disregard of their ancestral occupants. For instance, twelve villages bordering on Singhbhum, which had been held by a Manki (traditional head of a region) called Singrai, were thus given to the Sikhs. A similar complaint was made against the Muslim farmers.<sup>3</sup>

The outcome of this resistance was that the government was forced to make a rule and recognize the Adivasis' rights. Wilkinson's Rules were introduced in 1932, which recognize the traditional rights of the Adivasis.

However, this did not end the conflict. Gradually, the British Indian Government enacted numerous laws for taking over control of the natural resources, starting out with land. Next it was the turn of the forest, which has been (discussed in chapter 3).

The first investigation into the question of reserving forests in Chhotanagpur was sponsored by Dr. Anderson, Conservator of Forests, Bengal, in 1864. The forests of Singhbhum district were examined for the first time for this purpose in 1870-71, and again in 1879-80. Further investigations were carried out and damage done by the Adivasis through the fires and resin tapping were reported. Following enquiries, the work of selection and demarcation was done.

Thus, an area of 199,740 acres of Saranda Forest, as originally estimated, was notified under section 4 of the Indian Forest Act (Act VII of 1878) on 26 November 1880, and was finally declared on 17 May 1882 as Reserved Forest under section 19, with effect from 1 April 1882.<sup>4</sup> Consequently, the Adivasis were pushed out of the reserved forest and left to die. The authorities didn't bother to relocate them.

In 1947, colonial rule in India came to an end, yet everything apart from the rulers themselves remained the same. Indeed, in many ways the situation of forest dwellers became even worse. After Independence, the first step regarding forest policy of the government of India was the constitution of a Central Board of Forest in 1950, to provide guidance to the GoI in formulation of forest policies and programmes.<sup>5</sup> The GoI introduced a revised National Forest Policy in 1952. This policy emphasized, amongst others, weaning away the tribal people by persuasion from the baneful practice of shifting cultivation, controlling the grazing in forests and promoting the welfare of the people.<sup>6</sup>

In 1973 the government decided to nationalise Kendu leaves and Sal (*Shorea Robusta*) seed trade in 1976. This was followed by the government's takeover of all trade in minor forest produce (MFP) in 1978.<sup>7</sup> These decisions badly affected the lives and livelihoods of the Adivasis. The changes brought huge power into the hands of outside timber contractors, who discriminated against the local MFP collectors in favor of non-local consumers.

In 1975, the government created the worst situation for the Adivasis of Singhbhum. The Bihar Forest Development Corporation (FDC) was formed and 192,000 hectares of forest of West Singhbhum district, including Saranda and Porhat forests, were leased out to the FDC for clear-felling and replanting teak and eucalyptus.<sup>8</sup> This move of the Bihar Government created antagonism between local people and the Forest Department, which came to a peak as attempts to assert traditional forest rights and to contest MFP nationalisation were greeted with increasingly repressive responses from the state.

In 1976, the National Commission on Agriculture advocated for commercialisation of forests at all costs, with disregard to the sustenance of Adivasis deriving from the forests.<sup>9</sup> The Commission completely denied the rights and privileges of the Adivasis.

*The Commission also alleged that "free supply of forest produces to the rural population and the rights and privileges have brought destruction to the forests and so it is necessary to reverse the process. The rural people have not contributed much towards the maintenance or regeneration of the forests."*<sup>10</sup>

The Commission recommended that the revised national forest policy of India should be based on important needs of the country and forests should be

classified into i) protection forests, ii) production forests, and iii) social forests. It further recommended for strengthening legislation on forestry for effective implementation of forest policy and enactment of a revised All India Forest Act.<sup>11</sup>

The Commission was completely biased against Adivasis, and even denied them a role in forest management and regeneration. The Commission's recommendation resulted in further repression of Adivasis everywhere, including those in Saranda Forest.

Consequently, in the late 1970s, there were big clashes between Adivasis and the Forest Department in the entire Kolhan, including Saranda and Porhat forest regions, which manifested as a 'Jungle Andolan' (Forest Movement), more evident here than anywhere else in India.<sup>12</sup> This Forest Movement intensified in 1978 against the FDC, which had begun clearing mixed forest and planting teak. Adivasis resisted this felling of Sal trees and planting of teak. They destroyed the teak plantation and protested in front of the forest officials against cutting of the Sal trees.

They argued that Sal trees have a symbiotic relationship with the Adivasi community, as an intrinsic part of their tradition, culture and religion, whereas the teak has nothing to do with them. Teak trees had no purpose beyond generating revenue for the state, while the value of Sal goes far beyond its timber value. Adivasi activists destroyed several teak nurseries of the corporation, resulting in losses of millions of rupees.<sup>13</sup>

Soon, the Forest Movement took the shape of reclaiming ancestral lands. Thousands of Ho and Munda Adivasi families decided to go back to the land from where their ancestors had been driven out by the British Government more than 80 years ago. They were living in the adjoining villages. But how did they determine

where in the dense forest their villages had been situated more than 80 years before? The answer is very simple. The tombstones of their ancestors called '*Sasandri*' lay there as an indisputable landmark.

For Ho and Munda Adivasis, a *Sasandri* is the only valid document of land ownership supplemented by the trees that Adivasis plant in their sacred groves called *Sarna*, which is an essential feature of an Adivasi village here.<sup>14</sup> The kinds of trees in a *Sarna* are not found in ordinary forest areas. These trees also help them in identifying their traditional villages.

Meanwhile, the history of Indian forestry took a new turn. The Government of India enacted the Forest Conservation Act 1980. The primary objective of the Act is "*to provide for the conservation of forests by checking the indiscriminate diversion of forest land for non-forest purposes*".<sup>15</sup>

The Act restricts the de-reservation of reserved forests and use of forest land for non-forest purposes, and prescribes punishments for people violating the law. Tea cultivation, coffee cultivation, spices, rubber, oil-bearing plants, horticulture crops and medicinal plants were all defined as non forest purposes in this Act.<sup>16</sup>

Ironically, the 1980 Forest Act allows the government to exploit forests in the name of 'conservation', development and management of forests and wildlife, namely the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.<sup>17</sup> The Act is concerned to conserve forests and wildlife, but expresses no concern for Adivasis at all, implicitly denying their rights and privileges altogether. At the same time, it strengthens the power of the Central

government and takes power away from the state governments regarding forest conservation, management and control.

The Forest Movement continued to fight against the unjust policy of the government. Several political leaders were emerging from the Forest Movement, including Devendra Majhi, Shailendra Mahato, Bahadur Oraon of the Singhbhum Jungle Mazdoor Union.<sup>18</sup> The Forest Movement became part of the statehood movement for the creation of the Jharkhand state. During the Forest Movement, Adivasi protestors were involved in the protest against the forest officials, demanding that the FDC's work be stopped.

The protestors also felled trees in attempts to reclaim ancestral land that had been taken by the Forest Department.<sup>19</sup> As usual, the State responded violently to the Forest Movement with police brutality. The first incident occurred in Simdega on 4 August 1978, when police fired at Adivasis who were protesting against the takeover of MFP trade, and killed one person.

After this incident, police brutality against Adivasis became a daily affair. Between 1980 and 1985, police reports in Singhbhum acknowledged about 19 instances where police fired on demonstrators, killing a total of 36 Adivasis.<sup>20</sup> A crucial example is the infamous Gua police firing that followed the arrest of 4,100 local people for illegally cutting trees.<sup>21</sup>

On 8 September 1980, a new political party, the Jharkhand Mukti Morch (JMM), organised a public meeting at Gua Aerodrome to protest against state employment policies, state terror, and state forestry policies.<sup>22</sup> When the meeting was over, the crowd started to disperse. Meanwhile, the Bihar Military Police started abusing, beating and searching for the leaders to arrest

them. Finally, there was a clash between protestors and the Police, which led to a police firing. Fifty-nine rounds of bullets were fired by the Bihar Military Police, which led to killing of three policemen and eight marchers. A further ten wounded Adivasis were surrounded, assaulted and then shot dead by the policemen at the hospital when they arrived for treatment.

Immediately after this incident, State terror was unleashed over the region. Thousands of innocent Adivasis were dragged out of trains, buses and jeeps or picked up from weekly *haats* (markets), courts or their places of work and put in prison in allegation of waging war against the State. Villages were raided and women were raped and beaten up.<sup>23</sup>

A survey conducted by the Tribal Research and Training Centre (TRTC), a civil society organisation in Chaibasa, revealed that 450 Adivasis' houses were destroyed after getting looted and burnt.<sup>24</sup> Forest officials also played tricks for trapping Adivasis. With timber merchants, they connived to cut forests using Adivasi labour, and once the timbers were removed, the Adivasis were charged with felling trees and thrown behind bars. Thus, thousands of Adivasis were charged with cases, very often on false charges, with the intention of suppressing their movement.

The Chief Judicial Magistrate reported in 1984 that 4,160 cases were pending against about 14,000 Adivasis in various courts of Singhbhum district.<sup>25</sup> This police repression led to gross human rights violations of the Adivasis in the region.

Meanwhile the Bihar government also put considerable efforts into defaming the Forest Movement by terming it either as a 'Forest Felling Movement'<sup>26</sup> or a 'Land Grab Campaign'.<sup>27</sup> The government stated that

the leaders of the Jharkhand Movement “*wrongly motivated the innocent Adivasis to clear the forests along the natural canals and valleys etcfor cultivation and further settlement*”.<sup>28</sup>

Despite all this, the State failed to crush the Forest Movement. Adivasis continued to cut down trees and clear bushes in assertion of their rights overthe land and forest. government data shows that under the Forest Movement from 1980 to 1988, a total of 2,779.79 hectares, which is 3.2% of the forest land of Saranda Forest Division, had been cleared by Adivasis for purposes of cultivation and settlement (see Table 6.1).

**Table 6.1: Reclaimed Areas by Adivasis (1980-88)**

Sl. No.	Forest Blocks	Reclaimed Area (in Hectare)	Total Area
1.	Ankua	605.80	16,231.17
2.	Ghatkuri	486.64	12,466.80
3.	Tholkobad	242.60	10,617.41
4.	Trilposi	284.00	12,438.87
5.	Samtha	264.00	13,302.02
6.	Karampada	219.60	12,193.93
7.	Kodalibad	149.20	4,804.86
8.	Rabangda-Sunsuna PF	18.80	887.36
9.	Sagjuri PF	27.60	162.26
10.	Baheda PF	24.60	24.93
11.	Sonapi PF	110.00	700.24
12.	Jojobutu	52.40	202.95
13.	Marangponga PF	45.20	180.60

14.	Chhatanagpur PF	23.00	104.25
15.	Dhobil PF	35.20	306.23
16.	Kasiapecha PF	43.60	646.39
17.	Nuia PF	4.84	151.17
18.	Baraiburu PF	27.80	360.08
19.	Gua PF	41.00	135.20
20.	Tagaidaburu PF	34.40	56.83
21.	Karujagdaburu PF	4.00	34.86
22.	Sutriburu PF	22.80	22.80
23.	Kurkatapai PF	12.71	13.71
<b>Total</b>		<b>2,779.79</b>	<b>86,044.92</b>

*Source: Forest Resource Survey 2006 published by GoJ*

Other government reports alleged that even more forest was cut - that from 1980 to 1998 a total of 6,913 hectares (see table 5.2), which is 8% of Saranda Forest, had been illicitly felled and cleared by Adivasis for cultivation and settlement.

Ironically, the huge loss of forest due to mining activities in Saranda forest was not even calculated properly. The impact of mining on the forest has been significant. State forest reports show that that between 1997 and 1999 about 3,200 hectares of forest was lost in Singhbhum region. Between 2001 and 2003 some 7,900 hectares of forest was lost.<sup>29</sup>

However, the FD put all the blame for deforestation of Saranda forest on the Forest Movement. Therefore, the rightful claim of Adivasis to their land and forest, led by their traditional chiefs, popularly known in the Singhbhum region as Mundas-Mankis, was portrayed as a 'land grab campaign' by the Divisional Forest Officer

of Saranda, H.S. Gupta. Out of the total area of 85,000 hectares of Saranda's Reserved Forests, he claimed that more than 7,000 hectares was encroached by Adivasis during 1978-2000 (see table 6.2).<sup>30</sup>

**Table: 6.2. Reclaimed Areas (1980-98)**

<b>Sl. No.</b>	<b>Year</b>	<b>Reclaimed Area (in Hectare)</b>
1.	1980	1212.50
2.	1981	454.20
3.	1982	10.00
4.	1983	80.00
5.	1984	789.10
6.	1985	419.50
7.	1986	116.00
8.	1987	271.00
9.	1988	609.00
10.	1989	686.50
11.	1990	586.10
12.	1991	455.00
13.	1992	411.00
14.	1993	107.00
15.	1994	93.05
16.	1995	20.00
17.	1996	35.00
18.	1997	177.00
19.	1998	381.38
	<b>Total</b>	<b>6913.33</b>

*Source: Forest Resource Survey 2006 published by GoI*

Meanwhile, the GoI again introduced a more comprehensive forest policy in 1988 to avoid such conflicts. The principal aim of the National Forest Policy of 1988 was to ensure *“environmental stability and maintenance of ecological balance including atmospheric equilibrium, which are vital for sustenance of all life forms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim”*.<sup>31</sup>

The policy also recognised the rights and concessions of the forest dwelling communities, especially the Adivasis. Their domestic requirements of fuel-wood, fodder, minor forest produce and construction timber should be the first charge on forest produce there and substitute materials should be made available through conveniently located depots at reasonable prices.<sup>32</sup>

This policy recognizes the ‘symbiotic relationship between tribal people and forests’ (section 4.6).<sup>33</sup> The policy also emphasized wildlife conservation, prohibiting shifting cultivation while promoting forest based industries, and laying stress on the increase in encroachments onto forest lands. The policy suggested creating a mass movement with women’s involvement, to achieve these objectives and minimize pressure on existing forests.<sup>34</sup>

In 1990, the government of India again issued a guideline to the state governments for regularization of forest land prior to the 1980 encroachments on forest land and also the conversion of forest villages into revenue villages, with guidelines to help fix a boundary, termed ‘eligible category’.<sup>35</sup> To identify people who have been living in the forests prior to 1980, they must now be able to produce proof about this.

This guideline has, however, not been effective: thousands of people who had some documents to prove

their presence in the area are still waiting for their status to be recognized. Hence, the Adivasis of Saranda Forest did not benefit from the guideline.

Another major development took place in 1990. The government of India issued a circular called the Joint Forest Management, based on a recommendation in the National Forest Policy of 1988. This was the first time the government accepted and appeared to welcome people's involvement, and the vital role of forest dwellers and Adivasis in afforestation and management of forests.

The objectives of JFM are, amongst others to involve local Scheduled Tribes (Adivasis) and other rural poor in protecting and developing degraded forests and to provide gainful employment and a sustainable economic base for Adivasis and other rural poor in the vicinity of their habitations.

Ironically, JFM has been another dramatic failure. Officials of the Forest Department manipulate and dominate the programmes. People were merely used for the Department to gain control over forests in the name of Joint Management. And women, who are supposed to play a leading role, were not seen in the picture at all.<sup>36</sup> The JFM failed because of the lack of participation of the communities because the forest officials were not ready to share the decision-making power and incorporate the communities in the processes of implementation.

It would be interesting to recall here that gradually, the Forest Movement merged into the JMM, a regional political party, at the forefront of the Jharkhand statehood movement. Devendra Manjhi, a leader of the Forest Movement, contested a Parliamentary by-election from a JMM ticket in 1987, but lost to Bagun Subrai, a Janata

Party candidate who got huge support from non-Adivasis, and who opposed the Forest Movement. After this, a difference arose between the JMM and Devendra, resulting in his expulsion from the party. When he contested the Legislative Assembly election as an independent candidate, he won. The Forest Movement was going on, reclaiming the forest land and forest by clearing trees and bushes. Tragically, Devendra was killed by unknown criminals on 14 October 1994,<sup>37</sup> which was a big setback to the Forest Movement.

On 15 November 2000, 'Jharkhand' was created as India's 28<sup>th</sup> state. By this time the Forest Movement had already lost its momentum, lacking Devendra Majhi's charismatic leadership. Consequently, Adivasis who had reclaimed their ancestral lands and resettled their villages in the forest during the Forest Movement were worried about their future, afraid that the new government would throw them out of the forest once again, in which case, where could they go?

Mora Munda, a prominent Adivasi leader, who headed the 'Khutkati Andolan' (traditional land rights movement) in the region, was concerned over the changing political circumstances in the state<sup>38</sup>. Having worked in the Porahat and Saranda forest regions, helping in resettling several villages during the forest movement, he wanted to protect these villages at any cost. With no hope of legalising ownership rights over the forest and forest land, he saw the Naxal Movement as a ray of hope.

Later, the Naxal Movement took over the Forest Movement as forest rights became one of their core issues. They manipulated the Adivasis' issues in order to strengthen their organisations across the Saranda region.

Meanwhile, the 'eviction drives' triggered by the 2002 MoEF orders caused immense hardship for the Adivasis across the country. According to a statement of the MoEF&CC (GoI) in Parliament on 16 August 2004, 'encroachers' have been evicted from 1.5 lakh hectares of land<sup>39</sup>. Ironically, the MoEF&CC (GoI) did not inform Parliament about the number of people evicted, but according to the Campaign for Survival and Dignity (a network of some 200 organisations concerned with the rights of Adivasis), about 3 million tribal families face the threat of eviction.<sup>40</sup>

The forest officials razed the houses using elephants and bulldozers, or by setting it on fire. For instance, houses of 73 Adivasi families of Bhandarpaani in Betul District (Madhya Pradesh) were set on fire by Forest Officials on the night of 4 July 2004. Besides, thirty-five persons were illegally confined in Ranipur Forest Range Office; 15 were produced in the High Court at Jabalpur on 26 July in a Habeas Corpus petition. Bakhat Singh, after being released in the Court, was taken away by the Forest Department and has been missing since then<sup>41</sup>. Their only fault was that their villages were situated on the forest land for generations.

Later, these evictions were stopped due to an Adivasi backlash and the pressure from civil society organisations. Fortunately, there was no eviction move in the Saranda Forest, perhaps because the region was already Naxal affected, so Adivasis here were safe from this particular policy move.

Implementing the recognition of the rights of Adivasis and OTFDs has not been achieved however. Remaining forests are still being plundered and sold at market rates by politicians, contractors and other vested interest groups. Existing forest policies in effect not only

deprive Adivasis from their livelihood resources and destroy their culture and socio-economic and political system, but add insult to injury by depicting them as encroachers and an enemy of the forests and wildlife.

All the evidence suggests that most people in government are simply not concerned about the welfare of Adivasi communities, but under the guise of the protection and conservation of the forests concentrate simply on generating as much revenue as possible. By seeing forest dwellers as encroachers of forests and forest land that they have occupied for countless years, the state has continued to deny their right to livelihood in the coming decades.

After long struggle by Adivasis, civil society organisations and left political parties, the GoI recognised Adivasis' and OTFDs' due rights over the forest land and forest through the forest rights Act 2006, which generated new hope for them. But ironically this Act, which aimed to give ownership rights over forest land and forest to the Adivasis and OTFDs, was vehemently opposed by the wildlife conservation lobby and the MoEF&CC, who termed it "a recipe for ensuring the destruction of India's forests and wildlife by legalizing encroachments".<sup>42</sup>

The saddest part of the pro-Adivasi laws is that they have not been honestly enforced. The Jharkhand government claims that the prevalence of 'extremism' is the main obstacle against realisation of forest rights. Yet the same government has no problem in sanctioning forest land to corporate houses for destruction by mining.

In the Saranda region, the Adivasis were hoping to get justice under the Forest Rights Act. Therefore, 17,000 of them filled up forms, claiming entitlement to

the lands they cultivate, but their claims were rejected without information to the claimants.<sup>43</sup> At the same time, 22 new mining leases were sanctioned to the mining companies, with three given immediate forest and environment clearance at level one.

The Deputy Commissioner of West Singhbhum district claims that the district administration has given entitlement of forest land to 905 individuals and 3,736 community entitlements, and forest entitlements to 10 villages but did not disclose the beneficiaries' names. The Adivasis are amazed! They didn't even know who were given the entitlements. In these ways, historical injustice continues in Saranda Forest.

Presently, there is a clear paradigm shift in Saranda, in both the Forest Movement and State suppression. The Forest Movement is perceived as resistance against the mining companies. It is also seen as a Naxal Movement, as well as a demand for forest rights under the Forest Rights Act 2006.

In recent years, it was also manifested as the resistance against the Land Acquisition Ordinance introduced by the BJP led NDA government. Several mass rallies were organised in Manoharpur, Noamundi and Goilkera. The State has reacted by killing, torturing and illegally detaining innocent Adivasis after coining them as Naxals. For instance, 31 villagers were imprisoned and 216 were interrogated by the police.

However, the Adivasis seem to be determined to reclaim their ownership rights over the Saranda Forest. Mangal Honhaga who led the Forest Movement in Usariya village in the 1980s says, "*Saranda forest belongs to our ancestors, which we have recopied after a long struggle in 1980s. Many innocent Adivasis were brutally*

*killed in police firings, hundreds of them were mercilessly tortured and thousands of them were sent to jail. Therefore we're not going to desert the forest at any cost."*

The State on the other hand is clearly determined to hand huge tracts of forest land to the corporate houses. The future of both Adivasis and State lies in balance in Saranda. It seems that the two cannot co-exist, if Adivasis believe in co-existence with the forest, while the State believes in its exploitation for profit.

## 7

# Forest Rights Act

*"The Forest Rights Act 2006, has been rightly hailed as a landmark legislation. It has provided for a legally enforceable way of guaranteeing rights to forest dwelling scheduled tribes and others who have lived in our forests for centuries, but whose contribution to their protection was not acknowledged or recognized earlier."*

*- Dr. Manmohan Singh, 4 November 2009  
Prime Minister of India*

The Scheduled tribes and other traditional forest dwellers (recognition of forest rights) Act of 2006, widely known as the Forest Rights Act(FRA), is a landmark legislation, passed by the Indian Parliament. It received the assent of the President of India on 29<sup>th</sup> December 2006, and was enforced on 1<sup>st</sup> January 2008 in all the states and Union Territories except Jammu & Kashmir.

The historic legislation protects the interest of the Adivasis and OTFDs, who had previously been termed as enemies of the forests and wildlife, and whose contribution in protection and conservation of the forests was denied through various legislations, as elaborated in chapter 3 of this book.

The main objectives of the Act were listed in its preamble, stating that it is *An Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and OTFDs who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.*<sup>1</sup>

The Act aims to address the long-standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and OTFDs, including those who were forced to relocate their dwelling due to State development interventions.<sup>2</sup>

The Act also gives responsibility and authority to the Adivasis (STs) and OTFDs for sustainable use of forests, conservation of biodiversity and maintenance of ecological balance.<sup>3</sup> The most remarkable aspect in the Act is that it acknowledges the historical injustice against the Adivasis and OTFDs, returns the role of governance to the communities, recognising their role in conservation of forest ecosystems.

The Act states that forest rights on ancestral lands were not adequately recognised during the colonial period, as well as in independent India, resulting in historical injustice to the Adivasis and OTFDs, who are actually integral to the very survival and sustainability of the forest ecosystems.<sup>4</sup>

The provisions of Act are reproduced as follows:

### **PRELIMINARY**

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force on such date as the Central government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires, -
- (a) "community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;
  - (b) "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;
  - (c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs

and includes the Scheduled Tribe pastoralist communities;

- (d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undermarked forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;
- (e) "forest rights" means the forest rights referred to in section 3;
- (f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the government;
- (g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;
- (h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;
- (i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar,

cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

- (j) “nodal agency” means the nodal agency specified in section 11;
- (k) “notification” means a notification published in the Official Gazette;
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “Scheduled Areas” means the Scheduled Areas referred to in clause (l) of article 244 of the constitution;
- (n) “sustainable use” shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;
- (o) “other traditional forest dweller” means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation - For the purpose of this clause, “generation” means a period comprising of twenty-five years.

- (p) “village” means -
  - (i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or
  - (ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

- (iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or
- (iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;
- (q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

### **FOREST RIGHTS**

- 3(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-
- (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
  - (b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
  - (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
  - (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and

traditional seasonal resource access communities; of nomadic or pastoralist communities;

- (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre- agricultural communities;
- (f) rights in or over disputes lands under any nomenclature in any State where claims are disputed;
- (g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State government on forest lands to titles;
- (h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
- (i) rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
- (j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribal under any traditional or customary law of the concerned tribes of any State;
- (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be,

which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

- (m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes or other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

- (2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:- (a) schools; (b) dispensary or hospital; (c) anganwadis; (d) fair price shops; (e) electric and telecommunication lines; (f) tanks and other minor water bodies; (g) drinking water supply and water pipelines; (h) water or rain water harvesting structures; (i) minor irrigation canals; (j) non-conventional source of energy; (k) skill up-gradation or vocational training centers; (l) roads; and (m) community centers : Provided that such diversion of forest land shall be allowed only if,-

- (i) the forest land to be diverted for the purposes mentioned in this subsection is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

**RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS**

- 4.(1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in -
- (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
  - (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.
- (2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-
- (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
  - (b) it has been established by the concerned agencies of the State government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
  - (c) the State government has concluded that other reasonable options, such as, co-existence are not available;

- (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central government;
  - (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;
  - (f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package; Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State government or the Central government or any other entity for other uses.
- (3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.
- (4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

- (5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.
  - (6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.
  - (7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.
  - (8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.
5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to -
- (a) protect the wild life, forest and biodiversity;

- (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

#### **AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS**

- 6.(1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.
- (2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition.

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

- (3) The State government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.
- (4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition: (Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional level Committee: (Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.
- (5) The State government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.
- (6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

- (7) The State government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.
- (8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the department of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.
- (9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

## **OFFENCES AND PENALTIES**

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this subsection shall render any member of the authority

or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

#### **MISCELLANEOUS**

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central government or the State Government for anything which is in good faith done or intended to be done by or under this Act.  
(2) No suit or other legal proceeding shall lie against the Central government or the State government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

- (3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.
11. The Ministry of the Central government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.
12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central government may, from time to time, give in writing.
13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
14. (1) The Central government may; by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.  
(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all any of the following matters, namely:-
  - (a) procedural details for implementation of the procedure specified in section 6;
  - (b) the procedure for receiving claims,

- consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;
- (c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;
  - (d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;
  - (e) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be

made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## 8

# The Status of FRA

*"My Ministry is ensuring that no rights of scheduled tribes are violated. It is our job to ensure the FRA is well implemented."*

*- Jual Oram, 15 May 2016*

*Union Minister, MoTA (Govt. of India)*

We have seen that the Forest Rights Act 2006 was enforced to right the historical wrongs against the Adivasis and OTFDs. It recognises individual as well as community rights over forest lands and forests occupied before 31 December 2005. If the Act is honestly enforced, Adivasis and OTFDs are guaranteed their due rights. However, the state and central governments seem to be reluctant to enforce the Act<sup>1</sup>. One must therefore analyse the status of FRA to understand the ground its realities.

The status report on the implementation of FRA ending 31<sup>st</sup> December 2018, prepared and released by the Ministry of Tribal Affairs (MoTA) GoI,<sup>2</sup> unfolds many interesting facts. As per the report, 4,227,666 claims were filed in 20 states of India, which includes 4,079,278 individual and 148,388 community claims (See Table 8.1). Out of the total claims, 96.49 percent are individual and 3.51 percent are community claims.

Table 8.1: Status of FRA Claims

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims in %		% of States in Total Claims
		Individual	Community	Total	Individual	Community	
1.	Andhra Pradesh	177,446	4,062	181,508	97.76	2.24	4.29
2.	Assam	148,965	6,046	155,011	96.10	3.90	3.67
3.	Bihar	8,022	0	8,022	100.00	0.00	0.19
4.	Chhattisgarh	858,684	31,558	890,240	96.46	3.54	21.06
5.	Goa	9,758	378	10,136	96.27	3.73	0.24
6.	Gujarat	182,869	7,187	190,056	96.22	3.78	4.50
7.	Himachal Pradesh	2,071	170	2,141	96.73	7.94	0.05
8.	Jharkhand	105,363	3,667	109,030	96.64	3.36	2.58
9.	Karnataka	275,446	5,903	281,349	97.90	2.10	6.65

10.	Kerala	36,140	1,395	37,535	96.28	3.72	0.89
11.	Madhya Pradesh	582,308	41,795	624,103	93.30	6.70	14.76
12.	Maharashtra	360,452	12,007	372,459	96.78	3.22	8.81
13.	Odisha	612,693	13,736	626,429	97.81	2.19	14.82
14.	Rajasthan	74,414	1,441	75,855	98.10	1.90	1.79
15.	Tamilnadu	32,983	1005	33,988	97.04	2.96	0.80
16.	Telangana	183,252	3,427	186,679	98.16	1.84	4.42
17.	Tripura	200,358	277	200,635	99.86	0.14	4.75
18.	Uttar Pradesh	92,520	1,124	93,644	98.80	1.20	2.22
19.	Uttarakhand	3,574	3,091	6,665	53.62	46.38	0.16
20.	West Bengal	131,962	10,119	142,081	92.87	7.12	3.36
<b>Total</b>	<b>4,079,278</b>	<b>148,388</b>	<b>4,227,666</b>	<b>96.49</b>	<b>3.51</b>	<b>100.00</b>	<b>100.00</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Out of 20 states, Chhattisgarh is at the top of list with 890,240 claims (21.06 percent of total claims). Odisha secures second position with 626,429 (14.8 percent, and Madhya Pradesh gets third position with 624,103 (14.7 percent). The worst performing states are Bihar, Himachal Pradesh, Kerala, Tamilnadu and Uttarakhand, where less than 1 percent of claims were filed.

The FRA status report reveals that out of 422,7666 claims, 3,841,607 were disposed of, which is 90.8 percent of total claims. Among the states which had processed claims, Uttar Pradesh tops the list with disposal of 99.8 percent claims (see Table 8.2). West Bengal secures second place with 99.7 percent, and Chhattisgarh acquires third position with 99.3 percent. Among the worst performing states, Goa tops the list with 0.7 percent of claims processed; Himachal Pradesh is second worst with 6 percent, and Assam third with 37.9 percent disposal of claims.

These figures are interesting. Out of a total of 4,227,666 claims, 1,903,134 were converted into entitlements, including 1,827,256 individual and 75,878 community entitlements (see table 8.3). Out of 90.8% claims disposed of in all 20 states, only 44.9% were converted into entitlements. Out of 20 states, Odisha tops the list with 68.6% entitlements, Kerala is second with 65.5%, and Tripura is third with 63.7% entitlements. Goa, Bihar, Uttarakhand and Himachal Pradesh performed worst, converting just 0.2%, 1.5%, 2.1% and 6% claims into entitlements respectively.

Comparing individual and community entitlements, 96.1% are individual and just 3.9% are community entitlements. Over 90% of claims confirmed in most states were for individual ownership, except for Goa, which distributed 68% individual and 32% community entitlements. Bihar, Kerala, Uttarakhand, Tripura,

Table 8.2: Status of Claims Disposal

Sl. No.	States	No. of Claims Receive upto 31.12.2019			Total	Claims Disposed off with respect to Claims Received upto 31.12.2019	
		Individual	Community			No. of claims Disposed off	In %
1.	Andhra Pradesh	177,446	4,062	181,508	173,976	95.85	
2.	Assam	148,965	6,046	155,011	58,802	37.93	
3.	Bihar	8,022	00	8,022	4336	54.05	
4.	Chhattisgarh	858,684	31,558	890,240	884,808	99.39	
5.	Goa	9,758	378	10,136	72	0.71	
6.	Gujarat	182,869	7,187	190,056	151,984	79.97	
7.	Himachal Pradesh	2,071	170	2,141	136	6.07	
8.	Jharkhand	105,363	3,667	109,030	89,664	82.24	
9.	Karnataka	275,446	5,903	281,349	197,029	70.03	
10.	Kerala	36,140	1,395	37,535	32,488	86.55	

11.	Madhya Pradesh	582,308	41,795	624,103	614,854	98.52
12.	Maharashtra	360,452	12,007	372,459	349,241	93.77
13.	Odisha	612,693	13,736	626,429	576,648	92.05
14.	Rajasthan	74,414	1,441	75,855	74,409	98.09
15.	Tamilnadu	32,983	1005	33,988	18,129	53.34
16.	Telangana	183,252	3,427	186,679	178,117	95.41
17.	Tripura	200,358	277	200,635	196,596	97.99
18.	Uttar Pradesh	92,520	1,124	93,644	93,500	99.85
19.	Uttarakhand	3,574	3,091	6,665	5,101	76.53
20.	West Bengal	131,962	10,119	142,081	141,717	99.74
	<b>Total</b>	<b>4,079,278</b>	<b>148,388</b>	<b>4,227,666</b>	<b>3,841,607</b>	<b>90.87</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Table 8.3 : Status of Titles Distribution

Sl. No.	States	No. of Titles Distributed upto 31.12.2019			% of Titles Distributed			% of state in Total distribution	% of distribution compare to claims
		Individual	Community	Total	Individual	Community	Total		
1.	Andhra Pradesh	96,675	1,374	98,049	98.60	1.40	5.15	54.02	
2.	Assam	57,325	1,447	58,802	97.49	2.46	3.09	37.93	
3.	Bihar	121	0	121	100.00	0.00	0.01	1.51	
4.	Chhattisgarh	401,251	21,967	423,218	94.81	5.19	22.24	47.54	
5.	Goa	17	8	25	68.00	32.00	0.00	0.25	
6.	Gujarat	83,699	3,516	87,215	95.97	4.03	4.58	45.89	
7.	Himachal Pradesh	129	7	136	94.85	5.15	0.01	6.07	
8.	Jharkhand	58,053	2,090	60,143	96.52	3.48	3.16	55.16	
9.	Karnataka	14,667	1,406	16,073	91.25	8.75	0.84	5.71	

10.	Kerala	24,599	0	24,599	100.00	0.00	1.29	65.54
11.	Madhya Pradesh	224,882	27,948	252,830	88.95	11.05	13.28	40.51
12.	Maharashtra	114,216	6,909	121,125	94.30	5.70	6.36	32.52
13.	Odisha	423,634	6,491	430,125	98.49	1.51	22.60	68.66
14.	Rajasthan	38,007	103	38,110	99.73	0.27	2.00	50.24
15.	Tamilnadu	6,111	276	6,387	95.68	4.32	0.34	18.79
16.	Telangana	93,639	721	94,360	99.24	0.76	4.96	50.55
17.	Tripura	127,931	55	127,986	99.96	0.04	6.73	63.79
18.	Uttar Pradesh	17,712	843	18,555	95.46	4.54	0.97	19.81
19.	Uttarakhand	144	1	145	99.31	0.69	0.01	2.18
20.	West Bengal	44,444	686	45,130	98.48	1.52	2.37	31.76
	<b>Total</b>	<b>1,827,256</b>	<b>75,878</b>	<b>1,903,134</b>	<b>96.01</b>	<b>3.99</b>	<b>100.00</b>	<b>44.98</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Telangana and Rajasthan are the worst performers in this regard.

During the last two centuries, the governments have succeeded in imprinting in the people's minds the idea that forests belong to the State. This is why most of the claimants filed individual claims on the land they cultivate, and didn't file community claim even on forests they have been using for generations.

The 1,903,134 entitlements to forest lands related to 12,681,351.36 acres of land, of which 3,939,385.45 acres were recognised for individual and 8,741,965.91 acres for community entitlements (See table 8.4). Interestingly, 68.9 of the land area conferred consists of community land, while individual lands are just 31 percent, even though 96 percent of titles confirmed are for individual plots.

The states of Kerala, Tamilnadu, Tripura, West Bengal and Rajasthan have recognised individual more than community rights, whereas the Himachal Pradesh, Maharashtra, Gujarat, Uttar Pradesh and Chhattisgarh have confirmed more community than individual rights. Andhra Pradesh, Odisha, Telangana, Madhya Pradesh, Karnataka and Jharkhand have kept individual and community rights quite evenly balanced. Jharkhand similarly, reflecting pressures from the numerous Adivasi movements in the state.

If we see the total share of land claims confirmed in various states, Maharashtra tops the list with 23.4 percent, Chhattisgarh is second with 22.7 percent, and Madhya Pradesh is third with 16.9 percent.

Regarding claims that have been rejected: 1,938,473 claims were rejected (out of 4,227,666), representing a 45.8 percent rejection rate. In term of numbers,

Table 8.4: Status of FRA Land Distribution

Sl. No.	States	Extent of Forest land for which titles is distributed. (in Acres)			% of Land distribution			% of States in total
		Individual	Community	Total	Individual	Community	Distribution	
1.	Andhra Pradesh	239,554	453,384	692,938	34.57	65.43	5.46	
2.	Assam	NA	NA	NA	0.00	0.00	0.00	
3.	Bihar	NA	0	NA	0.00	0.00	0.00	
4.	Chhattisgarh	843,100.69	2,038,146.15	2,881,246.84	29.26	70.74	22.72	
5.	Goa	76.6	10.25	86.86	88.19	11.80	0.00	
6.	Gujarat	129,571.61	1,161,571.61	1,290,923.10	10.04	89.98	10.18	
7.	Himachal Pradesh	5.96	4,670.56	4676.52	0.13	99.87	0.04	
8.	Jharkhand	102,918.07	99,781.96	202,700.03	50.77	49.23	1.60	
9	Karnataka	20,813.51	28,115.75	48,969.26	42.50	57.42	0.39	
10.	Kerala	33,018.12	0	33,018.12	100.00	0.00	0.26	

11.	Madhya Pradesh	810,233.73	1,332,853.11	2,143,086.84	37.81	62.19	16.90
12.	Maharashtra	266,329.89	2,702,526.55	2,968,856.44	8.97	91.03	23.41
13.	Odisha	627,224.32	342,572.19	969,796.51	64.68	35.32	7.65
14.	Rajasthan	57,730.26	2,993.64	60,723.90	95.07	4.93	0.48
15.	Tamilnadu	8,607.26	0	8607.26	100.00	0.00	0.07
16.	Telangana	3,00,284	4,54,055	7,54,339	39.81	60.19	5.95
17.	Tripura	460,049.16	91.16	460,140.33	99.98	0.02	3.63
18.	Uttar Pradesh	18,854	120,802.06	139,656.06	13.50	86.50	1.10
19.	Uttarakhand	0	0	0	0.00	0.00	0.00
20.	West Bengal	21,014.27	572.03	21,586.29	97.35	2.65	0.17
	<b>Total</b>	<b>3,939,385.45</b>	<b>8,741,965.91</b>	<b>12,681,351.36</b>	<b>31.06</b>	<b>68.94</b>	<b>100.00</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Chhattisgarh tops the list of rejected claims (461,590 out of 890,240), Madhya Pradesh is second (362,024 claims rejected out of 582,308), and Maharashtra is third (228,116 claims rejected out of 372,459). In percentage, Uttar Pradesh comes first with 80 percent of claims rejected, in Uttarakhand the figure is 74.3 percent, and in West Bengal 67.9 percent (see Table 8.5).

In most cases, the authorities have never disclosed the reasons for rejection. Interestingly, Assam is the only state where not even one claim was rejected. The status report list of rejected claims does not distinguish between individual and community claims.

The FRA status report reveals that out of 4,227,666 claims, 386,059 were pending on 31<sup>st</sup> December 2019 (9.1 percent of the total). Individual and community claims are not distinguished in the pending list.

State-wise, Goa tops the list with 99.2 percent of claims pending, Himachal Pradesh is second (93.6 percent) and Tamilnadu third (46.6 percent of claims pending). UP, West Bengal and Chhattisgarh are the top three states, where pending claims represent less than one percent (0.1%, 0.2% and 0.6% respectively). No time frame is made clear for disposing of pending claims.

The first thing to note about the processing of FRA claims is that only 44.9% of claims were granted (out of 90.8% claims disposed of in the 20 states), compared with 45.8% rejected. In the states of Chhattisgarh, Madhya Pradesh and Maharashtra the number of claims as well as the rate of rejection of claims are high.

As emphasized, it is also interesting that 96.1% claims confirmed are individual and just 3.9% are community entitlements, whereas in terms of land area, community lands represent 68.9%, which is over twice the individual land plots confirmed, which is 31 percent.

Table 8.5: Status of Rejected Claims

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims Rejected upto 31.12.2019	
		Individual	Community	Total	Total	In %
1.	Andhra Pradesh	177,446	4,062	181,508	75,927	41.83
2.	Assam	148,965	6,046	155,011	0	0
3.	Bihar	8,022	0	8,022	4,215	52.54
4.	Chhattisgarh	858,684	31,558	890,240	461,590	51.85
5.	Goa	9,758	378	10,136	47	0.46
6.	Gujarat	182,869	7,187	190,056	64,769	34.08
7.	Himachal Pradesh	2,071	170	2,141	0	0
8.	Jharkhand	105,363	3,667	109,030	29,521	27.08
9.	Karnataka	275,446	5,903	281,349	180,956	64.32
10.	Kerala	36,140	1,395	37,535	7,889	21.02

11.	Madhya Pradesh	582,308	41,795	624,103	362,024	58.01
12.	Maharashtra	360,452	12,007	372,459	228,116	61.25
13.	Odisha	612,693	13,736	626,429	146,523	23.39
14.	Rajasthan	74,414	1,441	75,855	36,299	47.85
15.	Tamilnadu	32,983	1005	33,988	11,742	34.55
16.	Telangana	183,252	3,427	186,679	83,757	44.87
17.	Tripura	200,358	277	200,635	68,610	34.2
18.	Uttar Pradesh	92,520	1,124	93,644	74,945	80.03
19.	Uttarakhand	3,574	3,091	6,665	4,956	74.36
20.	West Bengal	131,962	10,119	142,081	96,587	67.98
	<b>Total</b>	<b>4,079,278</b>	<b>148,388</b>	<b>4,227,666</b>	<b>1,938,473</b>	<b>45.85</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Table 8.6: Status of Pending Claims

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims Pending upto 31.12.2019	
		Individual	Community	Total	Total	In %
1.	Andhra Pradesh	177,446	4,062	181,508	7,532	4.15
2.	Assam	148,965	6,046	155,011	96,209	62.07
3.	Bihar	8,022	0	8,022	3,686	45.95
4.	Chhattisgarh	858,684	31,558	890,240	5,432	0.61
5.	Goa	9,758	378	10,136	10,064	99.29
6.	Gujarat	182,869	7,187	190,056	38,072	20.03
7.	Himachal Pradesh	2,071	170	2,141	2,005	93.65
8.	Jharkhand	105,363	3,667	109,030	19,366	17.76
9.	Karnataka	275,446	5,903	281,349	84,320	29.97
10.	Kerala	36,140	1,395	37,535	5,047	13.45

11	Madhya Pradesh	582,308	41,795	624,103	9,249	1.48
12	Maharashtra	360,452	12,007	372,459	23,218	6.23
13	Odisha	612,693	13,736	626,429	49,781	7.95
14	Rajasthan	74,414	1,441	75,855	1,446	1.91
15	Tamilnadu	32,983	1005	33,988	15,859	46.66
16	Telangana	183,252	3,427	186,679	8,562	4.59
17	Tripura	200,358	277	200,635	4,039	2.01
18	Uttar Pradesh	92,520	1,124	93,644	144	0.15
19	Uttarakhand	3,574	3,091	6,665	1,564	23.47
20	West Bengal	131,962	10,119	142,081	364	0.26
	<b>Total</b>	<b>4,079,278</b>	<b>148,388</b>	<b>4,227,666</b>	<b>386,059</b>	<b>9.13</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Overall, the disposal and rejection of FRA claims shows that state governments are in a hurry to dispose of claims, in order to escape from section 4(5) of the Act, evidently with a view to facilitating mining leases to the corporate houses.

The rejection of 72 claims of Rinchi village in Jharkhand and cancellation of community rights of Ghatbarra village in Chhattisgarh for coal mining projects reveal how mining interests are being prioritised over the forest rights of Adivasis and OTFDs. The details of these cases are discussed in chapters 11 and 12.

## 9

# Status of FRA in Naxal Affected States

*"The Forest Rights Act is the ploy of the government to loot the forest through the forest mafia. The Forest Acts were enacted during the British rule to deprive Adivasis from their basic rights over the forest. All these acts should be scrapped immediately."*<sup>1</sup>

*- CPI (Maoist), Divisional Committee  
Gadchiroli, Maharashtra*

India is called the largest democratic country on Earth, but it has been struggling to overcome the internal security threat posed by Naxal groups. For instance, there are an estimated 22 Naxal groups in the state of Jharkhand alone.<sup>1</sup> In 2006, India's intelligence agency 'Research and Analysis Wing' (RAW) estimated that the most powerful Naxal organisation, the CPI-Maoist, had 70,000 fighters, including a core of 20,000 guerillas,<sup>2</sup> and 50,000 permanent cadres, waging war against the Indian State.<sup>3</sup>

As per an estimation in 2007, the Naxals were active across 170 districts of nine states (Telangana was then part of Andhra Pradesh), controlling over 92,000 square kilometers, approximately 40 percent of India's total geographical area<sup>4</sup>. This is the territory portrayed as the 'Red Corridor'.

In 2009, the CPI-Maoist itself claimed to be active in 220 districts in 20 states in India.<sup>5</sup> On 18th June 2009, the Indian Prime Minister in Parliament called left-wing extremism the biggest internal security threat to the nation, saying "If left-wing extremism continues to flourish in parts which have natural resources of minerals, the climate for investment would certainly be affected."<sup>6</sup>

Following this, the anti-Naxal operation known as 'Operation Green Hunt' was launched in October 2009, and it continued for the next three years. There are more than 200,000 paramilitary forces<sup>7</sup> engaged in anti-Naxal operations in these Naxal affected states even today.

Interestingly, the Forest Rights Act was enforced on 1<sup>st</sup> January 2008 in the entire country when the Naxal Movement was in its peak. The CPI-Maoist had declared many areas as liberated zones, including, for instance, Saranda forest in Jharkhand and Abujmad in Chhattisgarh.

Out of 20 FRA states, 10 fall in the 'Red Corridor' region. Therefore, it would be very interesting to know the status of implementation of the FRA in these states. Though there is no such evidence of the Naxals campaigning against the FRA nationwide, but they overtly opposed the FRA in Maharashtra.

In 2011, when the community rights of Mendha Lekha village over the forest was recognised (in Eastern Maharashtra), and it was propagated as a model by Jairam Ramesh, as Union Minister of Environment and Forest (GoI), the Gadchiroli divisional committee of CPI-Maoist dismissed the model as 'a ploy to loot the forests'.<sup>8</sup>

In August 2012, they even launched a campaign against the Mendha Lekha model, distributing pamphlets in the villages, including Mendha Lekha itself. The pamphlet reads: "The Forest Rights Act is the ploy of

the government to loot the forest through the forest mafia. The Forest Acts were enacted during the British rule to deprive Adivasis from their basic rights over the forest. All these acts should be scrapped immediately.”<sup>9</sup>

However, the Maoists’ campaign against the FRA doesn’t seem to have impacted the implementation of the Act. Most villagers didn’t support the Maoists on this, because they wanted entitlements of their forest land, to protect it from the corporates.

The status report of the FRA ending 31<sup>st</sup> December 2018, prepared and released by the Ministry of Tribal Affairs (GoI), shows that the Naxal affected states have actually performed considerably better than the non-Naxal affected states in terms of claims applications submitted and processed.

Out of a total of 4,227,666 claims in FRA states, 3,243,195 claims (3,112,702 individual and 121,495 community - see table 9.1), were filed in the Naxal affected states (73.4 percent of total claims). This shows that Naxals have not much directly interfered with or halted FRA processes. However, FRA claims are not yet filed in many villages where anti-Naxal operations are still ongoing, for instance in Abhujhmad of Chhattisgarh.

Nevertheless, if we analyse the claims data for Naxal affected states, 96.2 percent of claims filed were individual and merely 3.7 percent were community claims. The state of Chhattisgarh tops the list of overall claims with 27.5 percent; Madhya Pradesh and Odisha are second with 19.3 percent each; and Maharashtra is third with 11.5 percent of the total.

In terms of individual claims, Uttar Pradesh is first with 98.8 percent of the total, Telangana is second (98.1 percent), and Odisha third (97.8 percent). Community claims are very poor in Naxal affected, as in other states.

Table 9.1: Status of FRA Claims in Naxal Affected States

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims in %			% of States in total claims
		Individual	Community	Total	Individual	Community		
1.	Andhra Pradesh	177,446	4,062	181,508	97.76	2.24		5.61
2.	Bihar	8,022	0	8,022	100	0		0.25
3.	Chhattisgarh	858,684	31,558	890,240	96.46	3.54		27.53
4.	Jharkhand	105,363	3,667	109,030	96.64	3.36		3.37
5.	Madhya Pradesh	582,308	41,795	624,103	93.3	6.7		19.30
6.	Maharashtra	360,452	12,007	372,459	96.78	3.22		11.52
7.	Odisha	612,693	13,736	626,429	97.81	2.19		19.37
8.	Telangana	183,252	3,427	186,679	98.16	1.84		5.77
9.	Uttar Pradesh	92,520	1,124	93,644	98.8	1.2		2.90
10.	West Bengal	131,962	10,119	142,081	92.87	7.12		4.39
	<b>Total</b>	<b>3,112,702</b>	<b>121,495</b>	<b>3,234,195</b>	<b>96.24</b>	<b>3.76</b>		<b>100.00</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Table 9.2: Status of Claims Disposal in Naxal Affected States

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims disposed off	
		Individual	Community	Total	Total	In %
1.	Andhra Pradesh	177,446	4,062	181,508	173,976	95.85
2.	Bihar	8,022	0	8,022	4336	54.05
3.	Chhattisgarh	858,684	31,558	890,240	884,808	99.39
4.	Jharkhand	105,363	3,667	109,030	89,664	82.24
5.	Madhya Pradesh	582,308	41,795	624,103	614,854	98.52
6.	Maharashtra	360,452	12,007	372,459	349,241	93.77
7.	Odisha	612,693	13,736	626,429	576,648	92.05
8.	Telangana	183,252	3,427	186,679	178,117	95.41
9.	Uttar Pradesh	92,520	1,124	93,644	93,500	99.85
10.	West Bengal	131,962	10,119	142,081	141,717	99.74
	<b>Total</b>	<b>3,112,702</b>	<b>121,495</b>	<b>3,234,195</b>	<b>3,106,861</b>	<b>96.06</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Among the Naxal affected ones, West Bengal comes first with 7.1 percent of community claims, Madhya Pradesh second (6.7 percent), and Chhattisgarh third (3.5 percent). This shows that villagers have been more concerned to assert title over individual land than over community forests. It seems that in most cases they have come to perceive the forest in terms of State property, following years of this view being imposed on them. The main reason that government officials do not want to hand over forests to the communities is obviously that this causes them problems in implementing so-called 'development projects'.

As far as the disposal of claims is concerned, the status report of Naxal affected states shows their processing of claims is relatively high. Out of 3,234,195 claims 3,106,861, were disposed of (96 percent of the total). Uttar Pradesh, West Bengal and Chhattisgarh top the list in claim disposal, with 99.8%, 99.7% and 99.3% respectively. Bihar, Jharkhand and Andhra Pradesh are at the bottom (54%, 82.2% and 95.8% respectively). No one can explain why the claims disposal data has not been analysed to show differences in individual and community claims.

In FRA title distribution too, the Naxal affected states have performed slightly better than non-Naxal affected states. The national average is 44.9 percent, whereas the average among Naxal affected states is 47.7 percent, 95.5 percent of these being for individual title, compared to just 4.4 percent for community titles (see the table 9.3). In Bihar this figure was 100 percent for individual titles. Among the Naxal affected states, Odisha and Chhattisgarh top the list in validating forest land claims, with just 27.8% and 27.4% respectively. If we compare the percentage of entitlements distribution with the total claims in a state, Odisha gets the first place with

Table 9.3: Statue of Titles Distribution in Naxal Affected States

Sl. No.	States	No. of Titles Distributed upto 31.12.2019			% of Titles Distributed upto 31.12.2019			% of State in total distribution	% of titles compare to total claims.
		Individual	Community	Total	Individual	Community	Total		
1.	Andhra Pradesh	96,675	1,374	98,049	98.60	1.40	6.35	54.02	
2.	Bihar	121	0	121	100.00	0.00	0.01	1.51	
3.	Chhattisgarh	401,251	21,967	423,218	94.81	5.19	27.42	47.54	
4.	Jharkhand	58,053	2,090	60,143	96.52	3.48	3.90	55.16	
5.	Madhya Pradesh	224,882	27,948	252,830	88.95	11.05	16.38	40.51	
6.	Maharashtra	114,216	6,909	121,125	94.30	5.70	7.85	32.52	
7.	Odisha	423,634	6,491	430,125	98.49	1.51	27.86	68.66	
8.	Telangana	93,639	721	94,360	99.24	0.76	6.11	50.55	
9.	Uttar Pradesh	17,712	843	18,555	95.46	4.54	1.20	19.81	
10.	West Bengal	44,444	686	45,130	98.48	1.52	2.92	31.76	
	<b>Total</b>	<b>1,474,627</b>	<b>69,029</b>	<b>1,543,656</b>	<b>95.53</b>	<b>4.47</b>	<b>100.00</b>	<b>47.73</b>	

Source: FRA Statue Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Table 9.4 : Status of FRA Land Distribution in Naxal Affected States

Sl. No.	States	Extent of Forest land for which titles is distributed. (in Acres)			% of Land distribution		
		Individual	Community	Total	Individual	Community	
1.	Andhra Pradesh	239,554	453,384	692,938	34.57	65.43	6.87
2.	Bihar	NA	0	NA	0	0	0
3.	Chhattisgarh	843,100.69	2,038,146.15	2,881,246.84	29.26	70.74	28.58
4.	Jharkhand	102,918.07	99,781.96	202,700.03	50.77	49.23	2.01
5.	Madhya Pradesh	810,233.73	1,332,853.11	2,143,086.84	37.81	62.19	21.26
6.	Maharashtra	266,329.89	2,702,526.55	2,968,856.44	8.97	91.03	29.45
7.	Odisha	627,224.32	342,572.19	969,796.51	64.68	35.32	9.62
8.	Telangana	300,284	4,54,055	7,54,339	39.81	60.19	7.48
9.	Uttar Pradesh	18,854	1,20,802.06	1,39,656.06	13.5	86.5	1.39
10.	West Bengal	2,1014.27	572.03	21,586.29	97.35	2.65	0.21
	<b>Total</b>	<b>2,989,958.97</b>	<b>7,091,309.05</b>	<b>10,081,268.01</b>	<b>29.66</b>	<b>70.34</b>	<b>100</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

68.6 percent, Jharkhand has second place with 55.1 percent, and Andhra Pradesh third, with 54 percent distribution of FRA titles.

The entitlements issued for forest land in the Naxal affected states reveals that 95.5 percent of individual titles were issued for just 29.6 percent of FRA land, whereas 4.4 percent of community titles were distributed for 70.3 percent of FRA land (see table 9.4). If we compare land distribution among the Naxal affected states, Maharashtra tops the list with 29.4 percent, Chhattisgarh is second (28.5 percent), and Madhya Pradesh third (21.2 percent of total FRA land distribution).

If we compare the recognition of forest land between individual and community rights, West Bengal tops the list in recognising individual rights with 97.3 percent, Odisha gets second place with 64.6 percent and Telangana secures third position (39.8 percent). In terms of community rights, Maharashtra is first with 91 percent of the total, Uttar Pradesh second (86.5 percent), and Chhattisgarh third (70.7), showing how strong Adivasis' community values are in these states.

What this table shows is that rejection of claims is higher in the Naxal affected states. Although 96 percent of claims were disposed of in these states, 48.3 percent of claims were rejected (see table 9.5). This clearly shows that the Naxal affected states were in a hurry to clear the obstacles for implementing 'development projects', especially mining projects, since these Naxal states are full of mineral resources.

For instance, the state of Jharkhand is estimated to have 40 percent of India's total mineral resources. The cancellation of three community titles of Ghatbarra in Chhattisgarh, and rejection of 72 claims of Rinchi village in Jharkhand to make way for coal mining projects, are

Table 9.5: Status of Rejected Claims in Naxal Affected States

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims Rejected upto 31.12.2019	
		Individual	Community	Total	Total	In %
1.	Andhra Pradesh	177,446	4,062	181,508	75,927	41.83
2.	Bihar	8,022	0	8,022	4,215	52.54
3.	Chhattisgarh	858,684	31,558	890,240	461,590	51.85
4.	Jharkhand	105,363	3,667	109,030	29,521	27.08
5.	Madhya Pradesh	582,308	41,795	624,103	362,024	58.01
6.	Maharashtra	360,452	12,007	372,459	228,116	61.25
7.	Odisha	612,693	13,736	626,429	146,523	23.39
8.	Telangana	183,252	3,427	186,679	83,757	44.87
9.	Uttar Pradesh	92,520	1,124	93,644	74,945	80.03
10.	West Bengal	131,962	10,119	142,081	96,587	67.98
	<b>Total</b>	<b>3,112,702</b>	<b>121,495</b>	<b>3,234,195</b>	<b>1,563,205</b>	<b>48.33</b>

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

Table 9.6: Status of Pending Claims in Naxal Affected States

Sl. No.	States	No. of Claims Received upto 31.12.2019			Claims Pending upto 31.12.2019	
		Individual	Community	Total	Total	In %
1.	Andhra Pradesh	177,446	4,062	181,508	7,532	4.15
2.	Bihar	8,022	0	8,022	3,686	45.95
3.	Chhattisgarh	858,684	31,558	890,240	5,432	0.61
4.	Jharkhand	105,363	3,667	109,030	19,366	17.76
5.	Madhya Pradesh	582,308	41,795	624,103	9,249	1.48
6.	Maharashtra	360,452	12,007	372,459	23,218	6.23
7.	Odisha	612,693	13,736	6,26,429	49,781	7.95
8.	Telangana	183,252	3,427	186,679	8,562	4.59
9.	Uttar Pradesh	92,520	1,124	93,644	144	0.15
10.	West Bengal	131,962	10,119	142,081	364	0.26
	<b>Total</b>	3,112,702	121,495	3,234,195	127,334	3.94

Source: FRA Status Report 31 December 2018, Ministry of Tribal Affairs (Govt. of India)

sufficient proof of this. If we see this rejection of claims in terms of numbers, Chhattisgarh tops the list with 461,590 claims rejected out of a total of 890,240 claims; Madhya Pradesh comes second with 362,024 claims rejected out of 624,103; and Maharashtra is third with 228,116 out of 372,459 claims rejected. In terms of overall percentage of claim rejection within a state, Uttar Pradesh is worst with 80 percent of claims rejected, West Bengal comes second (67.9% rejected), and Madhya Pradesh third (61.2% rejected).

The status report of the Naxal affected states as on 31<sup>st</sup> December 2018 shows that out of 3,234,195 claims, 127,334 were pending, which is 3.9 percent of total claims (see table 9.6). If we compare the pending claims among Naxal affected states, Bihar is worst with 45.9 percent of claims pending, Jharkhand comes next (17.7%), and Odisha is third (7.9%). In terms of processing claims, West Bengal, Uttar Pradesh and Chhattisgarh are best, each with less than one percent of claims listed as pending.

We can therefore say that the Naxal affected states have performed better than non-Naxal affected states in processing FRA claims. However, their rejection rate of FRA claims is also a lot higher – an extremely revealing fact about FRA claims in the Maoist-affected states.

Obviously, the main reason for this, and for the overall very high rate of denial of Forest Rights to Adivasis and OTFDs, is Government promotion of corporate interests. The government officials are assiduous in promoting corporate interests rather than ensuring Indian citizens their due rights under the FRA.

When Naxals promote a view of the FRA as a trick to grab forests from the Adivasis, this does not help Adivasis and OTFDs assert their legitimate forest rights.

## 10

# Politics of Forest Rights

*"The claims of forest rights especially the community claims were rejected by the Corporate sponsored government(s) for handing over the remaining mineral and forest resources to the corporate sharks."*

*- Xavier Kujur, Convenor,  
Save the Forest Movement, Jharkhand*

India proudly asserts its status as the world's largest democracy, where politics is meant to determine everyone's destiny. The Forest Rights Act 2006 was also brought to secure the votes of Adivasis and OTFDs, as they were no longer traditional voters of the Indian National Congress (INC). The Congress party has tried to bring Adivasis back to its fold. Unfortunately, as we are seeing, the Act has not been properly and honestly implemented in the country.

The issue of forest rights was highly politicised during the last couple of elections for wooing voters, yet the stand of the political parties on forest rights has been far from clear. Circumstances suggest that the Forest Rights Act has been intentionally not enforced so as to protect corporate interests (see chapters 11 & 12 of this book).

Although, the political parties highlighted the issue of forest rights during the elections, for political gain, the naked truth, as shown by the statistics analysed in this book, is that the most of the parties have in practice not facilitated granting Adivasis and OTFDs their forest rights.

This hidden truth is exposed in the FRA status report that ends on 31<sup>st</sup> December 2018, released by the Ministry of Tribal Affairs (GoI).<sup>1</sup> Above all, evidence overwhelmingly suggests that India's present ruling party, the Bhartiya Janta Party (BJP), which also rules a majority of the state governments, is against recognising forest rights.

Interestingly, though the Congress party (with the support of the Left parties) brought the FRA into being, it too has failed to enforce the Act in the Congress ruled states. The regional parties, such as Trinmool Congree (TMC), Janta Dal(S), Janta Dal(U) and Telangana Rashtra Samity (TRS), are not very different from the national political parties in this regard.

However, two political parties – the Biju Janta Dal (BJD) in Odisha and the CPI(M) in Tripura - have implemented the Act considerably better.

While analysing the FRA data, as we saw in the previous chapter, when the processing of FRA claims is seen alongside the rejection of claims, this reveals a clear picture of corporate interests overruling the FRA. The states of Uttar Pradesh and West Bengal, ruled by the Samajvadi Party (SP) and Trinmool Congress (TMS), top the list in disposing of FRA claims (99.8% and 99.7% respectively).

The state of Chhattisgarh and Madhya Pradesh, where the BJP ruled for last 15 years, come second (99.3% and 98.5% - see table 10.1). Maharashtra and Rajasthan,

which have both been ruled alternately by the BJP and Congress, come third (98% and 93.7%).

Interestingly, the highest rejection rates of FRA claims were in BJP ruled states. Chhattisgarh, topping the list of processing claims (99.3%), also tops the list of rejecting claims: 461,590 claims were rejected out of 890,240, which is 51.8 percent. Similarly, 362,024 out of 624,103 claims were rejected in Madhya Pradesh (58%); and 228,116 out of 272,459 claims in Maharashtra (61.2%). However, if we see claim rejections in percentage against the total claims, Uttar Pradesh is worst with an 80% rejection rate, followed by Uttarakhand (74.3%) and West Bengal (67.9%).

It is a revealing fact that in some states, FRA claims were processed and rejected very quickly, to escape from section 4(5) of the FRA, which states that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.<sup>2</sup> For instance, Chhattisgarh, Madhya Pradesh and Maharashtra processed claims fast, evidently with a view to clearing tracts of forest wanted for 'development projects'. This trick of theirs targeted two birds with one arrow.

The FRA status report reveals that just 44.9 percent of claims were converted into entitlements, whereas 45.8 percent of claims were rejected, and 9.1 percent of claims

*Note: Chhattisgarh & Madhya Pradesh were ruled by the BJP for the last 15 years and Rajasthan for the last five years, but now these states are ruled by the Congress Party. Himachal Pradesh was governed by the Congress Party but now it is governed by the BJP. Uttar Pradesh was ruled by the Samajwadi Party but now it is ruled by the BJP. Tripura was governed by the CPI(M) for the last two decades but is now governed by the BJP, and Andhra Pradesh was ruled by the Telengu Desham Party (TDP), but was recently taken over by the YSR Congress.*

Table 10.1: Status of FRA

States	Ruling Party	Total Claims	Disposed claims		Titles Distribution	
			Total	In %	Total	In %
Andhra Pradesh	TDP/SYSC	181,508	173,976	95.85	98,049	54.02
Assam	BJP	155,011	58,802	37.93	58,802	37.93
Bihar	JDU-BJP	8,022	4336	54.05	121	1.51
Chhattisgarh	BJP/INC	890,240	884,808	99.39	423,218	47.54
Goa	BJP	10,136	72	0.71	25	0.25
Gujarat	BJP	190,056	151,984	79.97	87,215	45.89
Himachal Pradesh	INC/BJP	2,141	136	6.07	136	6.07
Jharkhand	BJP	109,030	89,664	82.24	60,143	55.16
Karnataka	INC/BJP	281,349	197,029	70.03	16,073	5.71
Kerala	CPM/BJP	37,535	32,488	86.55	24,599	65.54
Madhya Pradesh	BJP/INC	624,103	614,854	98.52	252,830	40.51

Maharashtra	BJP	372,459	349,241	93.77	121,125	32.52
Odisha	BJD	626,429	576,648	92.05	430,125	68.66
Rajasthan	BJP/INC	75,855	74,409	98.09	38,110	50.24
Tamilnadu	AIADMK	33,988	18,129	53.34	6,387	18.79
Telangana	TRS	186,679	178,117	95.41	94,360	50.55
Tripura	CPM/BJP	200,635	196,596	97.99	127,986	63.79
Uttar Pradesh	SP/BJP	93,644	93,500	99.85	18,555	19.81
Uttarakhand	BJP	6,665	5,101	76.53	145	2.18
West Bengal	TMC	142,081	141,717	99.74	45,130	31.76
<b>Total</b>		<b>4,227,666</b>	<b>3,841,607</b>	<b>90.87</b>	<b>1,903,134</b>	<b>44.98</b>

Source: FRA Status Report 31<sup>st</sup> December 2018 by Ministry of Tribal Affairs (Govt. of India)

were still pending (see tables 10.1 & 10.2). As far as recognition of forest rights is concerned, the BJD, ruling party of Odisha, comes first with the distribution of 68.6 percent pattas. The CPI(M) is second (65.5 percent in Kerala and 63.7 percent in Tripura). The BJP comes third, with distribution of 55.1 percent pattas in Jharkhand, 50.2 percent in Rajasthan and 47.5 percent in Chhattisgarh.

The Congress ruled states have performed badly, with merely 6 percent of pattas granted in Himachal Pradesh and 5.7 percent in Karnataka, which indicates that although the central leadership of the Congress party is pro-forest rights, states' leaders are predominantly against. Obviously, the FRA was brought by the central leadership of the Congress party, but the Act has not been properly implemented in Congress ruled states, evidently because the local leadership is against it. Among the other regional parties, the TDP distributed 54 percent of pattas in Andhra Pradesh, TRS distributed 50.5 percent in Telangana and TMC distributed 31.7 percent (see table 10.1) against the total claims in West Bengal.

The FRA status report reveals that 9.1 percent of claims were still pending on 31<sup>st</sup> December 2018. The BJP ruled state of Goa was worst in this regard, with 99.2 percent of claims still unprocessed, Congress ruled Himachal Pradesh comes second (93.6 percent of claims pending) and AIADMK ruled Tamil Nadu comes third (46.6 percent). The FRA status report clearly unearths that India's political parties are not committed to the forest rights of Adivasis and OTFDs. On the whole, analysis shows that the regional parties are considerably better than the national parties in terms of implementation. This suggests that it may be better for Adivasis and OTFDs to work more with the regional parties on the vital forest rights issue.

Table 10.2: Status of FRA Rejection and Pending

States	Ruling Party	Total Claims	Claim Rejection		Pending Claims	
			Total	In %	Total	In %
Andhra Pradesh	TDP/YSRC	181,508	75,927	41.83	7,532	4.15
Assam	BJP	155,011	0	0	96,209	62.07
Bihar	JDU/BJP	8,022	4,215	52.54	3,686	45.95
Chhattisgarh	BJP/INC	890,240	461,590	51.85	5,432	0.61
Goa	BJP	10,136	47	0.46	10,064	99.29
Gujarat	BJP	190,056	64,769	34.08	38,072	20.03
Himachal Pradesh	INC/BJP	2,141	0	0	2,005	93.65
Jharkhand	BJP	109,030	29,521	27.08	19,366	17.76
Karnataka	JD(S) INC	281,349	180,956	64.32	84,320	29.97
Kerala	CPM/BJP	37,535	7,889	21.02	5,047	13.45
Madhya Pradesh	BJP/INC	624,103	362,024	58.01	9,249	1.48

Maharashtra	BJP	372,459	228,116	61.25	23,218	6.23
Odisha	BJD	626,429	146,523	23.39	49,781	7.95
Rajasthan	BJP/INC	75,855	36,299	47.85	1,446	1.91
Tamilnadu	AIADMK	33,988	11,742	34.55	15,859	46.66
Telangana	TRS	186,679	83,757	44.87	8,562	4.59
Tripura	CPM/BJP	200,635	68,610	34.2	4,039	2.01
Uttar Pradesh	SP/BJP	93,644	74,945	80.03	144	0.15
Uttarakhand	BJP	6,665	4,956	74.36	1,564	23.47
West Bengal	TMC	142,081	96,587	67.98	364	0.26
	<b>Total</b>	<b>4,227,666</b>	<b>1,938,473</b>	<b>45.85</b>	<b>386,059</b>	<b>9.13</b>

Source: FRA Status Report 31<sup>st</sup> December 2018 by Ministry of Tribal Affairs (Govt. of India)



Photo: Countercurrents.org

*The Forest and Police departments together destroyed the crops of Adivasi families in Yellandu division of Khammam district in the state of Telangana.*



Photo: Countercurrents.org

*Adivasis crying after their harvest was destroyed.*



*Photo : Mitihlesh Kumar*

*The Forest officials destroyed the houses of Adivasis in Garhwa district of Jharkhand.*



*Photo : Mitihlesh Kumar*

*An Adivasis woman in front of her destroyed house at Gadia village in Garhwa.*



*Forest Department digging pillar pits on sowed land at Siivil village in Burhanpur of MP.*



*Forest Department fenced the village forest of Pidikia in Odisha.*



*A mass meeting of Adivasis near Saranda forest in Jharkhand.*



*A folk dance performed during the meeting near Saranda forest in Jharkhand.*



Photo: Amit Eric Nalxo

A protest meeting in demand of forest rights near Saranda forest of Jharkhand.



Photo: Gladson Durgdung

A protest in front of Governor House, Ranchi by the Adivasi Samanvay Samity.



*Photo: Gladson Dangding*

*Bando Munda of Kudagada village, Ranchi showing FRA Patta.*



*Photo: Chitrangada Chaudhury*

*Kete besan Coal mining in Sarguja district of Chhattisgarh.*



Photo : Tameshwar Sinha

*Adivasis of Baster protesting against mining in Bailadila hills, Chhattisgarh.*



Photo : Tameshwar Sinha

*Adivasis of Baster protesting against mining in Bailadila hills, Chhattisgarh.*



*A Mankidia man collecting Siali fibres in STR, Odisha.*



*District Collector of Mayurbhanj Odisha conducting a meeting with Mankidias.*

# 11

## Cancellation of FRA Entitlements

*"When the administration tries to get diversion of forests for the PEKB coal block, the villagers, using the context of the land rights given by the collector to them, created barriers and protested to stop work."*<sup>1</sup>

*- Cancellation Order  
Government of Chhattisgarh*

In the history of implementing the FRA since 1<sup>st</sup> January 2008, this was the first case in which entitlements were cancelled. The state government of Chhattisgarh cancelled the community rights granted to the Adivasis of Ghatbarra village in Surguja district, in order to facilitate coal mining of Prasa East and Kete Besan (PEKB) coal block, which had been allocated to Rajasthan Vidyut Utpadan Nigam Limited (RVUNL), an undertaking company of the Rajasthan government formed in 2007 with Adani Minerals Private Limited as mine developer cum operator (MDO),<sup>1</sup> for developing captive opencast mines to supply two thermal power plants in Rajasthan, called Chhabra Phase II and Kalisindh.<sup>2</sup>

The PEKB coal block is part of the Hasdeo-Arand coal field, which is spread over an area of 1,878 sqkms in Korba, Surguja and Surajpur districts of Chhattisgarh. Out of the total area, 1,502 square km is under biodiversity-rich forest cover. The coalfield has total estimated reserves of 5,529 million tonnes. Out of this, PEKB has a reserve of 450 million tonnes.<sup>3</sup> Interestingly, Surguja was the first district in Chhattisgarh to grant community forest rights under the Forest Rights Act.

Ghatbarra village had claimed community rights over eight forest compartments. Out of these, the Adivasis had received title deeds for only three compartments in 2013. The remaining five compartments were under the PEKB coal blocks allocated to RVUNL and operated by Adani Minerals Private Limited. Ghatbarra Gram Sabha appealed to the State Level Monitoring Committee (SLMC) against the exclusion of the five compartments by the DLC, but the committee took no action on their complaint.<sup>4</sup>

Instead, on 8<sup>th</sup> January 2016, the Chhattisgarh government cancelled all three deeds granted to Ghatbarra Gram Sabha, stating that 'when the administration tries to get diversion of forests for the PEKB coal block, the villagers, using the context of the land rights given by the collector to them, created barriers and protested to stop work.'<sup>5</sup>

The district administration along with the tribal affairs department and the forest department passed the order arguing that, because the land had been allocated to the company for mining in 2012, it therefore no longer counted as forest land in 2013 when the community entitlements were granted to Adivasis under the FRA. This is how they justified cancelling the title deeds.

This government action grossly violated section 4(5)

of the Forest Rights Act 2006, which says that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.<sup>6</sup> So the government authorities violated the FRA as well as the PESA Act.

Firstly, the forest clearances were given for mining without any settlement of forest rights, and title deeds were also cancelled to facilitate mining. Secondly, the diversion of forest for non-forest purposes like mining requires the consent of the affected Gram Sabha under the PESA Act 1996. No such consent was obtained by the authorities. In fact, the Gram Sabhas in Surguja, including Ghatbarra, had passed formal resolutions in December 2014 opposing mining in the region.<sup>7</sup>

The central government granted the clearances to divert the land for mining in 2012 without settling the rights under the Forest Rights Act. One set of government orders said the land would be diverted only once the rights of the tribals and OTFDs had been settled. But then later orders (called stage - II forest clearance) handed over the land for mining without ascertaining that the rights had been settled.<sup>8</sup>

Interestingly, in 2014, the National Green Tribunal (NGT) cancelled the forest clearance noting that the environment ministry had not looked at the impact of coal mining on biodiversity in the region, including the presence of protected species such as elephants. It asked the environment ministry to look again at the case. But the stay on operations was removed by the Supreme Court even as the NGT ordered a re-examination of the clearance.

It is of great relevance that in 2010, the MoEF&CC (GoI) declared this area as a no-go zone for mining due

to its rich biodiversity and high tribal population.<sup>9</sup> It seems that the present government is blind to such concerns, and has even allowed the construction of railway lines through the forest for ore transportation.<sup>10</sup> In October 2014, as many as 17 Gram Sabhas protested against coal mining in their rich forests, and passed a resolution opposing the re-allotment of coal mines by the present government. In December 2014, thousands of villagers from these 17 Gram Sabhas gathered and signed a six-point resolution demanding that the provisions of the PESA Act of 1996 and Forest Rights Act of 2006 should be honoured.<sup>11</sup>

The Scheduled Castes and Scheduled Tribes Research and Training Institute (SCSTRTI) report of 2013 states, "It must be noted that these orange areas are recorded in records of both forest and revenue department and so long as the land is recorded as forest land, it comes under the ambit of the FRA. Thus, denying rights over such lands is in violation of the law."<sup>12</sup> A Comptroller and Auditor General (CAG) of India report of the same year confirmed this, saying that the loss of forest land for industrial development is leaving the forest-dwelling communities with no other option but to migrate to towns for poorly paid labour.<sup>13</sup>

However, the central and state governments bypassed those reports and laws to facilitate Adani's mining operations. This is a typical case, which exposes the sordid nexus between the state and corporate houses. The nexus has been becoming stronger day to day as the corporate houses fund the Indian elections with a clear intention to exploit the country's natural resources without a thought to social or environmental impacts. This nexus is the biggest obstacle for enforcing the FRA, whose prime objective is to right the historic wrongs that Adivasis and OTFDs have faced since colonial times.

## 12

# FRA claims Rejected to Facilitate Mining

*"Our forefathers had lived on the land. This land belongs to us only but the government has denied our rights for coal mining. However, we're not going to leave it."*

*- Birendra Oraon, Village Headman,  
Rinchi, Latehar, Jharkhand*

Birendra Oraon, village headman of Rinchi village in Latehar district of Jharkhand, is worried. The Adivasis and OTFDs of his village may lose nearly 300 acres of forest land, which they have occupied and cultivated for generations. The DLC has rejected the claims of 72 Adivasi families, stating that a coal block is in the region.<sup>1</sup> Another 27 claims are also in the process of rejection. Therefore, the villagers have been running from pillar to post, but no one is ready to hear their cry.

Rinchi village is situated in the middle of two coal blocks – Rajbar and Banhardi. The government has leased out these coal blocks to Cooking Coal Limited and Tenughat Vidhyut Nigam. If the coal block is opened up for mining, these villagers will lose their land without

any compensation, as they do not have entitlement papers of the land.

Indeed, the government will claim the land as its property and the villagers will be declared as encroachers of the forest land and they are likely to be forcefully evicted from their livelihood resources.

The struggle of villagers for their forest rights entered a new phase after the Indian government passed the Forest Rights Act in 2006, even though its intention was to right the historic wrongs. They came to know about the FRA from the representatives of Adivasis organisations. 99 families, including 80 Adivasis (ST), 11 other backward communities (OBC) and 8 Scheduled Caste (SC) families of the village filed individual claims in the Gram Sabha.

After verification of the claims, the Gram Sabha with its recommendation for recognition of the forest rights, submitted the claims to the SDLC, Latehar. The SDLC after proper verification recommended 72 claims to the DLC, Latehar for recognition of the forest rights and sent back the other 27 claims to the Gram Sabha for re-verification as these claims lacked site maps, evidence or verification from the local authority.

The DLC in its meeting held on 23 April 2015 rejected all 72 claims, giving the coal blocks as the reason. As per the DLC meeting minutes, the Divisional Forest Officer (DFO) informed the DLC in the meeting that the land is proposed for the coal block. After hearing the concern of the DFO, the DLC rejected the FRA claims<sup>2</sup> of the Adivasis. The act of the DLC is a clear violation of section 4(1) and (5) of the FRA. It is clearly mentioned in section 4(5) that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his

occupation till the recognition and verification procedure is complete.<sup>3</sup> The DLC has bypassed the recommendations of the SDLC and Gram Sabha.

The DLC rejected the claims of the 72 Adivasis, including that of the village headman Birendra Oraon, who had filed a claim for 4.77 acres of forest land. The SDLC had recommended recognition of his rights, but the DLC rejected it. Similarly, Sunita Devi had claimed her rights over 4.80 acres (see table 12.1) of land, which the SDLC had recommended, but DLC rejected her claim too. Another villager Mangal Minj had filed a claim for 9.83 acres of land, again recommended by the SDLC, but the DLC rejected it. The DLC clearly misused its power given under the Section 6(6) of FRA, which reads that the decision of the District Level Committee on the record of forest rights shall be final and binding.<sup>4</sup>

Surprisingly, the DLC didn't inform the Gram Sabha about the rejection of FRA claims. Since, the DLC was not informing them about the status of their FRA claims, they decided to file a petition under the Right to Information Act 2005. They were shocked after receiving the information under the RTI. Their claims were rejected. The DLC is the ultimate authority to decide on FRA claim, so they had no way to appeal against the injustice. However, they decided to protest. They have held a series of meetings and protests, but no one has been ready to hear them.

Ironically, the DFO, whose prime duty is to protect the forests, is much interested in the coal block. He seems to be ready to allocate the forest land for coal mining but he is against giving rights to the Adivasis on the same land. The DLC rejected the recommendations of the SDLC and Gram Sabha, which clearly shows that the DLC has vested interests. The apprehension is that the

Table 12.1: FRA Claims Rejected

Sl. No.	Name	Register No. & Plot No.	Claimed Area in Acre	Recommendation for FRA by SDLC
1.	Jhario Devi	6/3, 208/5	4.50	4.50
2.	BirendraOraon	6/2, 208/4	4.77	4.77
3.	Lalk Oraon	222/11, 16	1.66	1.66
4.	Chandrika Oraon	222/3	1.47	1.47
5.	Kuldeep Oraon	222/4, 5, 7, 730/1	4.03	4.03
6.	Ramdev Oraon	222/12, 7	1.70	1.70
7.	Dileep Oraon	6/4, 73/5	4.33	4.33
8.	Sawna Oraon	222/6, 8, 730/2	2.34	2.34
9.	Fuldev Oraon	222/14, 41/6, 212/3	1.69	1.69
10.	RamchandraOraon	222/13, 21, 211/4, 212/1	1.67	1.67
11.	Rajesh Oraon	22/10, 211/8	1.94	1.94
12.	Budhram Oraon	211/14, 212/7	2.93	2.93

13.	Jageshwar Oraon	222/2		1.44	1.44
14.	Kuleshwar Oraon	212/3		1.61	1.61
15.	Sunita Devi	211/9, 212/1, 675/2, 684/1, 222/1		4.80	4.80
16.	Prasad Oraon	6/14, 16, 73/8		3.94	3.94
17.	Rupo Devi	729/10, 13, 14, 17, 652/4		2.43	2.43
18.	Sushil Oraon	212, 405/1, 481/4		5.84	5.84
19.	Babulal Oraon	212/5, 213/2		4.93	4.93
20.	Bhikhram Oraon	6/19, 405/2, 11		5.79	5.79
21.	Ramnu Oraon	6/13		2.60	2.60
22.	Mangal Oraon	211/14, 212/11, 19, 213/3, 222/24		8.61	8.61
23.	Keval Oraon	211/12, 212/6		5.14	5.14
24.	Prakash Oraon	431, 405/3, 10		3.63	3.63
25.	Hari Bara	212/23, 684/11		0.76	0.76
26.	Ramlal Oraon	211/10		1.45	1.45
27.	Lalu Oraon	211/1, 222/3		1.77	1.77

28.	Mohan Minj	222/26, 684/5	1.87	1.87
29.	Laldev Oraon	222/19, 211/7, 212/4	2.82	2.82
30.	Jaimangal Oraon	208/1, 405/6	2.28	2.28
31.	Sunil Oraon	729/4, 7,9	2.66	2.66
32.	Mangal Minj	212/26, 222/27, 684/6	9.83	9.83
33.	Jatri Devi	405/8	3.09	3.09
34.	Sarita Devi	211/8, 212/4	1.58	1.58
35.	Chama Oraon	213/4, 729/5, 21, 15, 653/3	3.28	3.28
36.	Jameswar Oraon	212/20, 729/2	4.56	4.56
37.	MannelMinj	222/225, 684/4, 8	1.67	1.67
38.	Maku Oraon	222/23	1.86	1.86
39.	Mangru Oraon	208/11	3.06	3.06
40.	Ruben Bara	212/25, 684/10	1.18	1.18
41.	Gandur Oraon	213/5, 729/8, 16	2.88	2.88
42.	Dharma Minj	212/27, 222/28, 684/7, 3	1.82	1.82

43.	Sadhnu Oraon	73/7		2.75	2.75
44.	Manu Oraon	6/18, 73/10		5.71	5.71
45.	Laljit Oraon	208/10		3.82	3.82
46.	Mahendra Oraon	405/5		1.05	1.05
47.	Baburam Oraon	208/7		3.38	3.38
48.	Guddu Oraon	405/4,9		2.52	2.52
49.	Ramesh Oraon	222/9, 208/1		2.59.	2.59
50.	Ajay Oraon	222/22, 12		3.57	3.57
51.	Jhanak Lohra	208/6		2.82	2.82
52.	Danial Minj	684/12, 675/3, 208/14		3.03	3.03
53.	Dhanu Oraon	211/15, 212/9, 16		6.20	6.20
54.	Devlal Oraon	212/2, 12		4.49	4.49
55.	Mahesh Oraon	212/21, 213/11, 729/6, 653/1, 2		3.89	3.89
56.	Kameshwar Oraon	222/5, 208/2		2.97	2.97
57.	Manilal Oraon	213/6		5.12	5.12

58.	Matu Oraon	211/7, 212/3	1.79	1.79
59.	Kandra Oraon	208/12	3.35	3.35
60.	Hari Oraon	211/11, 222/D	2.72	2.72
61.	Rajo Devi	425/26, 532/7	3.67	3.67
62.	NejarMinj	684/13, 678/1, 2, 208/15	2.84	2.84
63.	Jagdlish Oraon	212/14	1.18	1.18
64.	Jaipal Oraon	211/5, 222/22	3.57	3.57
65.	Sitaram Oraon	6/4, 73/3, 1	3.78	3.78
66.	Nageshwar Lakra	6/6	4.09	4.09
67.	Subedar Oraon	211/17, 212/9, 729/3	2.81	2.81
68.	Krishna Oraon	208/8	5.04	5.04
69.	Anand Bara	212/24, 684/9	0.77	0.77
70.	Devlal Oraon	211/23, 212/8, 17, 213/1	4.78	4.78
71.	Mitku Oraon	212/15	1.11	1.11
72.	Raje Oraon	73/2, 208/13	2.96	2.96
	<b>Total</b>		<b>231.03</b>	<b>231.03</b>

coal mafias are behind the rejection of the FRA of the Adivasis. The rejection of FRA for the coal block is a clear violation of FRA section 4(5). In other words, this decision of the Latehar DLC is a continuation to the historic injustice meted out against Adivasis.

Meanwhile, the Gram Sabha actively communicated with the government authorities. After verifying the 27 rejected claims (see table 12.2) they sent the list back to the SDLC. The SDLC took up the matter in its meeting held on 4<sup>th</sup> August 2016, and found some lacuna in the claim documents, so the decision was taken to send it back to the Gram Sabha. As per the meeting minutes of the SDLC, Gram Sabha had submitted the claims forms with proper verification.

However, the attached document was not attested by the Circle Officer. This is apparently why it was decided to send it back to the Gram Sabha for proper verification of documents.<sup>5</sup> After receiving the documents, the Gram Sabha conducted a meeting, and got the signature of the Circle Officer on them and submitted them to the SDLC on 16 March 2017.

Nevertheless, the villagers were not informed about the status of their claims despite many efforts to extract the information. The villagers apprehend that their claim may also be rejected for the coal block. This is a clear example, which exposes that the State has been primarily battling to serve the corporate interests violating the people's fundamental rights.

The biggest threat is that once the 27 remaining claims are rejected, the State may throw out these villagers from the vicinity for mining the coal.

**Table 12.2: FRA Claims sent for Reverification**

Sl. No.	Name	Category	Claimed Area in Acre	Recommendation for FRA by Gram Sabh
1.	Manoj Sahu	OBC	1.97	4.50
2.	Janki Bhuiyan	SC	1.19	1.19
3.	Nanku Bhuiyan	Sc	1.83	1.83
4.	Vishwanath Sahu	OBC	1.99	1.99
5.	Budhan Bhuiyan	SC	2.36	2.36
6.	Jhagar Bhuiyan	SC	1.86	1.86
7.	Santosh Sahu	OBC	1.69	1.69
8.	Pradeep Sahu	OBC	1.76	1.76
9.	Ratu Bhaiyan	SC	1.02	1.02
10.	Chadhlu Bhaiyan	SC	1.91	1.91
11.	Ajit Sahu	OBC	1.75	1.75
12.	Taramani Sahu	OBC	3.93	3.93

13.	Muni Devi	OBC	1.67	1.67
14.	Rambriksha Thakur	OBC	1.48	1.48
15.	Sugiya Devi	OBC	2.89	2.89
16.	Muneshwar Bhuiyan	SC	1.93	1.93
17.	Nandlal Prasad	OBC	6.51	6.51
18.	Ravindra Sahu	OBC	2.67	2.67
19.	Prem Thakur	OBC	1.24	1.24
20.	Bishun Bhuiyan	SC	2.77	2.77
21.	Kaleshwar Oraon	ST	1.86	1.86
22.	Dhanlal Oraon	ST	2.15	2.15
23.	Bigu Oraon	ST	3.94	3.94
24.	Rudni Devi	ST	1.69	1.69
25.	Dhani Devi	ST	0.54	0.54
26.	Ghane Oraon	ST	7.06	7.06
27.	Kewal Oraon	ST	2.64	2.64
	<b>Total</b>		<b>64.3</b>	<b>64.3</b>

## 13

# Playing with FRA Data

*"I have occupied 77 decimals of forest land and cultivating for years. The Gram Sabha had recommended my name for entitlement but the government officials divided the land in three parts. Three members of my family were given pattas of the same land."<sup>1</sup>*

*- Uday Jojo, Claimant  
Ela, Simdega, Jharkhand*

On 17<sup>th</sup> June 2016, the Chief Minister (CM) of Jharkhand, Raghuvar Das, publicly announced that by the end of August 2016, 350,000 families would be given pattas (entitlement papers) for their forest land.<sup>1</sup> The initiative of the CM looked revolutionary at the beginning because from 1<sup>st</sup> January 2008 to 31<sup>st</sup> December 2015 merely 43,125 claims (41,691 individual and 1434 community<sup>2</sup>) were converted into entitlements.

However, the ground reality shows that the government officials were busy increasing numbers of entitlements for political gain instead of genuinely ensuring the rights of the Adivasis and OTFDs. The case of Ela village is a perfect example to understand this.

Ela village is situated in the forest region of Bano development block in Simdega district of Jharkhand, which is one of the Naxal affected regions of Jharkhand. It is spread over an area of 1127.23 acres. The village is dominated by Munda Adivasis. There are 227 families with a population of approximately 1000 people in the village.

The traditional Gram Sabha has been active in the village for years. The villagers deal with all their issues in the Gram Sabha. When the villagers came to know about the Forest Rights Act 2006 through Adivasi activists, they formed a forest rights committee in 2012 and initiated the process for claiming their forest rights.

Meanwhile, in January 2015, the Deputy Commissioner (DC) of Simdega circulated a letter to all the Circle Officers (COs) of the district asking them to accelerate the process of recognition of the forest rights. By obeying the DC's order the CO of Bano Circle Office ordered the Gram Sabha of Ela village to submit the names of actual claimants of the forest rights.

The Gram Sabha conducted an urgent meeting in the village for making a list of the FRA claimants. After proper verification of the claimants, the Gram Sabha sent a list of 32 claimants to the CO.

After a couple of weeks, an officer from the Department of Revenue and Land Reform, rushed to the village for physical verification of the forest land of claimants. Uday Jojo was one of the claimants in the list. The officer told him that he couldn't prepare the documents for entitlement of the 77 decimals of land applied for, so he should tell him the name of another adult family member.

Uday Jojo lives in the village with his wife, two sons and a daughter-in-law. He owns 6.5 acres of

private agricultural land and 77 decimals of forest land. He suggested the names of his son and daughter-in-law.

The Revenue officer divided the 77 decimals of forest land into three parts. He prepared the documents of 30 decimals of land in Uday Jojo's name, 27 decimals land was registered in Uday's son Bishram Jojo's name and the other 20 decimals was added in Uday's daughter-in-law Khatrina Jojo's name (see table 13.1).

The officer submitted the land documents to the CO's office, making three persons as claimants of the same land, which was supposed to be made in the name of one person of the family.

**Table 13.1: Pattas given to one family**

Sl. No.	Name	Age	Guardian	Relation	Area of Land (in Decimal)
1.	Uday Jojo	52	Lt. Tinu Pahan	Father	30
2.	Bishram Jojo	22	Uday Jojo	Father-Son	27
3.	Khatrina Jojo	19	Bishram Jojo	Wife-Husband	20

*Source: FRA Entitlement Papers.*

Finally, the Deputy Commissioner, as head of the DLC, Simdega issued the land entitlement papers to all three persons. It seems this was intentionally done to increase the numbers of beneficiaries in the FRA data of district and State.

Bizarrely, the couple, Bishram Jojo and Khatrina Jojo, were issued separate entitlement papers instead of a joint patta. This case shows how a state government tries to bag credit from the FRA instead of enforcing Forest Rights Act properly.

# 14

## Terror of Eviction from the Forest

*"We have been cultivating on eight acres of forest land for three generations but I was given entitlement of merely seven decimals of land. How can my family survive with such small patch of land? This is injustice to me. I'm not going to leave my land."*

*- Bando Munda, claimant  
Kudagada, Ranchi, Jharkhand*

On 13 February 2019, the Supreme Court of India, while hearing the Writ Petition No. 109/2008 Wildlife First & Ors Versus Ministry of Forest and Environment & Ors, passed an order for eviction of the Adivasis and OTFDs, whose claims had been rejected under the Forest Rights Act 2006.

The Court directed that where the verification/reverification/review process is pending, the concerned state shall do the needful within four months from today, with a report submitted to the Court. The Forest Survey of India (FSI) was to make a satellite survey and place on record the extent of encroachment, and to state as far as possible the situation after eviction.<sup>1</sup>

However, on 28<sup>th</sup> March 2019, the Court stayed its controversial order after an intervention petition was filed by the Central government, to modify the order. This stay order was evidently made apprehending the eviction order's consequences for the general election. The government in its plea said that the forest-dwelling STs and OTFDs are extremely poor and illiterate, and that they are poorly informed of their rights and due procedures, living in remote and in accessible areas of the forest. Their claims had been rejected due to difficulties in substantiating them before the correct authorities.<sup>2</sup>

The Court ordered the Chief Secretaries of the state governments to file detailed affidavits covering all the aforesaid aspects and place on record the rejection orders and the details of the procedure followed for settlement of claims and what are the main ground on which the claims have been rejected.<sup>3</sup> The court said that it may also be stated that whether the tribals were given opportunity to adduce evidence and, if yes, to what extent and whether reasoned orders have been passed regarding rejection of the claims.<sup>4</sup>

The Court also ordered the FSI to make a satellite survey and place on record the encroachment positions as far as possible before the next hearing.<sup>5</sup> In this circumstance, there is an apprehension of eviction of Adivasis and OTFDs from the forests if the Supreme Court orders to execute its earlier order in forthcoming hearings. There would be eviction of more than two million Adivasis and OTFD families from the forest land and forests.<sup>6</sup> Therefore, we should analysis some cases to understand the impact of eviction. Kudagada is one such examples.

Kudagada is a revenue village<sup>7</sup> comprised of 8 hamlets (Kudagara, Bardanda, Garurpiri, Heso, Fatehpur, Nimdih, Modotoli and Jogitoli) located in the

Heso forest, which falls under Namkum development block in Ranchi district of Jharkhand. There are 347 households with a population of approximately 1500.<sup>8</sup> The village is dominated by the Munda Adivasis, whose livelihood is based on agriculture and forest produce.<sup>9</sup> The most of the Adivasis own some patches of revenue land and some of them also cultivate on the forest land, which they have prepared for cultivation but don't have entitlement papers.

When the villagers came to know about the Forest Rights Act 2006, which was enforced to recognize their rights on forest land and forest, they formed a 'Forest Rights Committee (FRC)' under the Kudagara Gram Sabha. 36 villagers filed claim forms and submitted to the FRC.<sup>10</sup> The Kudagara Gram Sabha verified the claims and sent those with recommendations to SDLC through Dr. Sweta, the Circle Officer of Namkum, where most of the claims were rejected and only 6 claims were converted into entitlements with small patches of land.

Interestingly, the claim of the chairperson of the FRC, Purandra Munda was rejected along with 29 others. Munda had filed claim of 1.5 acres of forest land. The 6 villagers, whose individual rights were recognized and given pattas (entitlement papers) are also upset because the area of land were decreased in the pattas though they have been cultivating and possessing the land for generations.

For instance, Bando Munda, who had filed claim on 8 acres of forest land but given patta of merely 7 decimals of land.<sup>11</sup> Similarly, Somra Munda was given patta of 2 decimals for the claim of 2 acres and Budhram Munda also given patta of merely 2 decimals of land for 2 acres. Bando Munda is upset and angry for denying his rights. He says, "*We have been cultivating on eight acres of forest land for three generations but I was given entitlement*

*of merely seven decimals of land. How can my family survive with such small patch of land? This is injustice to me. I'm not going to leave my land."*

The villagers had also filed claim of 700 acres of forest under the community rights but their rights are not yet recognized. The circle officer had asked them to decrease the area of forest in the claim form from 700 acres to 100 acres but they refused to do so therefore, the claim file was deliberately misplaced in the office of CO and they had to file it again.

Chairperson of the FRC, Purandra Munda says, "*We depend on forest for our survival, therefore, we cannot even imagine our life without forest. We should be given the entitlement of 700 acres of forest, which we have been utilizing and protecting for generations."*

In this case, if the SC's eviction order is enforced, the genuine claimants of the forest rights will not only lose their cultivated land but they will also lose the community forest, which plays a vital role in their economy and entire life cycle. This is the biggest threat to their existence.

The eviction order of the Supreme Court will have adverse effect in the life of more than 10 million forest dwellers mostly the Adivasis of the country. As per the FRA status report as on 31<sup>st</sup> December 2018, 4,227,666 including 4,079,278 individuals and 148,338 community claims were filed. Out of these claims, 1,903,134 including 1,827,256 individuals and 75,878 community pattas were issued whereas 1,938,473 individual claims were rejected and 386,059 claims are pending.<sup>12</sup>

Therefore, if the SC's order is enforced, 1,938,473 families will be chased out of the forests. And of course, millions of those families will also be affected who have not yet filed their claims under the FRA.

The eviction of Adivasis and OTFDs is not a new phenomenon. In 2002, the SC had given a similar eviction order, that resulted in forced eviction of thousands of Adivasis and OTFDs. Though the exact numbers of evictions are not available, but approximately 25,000 families with the population of 100,000 persons were evicted from their habitations.<sup>13</sup> Later, the eviction was stopped due to the backlash from Adivasis and the pressure from civil society organizations. But nobody knows what happened to the evicted families.

The execution of the SC's eviction order would result in forced eviction of more than 2 million Adivasis and OTFD families with the population of 10 million persons from the forest land and forests. Therefore, a billion-dollar question is where will they go? Who will protect their fundamental right to life?

The Indian constitution guarantees the right to life to everyone under the Article 21 and the State is duty bound to protect it. Unfortunately, the State has failed to protect the rights of the Adivasis and OTFDs primarily because it intends to grab the remaining natural resources from them and hand it over to the Corporate Sharks.

# 15

## Land Bank and Forest Rights

*"Land acquisition has never been a challenge for us as we have a land bank of 175,000 acres readily available for different industries to set up their businesses."<sup>1</sup>*

*- Raghuvvar Das, 27 July 2016  
Chief Minister of Jharkhand*

A village called Perka lies in Murhu development block, in Khunti district, about 55 kilometers from Ranchi, capital city of Jharkhand. 113 families live in it. As per the Census 2011, it has a total population of 581, 300 male, 281 female. The village is dominated by Munda Adivasis, who number 550. In 2011, the literacy rate of Perka was assessed at 66.46% (75.2% male, 56.96% female).

Perka villagers were unaware about the tricks of the Jharkhand government for grabbing their community, religious and forest land. Here we shall focus on the forest land alone because the Forest Rights Act 2006 was said to be the historic legislation that would right the historic wrongs done to Adivasis and OTFDs. As per the Land Bank data prepared by the Department of Revenue and Land Reform (GoJ), three plots of the village forest with an area of 12.14 acres is

enlisted in the Land Bank (see Table 15.1). Interestingly, the villagers were officially granted this forest for their use in 1932, as recorded in the land record in the Khatiyani Part II. As per the provisions of the FRA, the government authorities should therefore have recognised the rights of these villagers to their village forest.

**Table 15.1: Status of Forest of Perka village**

Sl. No.	Register Number	Plot No.	Area in Acres
1.	44	1037	5.36
2.	44	392	3.17
3.	44	88	3.61
Total	01	03	12.14

*Source: Land Bank, Department of Land Reform and Revenue (Go)*

The Adivasis of Perka were shocked to discover that their forest had been recorded in the Land Bank data, with the clear intention of leasing it to private business entities. 55-year-old Petrus Tiru says, *“I have land record papers of 1932, where we have been given the right to use the forest. How can the government keep our forest in the land Bank?”*

Another villager, 50-year-old Santosh Bandusoy says, *“We have been protecting the forest for decades. Two villagers keep watch on the forest every day. We also discuss about the protection and minimum use of the forest in our weekly Gram Sabha meetings. How can the government take such a step without our consent?”*

To answer these questions, one needs to understand the history, concept and intention behind the formation of the Land Bank, which is paving the way to wholesale denial of Adivasis’ and OTFDs’ forest rights.

Jharkhand is popularly known as the land of Adivasi struggle. Adivasis have been resisting to protect their identity, autonomy, culture, languages, land, territory and natural resources for more than 300 years. The creation of Jharkhand as a new state in the political map of India is one fruit of this struggle.

Yet soon after the state was formed in 2000, the Adivasi struggle became concentrated on an anti-displacement movement, because 74 MoUs were signed by successive governments within the first few years of the state's existence, with private companies including Tata, Arcellar Mittal, Jindal and many others, one after another within a decade.

The mega projects would have displaced thousands of peoples, but fortunately, none of the mega-projects materialised. The Adivasis forced the Mittal Company, Jindal Company and Tata Steel Ltd to abandon the proposed sites for their steel plants.<sup>1</sup>

Learning from this history, the new BJP government formed in 2014, changed the land acquisition strategy. On 31<sup>st</sup> December 2014, the government through its Department of Revenue and Land Reform issued a circular to the Deputy Commissioners of all 24 districts asking them to conduct surveys and prepare land data, incorporating all kinds of land except for private land in a new land bank.<sup>2</sup>

After accumulating this land data, the Department of Revenue and Land Reform created a new website <https://jharbhoomi.nic.in>, where 2,097,003.81 acres of land was shown as government land in the land bank.

Jharkhand's CM Rabhuvar Das finally launched the website of the Land Bank on 5<sup>th</sup> January 2016, followed by the signing of 210 new MoUs with corporate houses during a 'Global Investors Summit' held at Khelgoan,

Ranchi, on 16-17 February 2017. Since then, the government has been attempting to acquire common land, sacred groves and forest land without any free, prior and informed consent from the communities.

For instance, the state government has given 42 acres of so-called government land to Vedanta Company at Dimbuli village near Saranda forest in West Sighbhum district, and has been attempting to acquire private Adivasi land for the company against their consent. The government is ensuring the company's entry to the villages through the land Bank, even in those villages where the villagers have been given individual as well as community entitlements of the forest land and forests.

Indeed, the Land Bank was created with the clear objective of ensuring land for the corporate houses. This was categorically expressed by the Raghuvar Das while speaking to the media on 27<sup>th</sup> July 2016. He said, "*Land acquisition has never been a challenge for us as we have a land bank of 175,000 acres readily available for different industries to set up their businesses. Farmers are ready to give us land as we are paying a handsome price. We currently hold 40 per cent of India's natural mineral wealth and we are on the way to becoming the power hub of the country by 2019.*"<sup>3</sup>

Interestingly, under the tag of 'government land', three categories of land data were incorporated in the land bank - 1) common land of the villages including grazing land, play grounds, village paths, etc; 2) sacred groves (Sarna, Deshawali and Jaherthan); and 3) forest land, including entitlements which were supposed to be given to the Adivasis and OTFDs.

The most surprising aspect of the land bank is that out of 2,097,003.81 acres of land 1,016,680.48 is forest land, which forms 48.4 percent of the total land in the land bank (see Table 15.2). If we analyse the land bank data at the district level, Chatra district tops the list with

92.3 percent of the forest land reserved in the land bank. Bokaro secures second place with 90.8 percent, and Giridih comes third with 72.8 percent. In terms of area of forest land, Giridih is first, with 329,539.12 acres of forest land, out of 452,074.26 acres of land in the land bank. Simdega comes second with 244,434.50 acres (out of 358,450.52 acres) and Gumla third with 87,082.74 acres of forest land out of 181,222.78 acres of land in the land bank. The major part of all this land is occupied by villages whose inhabitants have applied for individual and community entitlement under the FRA.

**Table 15.2: Land Bank of Jharkhand**

Sl. No.	District	Total Plot	Area of Land (in Acre)	Forest Land	
				In Acre	In %
1.	Ranchi	10,327	1,07,677.69	78,256.44	72.68
2.	Khunti	5,863	53,387.93	12,888.14	24.14
3.	Lohardaga	3,951	14,372.30	9,742.95	67.79
4.	Gumla	98,209	1,81,222.78	87,082.74	48.05
5.	Simdega	1,10,766	3,58,450.52	2,44,434.50	68.19
6.	EastSinghbhum	22,151	31,607.71	8,159.21	25.81
7.	WestSinghbhum	27,041	3,75,662.09	49,922.02	13.29
8.	Saraikela	5,609	24,467.66	5,008.71	20.47
9.	Bokaro	2,624	21,827.03	19,823.80	90.82
10.	Dhanbad	6,504	30,769.46	11,648.14	37.86
11.	Ramgarh	574	4,284.94	2,795.72	65.25
12.	Kodarma	278	4,128.11	73.38	1.78
13.	Hazaribagh	1,973	25,190.21	15,801.12	62.73
14.	Chatra	482	6,490.65	5,993.08	92.33
15.	Palamu	0	3,005.20	1,668.50	55.52
16.	Garhwa	31,319	33,546.72	7,536.10	22.46
17.	Latehar	12,508	79,177.25	34,407.49	43.46

18.	Dumka	17,308	77,762.05	16,629.96	21.39
19.	Pakur	15,460	69,241.36	31,436.90	45.40
20.	Deoghar	7,106	43,562.69	15,424.56	35.41
21.	Giridih	16,642	4,52,074.26	3,29,539.12	72.89
22.	Godda	4,956	23,417.28	5,929.15	25.32
23.	Jamtara	9,607	36,086.36	5,803.17	16.08
24.	Sahebganj	7,889	39,591.56	16,675.58	42.12
	<b>Total</b>	<b>4,19,147</b>	<b>20,97,003.81</b>	<b>10,16,680.48</b>	<b>48.48</b>

*Source: Land Bank, Department of Land Reform and Revenue (GoI)*

This is a gross violation of section 4(1) and (5) of the FRA. It has been categorically mentioned in section 4(5) that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.<sup>4</sup> This is how forest rights are presently being denied to the community, by enlisting forest land and community forests in the land bank.

The land bank also violates provisions of PESA Act 1996, which recognizes the self determination of Adivasis and empowers the Gram Sabha to manage local natural resources. It also violates the Supreme Court judgment in the case of 'Odisha Mining Corporation vs Ministry of Forest and Environment and others (c) No. 180 of 2011', which clearly states that the Gram Sabha is the custodian of natural resources. Thus, it is illegal to acquire villages' common land, sacred groves and forest land without the consent of the Gram Sabhas.

The formation of the Land Bank is a clear denial of the forest rights to the Adivasis and OTFDs, which is bound to ensure the continuation of the historic injustice the FRA was meant to end.

# 16

## Wildlife Corridor and Forest Rights

*"Presently, there is no such plan to develop a wildlife corridor. We have not identified any village in any district."*

*- L.R. Singh, 31st January 2018  
PCC of Forest & Wildlife*

Kulaiburu is a medium sized village located in Saranda Forest, which falls under the jurisdiction of Manoharpur Development Block in West Singhbhum district of Jharkhand. As per the Census 2011, 43 families reside in it with apopulation of 215 (109 male, 106 female).<sup>1</sup> The village is dominated by Ho Adivasis, who are said to be the first settlers of Singhbhum, historically known as the Kolhan Estate.<sup>2</sup> The Adivasis of Kulaiburu fully depend on agriculture and forest for their livelihood. In the 1980s, these Adivasis resettled themselves in the village during the Forest Movement, after 100 years of struggle.

Their ancestors were chased out of the forest in the 1880s during British rule, which declared the forest as 'reserved' or 'protected'.<sup>3</sup> After resettlement, these Adivasis prepared cultivable land by clearing trees and

bushes. They grow paddy, pulses and vegetables, at the same time as collecting forest produce, including firewood and other household items from the forest. They also rear cattle, goats, pigs, chickens, etc., which support them in maintaining their economy.

However, they do not have 'pattas' of the forest land they cultivate. When they got to know about the FRA, enacted to recognize their rights to forest land, they filled up claim forms and submitted these to the CO of Manoharpur in 2012, but their files were 'misplaced' in the CO's office. In November 2016, they participated in a protest, jointly organised by several Adivasi organisations in front of the Governor House in Ranchi, to demand their forest rights.

Thus, the Governor ordered the state government to reverify their FRA claims. The officials conducted several meetings in the Saranda forest region and asked the villagers to file their claims again. The villagers did this in the CO's office, Manoharpur, in 2017, but their rights have still not been recognized.

In 2018, the Adivasis of Kulaiburu learnt from some rights activists that their village was listed in the area proposed as a 'Wildlife Corridor' project. The activists showed them the project document, which reveals that an area of 365.48 acres of the village would be acquired for this Wildlife Corridor, which clearly means that Kulaiburu village would be relocated. Is this the real reason their FRA claims have been sidelined?

The government officials understand that once their forest rights are recognized, it would be very difficult for them to relocate the Adivasis from the village. In the present situation, if these Adivasis protest the 'Wildlife Corridor' project, they could easily be termed as encroachers on the forest land where they have long lived, and thrown out of it.

Kulaiburu is not the only village in Saranda forest where Adivasis have been denied their forest rights for this 'Wildlife Corridor' project. There are 20 such villages (see table 16.1). Yet the Wildlife Corridor was never mentioned anywhere by the authorities as a reason for rejecting their forest rights claims. The project envisages an area of 23,199.94 acres to be taken from 20 villages in Saranda forest, displacing 1785 families with a population of 9,016. All 20 villages are likely to be relocated, as the entire area will be fenced as a 'Wildlife Corridor'; yet no one knows anything about this relocation, which is bound to have extremely adverse effects. Of these people, 7,937 are Adivasis (88 percent).

Out of these 20 villages, eight are 100% Adivasi, seven predominantly so (over 90 percent). This is enough to indicate the adverse effect for Adivasis. Emphasizing the significance of this struggle to protect their forest rights, the village headman of Kulaiburu, Odiya Devgam, stated, *"We're not going to vacate our village for the 'Wildlife Corridor' project. We fought in 1980 and sacrificed many lives, therefore, we will fight again to protect our land, territory and resources."*

Saranda forest is the largest Sal forest in Asia, spread over an area of 82,000 hectares in West Singhbhum. Apart from its unique forage plant species, abundant water bodies, and magnificent landscape, the region was an important elephant's landscape stands brutally mutilated. As the region holds large deposits of high-grade iron ore, indiscriminate mining is creating huge disturbance in its ecosystem.

A study by the Wildlife Institute of India (WII) reveals that there were more than 300 plant species in the forest, which had come down to just 87 species by January 2016. The study also found wide differences in the number of both flora and fauna in the region. It found

**Table 16.1: Status of Wildlife Corridor in Saranda**

Sl. No.	Village	No. of Families	Total Population	Adivasis (ST) Population		Area of Land (In Acres)
				Total	In %	
1.	Ankua R.F.	174	766	692	90.34	1629.64
2.	Baghi	-	-	-	-	2.90
3.	Churgi	34	192	192	100.00	58.81
4.	ChhotaNagra	228	1364	839	61.51	1122.98
5.	Duia	139	630	449	71.27	166.12
6.	DikuPonga	37	156	156	100.00	34.64
7.	Dubil	149	738	728	98.64	753.83
8.	Jamkundia	131	644	618	95.96	957.46
9.	Jojogutu	102	543	543	100.00	218.83
10.	Kumbia	64	338	335	99.11	107.95
11.	Kodlibad R.F.	16	93	93	100.00	5830.68
12.	Kulaiburu	43	215	215	100.00	365.48
13.	Kudripa	47	266	266	100.00	594.8
14.	Lemra	67	357	356	99.72	359.61
15.	Rajabeda	51	245	245	100.00	282.04
16.	Radua	30	157	157	100.00	92.54
17.	Roam	53	242	142	58.68	38.22
18.	Samtha R.F.	275	1290	1148	88.99	930.22
19.	Sonapi	101	546	544	99.63	223.63
20.	Usuria	44	234	219	93.59	543.99
Pure Forest Area		0	0	0	0.00	8885.57
<b>Total</b>		<b>1785</b>	<b>9016</b>	<b>7937</b>	<b>88.03</b>	<b>23,199.94</b>

*Source: Conservation plan of the Palamu Tiger Reserve 2013-14 to 2022-23*

only 19 species of mammals belonging to 14 families; earlier research teams had documented over 30 species.

The study also found just 116 species of birds, as compared to the 148 species found earlier. Worse, the study could not document a single sighting of an elephant. The 2010 elephant census sighted 253 elephants.<sup>6</sup>

The fundamental threat to the forests is uncontrolled mining for iron ore, both legal and illegal, which is destroying both wildlife and forests. The number of iron ore mining leases in Saranda Forest has increased exponentially in recent years. Data from the Indian Bureau of Mines reveals that West Singhbhum is the most intensely mined district in Jharkhand, and accounts for almost the entire share of iron ore mined in the state. Already, 50 mining iron ore leases are operational, covering an area of 14,410 hectares.<sup>7</sup> At present, most of the mining activities in West Singhbhum district are concentrated on the periphery of Saranda forest.

These mining activities have proved to be a death knell to biodiversity. Elephants, for instance, have abandoned their traditional migration routes due to habitat destruction. Before mining activities began, elephants used to prefer the Karo-Karampada corridor to move into the Saranda forests. Similarly, the Ghatkuri-Santra corridor used to provide free movement to elephant populations in the Gua range of the Saranda Forest Division to the Noamundi range of the Chaibasa Forest Division.

The study by the WII found that elephant movement has stopped due to mining activity in both corridors due to mining and township development in Noamundi.<sup>8</sup> Surprisingly, the 'Wildlife Corridor' project doesn't mention anything about minimizing or halting the mining projects in Saranda!

This 'Wildlife Corridor' is a mega-project of the Department of Environment, Forest and Climate Change (GoJ), in the conservation plan of the Palamu Tiger Reserve for the period of 2013-14 to 2022-23. It was prepared by Arun Singh Rawat (IFS), Chief Conservator, Forest & Field Director, Palamu Tiger Reserve, and submitted to the Chief Wildlife, Warden, government of Jharkhand on 2<sup>nd</sup> November 2015. Finally, it was approved by Dr. H.S. Negi, Inspector General of Forest (NTCA) on 21<sup>st</sup> December 2015.

The project document states that there will be three 'Wildlife Corridors' and three sub-corridors, covering an area of 595,274.25 acres in 9 districts of Jharkhand. The entire area, three kilometers in width, will be fenced, developed and protected as a 'Wildlife Corridor'. If the project materializes, no less than 870 villages located in these 'corridors' will be relocated from the forests (see table 16.2). Consequently, more than 500,000 villagers would be adversely affected, with more than 80 percent of affected people from the Adivasi communities.

The first proposed 'Wildlife Corridor' is called 'Sirsi-Palkot-Saranda'. It is the largest, and connects forests from Saranda to Betla Tiger Reserve over an area of 187,733.32 acres. 214 villages in West Singhbhum, Simdega, Gumla and Latehar districts are identified for relocation from this corridor.

The second corridor is 'Kumandi-Patki-Lawalong', covering an area of 34,559.32 acres of forests in Latehar, Palamu and Chatra districts, causing relocation of 47 villages. The third corridor is 'Kutku-Salwahi-Nagar Utari-Kaimur' which falls in Palamu and Garhwa districts, covering an area of 105,009 acres. Here, 132 villages are identified for relocation.

As for the three sub-corridors - 'Lawalong-Tutilawa-Hazaribagh', 'Lawalong-Guatam Bhuddha' and 'Lawalong-Mantu-Patan-Kaimur' - these cover a total area of 91,680.81, 132,492.54 and 43,798.90 acres respectively. These corridors are proposed in the forest regions of Palamu, Chatra, Hazaribagh, Kodarma and Bokaro districts, with 151, 243 and 83 villages respectively identified for relocation.

The fundamental problem with these projects is the rehabilitation of 500,000 people from 870 villages. The state government offered a rehabilitation package of Rs. 1 million, along with 10 decimals of barren land and a two-bedroom house in a rehabilitation site per affected family. However, when the villagers were not ready to accept the offer, it was increased from Rs. 1 million to Rs. 1.5 million; but still, the villagers are not ready to accept this, knowing it will cause a massive drop in their living standards.

Obviously, they understand that this money will not provide them with the security of a sustainable livelihood like their land and forests have done over generations. Once, the compensation money is over, they would struggle for their survival.

The most stunning thing is that though the project document is available in the public domain, the Principal Chief Conservator of Forest & Wildlife, L.R. Singh, facing a series of protests in various parts of the state against the proposed 'Wildlife Corridor' project, denied any such plan exists!

While talking to the media on 31<sup>st</sup> January 2018, he stated, "*Presently, there is no such plan to develop a wildlife corridor. We have not identified any village in any district.*" Was it not a blatant lie? Obviously, this statement was made to stall the protests.

Table 16.2: Proposed Wildlife Corridors

Sl. No.	Name of the Wildlife Corridors	Covering Districts	Number of affected villages	Area of land (in Acres)
1.	Sirsi-Palkot-Saranda WLC	Latehar, Gumla, Simdega and West Singhbhum	214	187,733.31
2.	Kumandih-Patki-Lawalong WLC	Latehar, Palamu and Chatra	47	34,559.32
2a.	Lawalong-Tutilawa-Hazaribagh WLS	Chatra, Hazaribagh and Bokaro	151	91,680.81
2b.	Lawalong- Gautam Bhuddha WLS	Chatra, Hazaribagh and Kodarma	243	1,32,492.54
2c.	Lawalong-Manatu-Patan-Kaimur WLC	Chatra and Palamu	83	43,798.90
3.	Kutku-Salwahi-Nagar Utari-Kaimur WLC	Palamu and Garhwa	132	105,009.37
	<b>Total</b>	<b>09</b>	<b>870</b>	<b>595,274.25</b>

Source: Conservation plan of the Palamu Tiger Reserve 2013-14 to 2022-23

The fact is, the state government had already approved the plan and the 'Palamu Tiger Reserve' had started its implementation. For instance, the Divisional Forest Officer (DFO) of the Buffer Area of Palamu Tiger Reserve in Daltengang, sent a letter to the Forest Area Officer (FAO), Garu (letter no. 667 dated 29.05.2017) to get consent letters from the villagers of Pandra, Vijaypur, Gutwa, Gopkhar, Karihenar, Ramandag, Lattu and Kujrom villages.<sup>9</sup>

Consequently, the FAO visited these villages to get consent letters from them. This created fear, insecurity and uncertainty in the minds of villagers. They opposed the project in writings, and conducted protest meetings in the villages and in Garu as well. Unfortunately, the state government of Jharkhand neither carried out any consultative processes nor obtained free, prior and informed consent of the communities while making such a devastating plan in the name of wildlife conservation. This is a gross violation of the PESA Act of 1996, which recognizes the self-determination of the Adivasis and empowers the Gram Sabha to manage natural resources.

It also violates the Supreme Court judgment in the case of 'Odisha Mining Corporation vs Ministry of Forest and Environment and others (c) No. 180 of 2011, which clearly states that the Gram Sabha is the custodian of the natural resources, and its consent must be taken before making any such regional plan. It is also a clear violation of the FRA, which recognizes Adivasis' individual and community rights over the forest and forest land.

Under the tag of 'Wildlife Corridor', the state government is paving the way for completely undermining the forest rights of Adivasis and OTFDs.

## The Terror of Eviction

*"I pleaded them to give us time to shift our belongings but they didn't listen to me. They destroyed our house, and all belongings were covered up with the broken walls, tiles and woods of the house."*

*-Fuleshwari Lakra, Victim  
Gadia, Garhwa, Jharkhand*

10-year-old Pinkey Lakra was begging her mother Fuleshwari Lakra to give her some money so that she could buy decoration materials from the local market. as the annual festival was about to start. She wanted to decorate their earthen house with different kinds of flowers along with designs made from coloured papers.

This was in Gadia village (under Bhandaria block in Garhwa district of Jharkhand) on 20<sup>th</sup> December 2016. After having a meal, Pinkey went to the local market with her father Brijlal Lakra. They bought some food items and decoration materials there. In the evening, when they returned home, they were stunned and shocked to see that all the houses of their village were razed to the ground.

Unfortunately, their home, which Pinkey had wanted to decorate with colourful paper flowers for the

festival, was destroyed. It had turned into a heap of garbage. They had nothing left but to cry. Pinkey sat down on the broken wall and started weeping. Soon, other villagers also returned to their homes from the market and workplaces. They all started crying on seeing their razed houses.

But nobody was there to explain or tell them what to do. After razing the Adivasi houses, the officials who had done this had already returned to their own homes and were resting. The 18 houses in Gadia village had all been razed to the ground.

As the villagers sat on the ground in the middle of their village, Fuleshwari Lakra, who had witnessed the tragedy, shared what had happened. At 3pm, 25 people from the Forest Department, local police station and forest mafia arrived in the village along with a JCB (earth mover).

They started bulldozing the houses one after another without any information. They didn't even wait for the villagers to return to their homes and shift their food-grains, clothes, utensils and other belongings. She was shocked to witness such an incident, that came without warning.

She says, *"I pleaded them to give us time to shift our belongings, but they didn't listen to me. They destroyed our house and all belongings were covered up with the broken walls, tiles and woods of the house. Within a few hours, we were made houseless, resourceless and left to die with empty hands in this freezing winter."*

After hearing Fuleshwari, the villagers started finding the remaining food-grains, clothes, utensils and other useful articles by searching the ruins of their razed houses. Soon, they also built temporary huts of wood,

cloth and plastic covers to protect themselves from the piercing cold. Thus, within couple of days, their life was kind of normalised. They also started earning from daily wage jobs.

On 24<sup>th</sup> December, the same forest officials, policemen and forest mafia goons rushed to Sinjo, a neighbouring village, where 29 Adivasi families lived. All these earthen houses they pulled down, one after another, with a JCB machine. This news spread like wildfire. The inhabitants of Gadia were also terrified that their temporary huts might be destroyed again. Thank God, they were spared this time.

In these two incidents, 47 houses were destroyed in Gadia and Sinjo villages. The forest official responsible justified these acts on the spurious grounds that these Adivasis had encroached on forest land. After these eviction moves, there was nothing left for the villagers to eat and to protect them from the piercing cold. The right to food, clothing and shelter of 220 villagers, guaranteed under Article 21 of the Indian Constitution, were grossly violated by the Law enforcement agencies themselves.<sup>1</sup>

The stunning factor is that these Adivasis had filed claims under the FRA for the forest land they possessed. Section 4(5) of the Act clearly states that no one shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.<sup>2</sup> These acts were therefore grave offences under the Forest Rights Act. There is provision in the Act for taking legal action against those who violate it, but in this case, of course, nothing has happened.

The International Work Group for Indigenous Affairs (IWGIA) filed a complaint with the National Human Rights Commission (NHRC) and demanded an

investigation and legal action on the incident, but shockingly, the NHRC simply closed the case after hearing the forest officials deny the allegation of forceful eviction.

The illegal eviction has not only wiped out Pinkey's wish to decorate her earthen house with colourful papers to celebrate the annual festival with her family. It also posed the threat of losing her and her family's livelihood resources forever. A billion-dollar question is: who will take away the terror of eviction from Pinkey and millions of others who have been undergoing similar ordeals?

## The CAF Act and Forest Rights

*"The forest department is cutting useful trees and planting commercial species. How can you regenerate the forest this way?"<sup>1</sup>*

*- Kamastri Pradhan, resident  
Pidikia, Kandhamal, Odisha*

As we have seen, the FRA was enacted in 2006 after Adivasis and OTFDs endured years of injustice and struggle. Compounding the further injustice of the FRA's inadequate implementation, the present Indian government enacted the Compensatory Afforestation Fund (CAF) Act in 2016, while the 'recognition and verification procedure'<sup>1</sup> of FRA claims was still far from complete.

These Acts contradict each other at the grassroots. The FRA recognizes the forest rights of Adivasis and OTFDs, while the CAF denies them. The contradiction between these Acts has generated a huge conflict between communities and forest officials.

In many instances mentioned below, following the CAF, the forest rights of Adivasis and OTFDs are being violated by the authorities who were supposed to guarantee them. For instance, in April 2017, forest

officials set extensive fires in forests throughout Jharkhand; later, in the burnt areas, for which Adivasis had filed claims under the FRA, they planted saplings of commercial trees like teak, eucalyptus and sisso.

In Gumla district of Jharkhand alone, forest officials have planted 50,000 saplings in 50 hectares of forest land.<sup>2</sup> Mahadev Oraon, the forest ranger of Gumla, confirms this, saying, *“Around 50,000 saplings of teak, acacia and sisso have been planted in the district. The plantation was done under CAF Act.”*<sup>3</sup>

In the financial year of 2016-17, the Jharkhand government proposed building 36,400 forest fencing pillars, using the Compensatory Afforestation Fund of Rs.1,440 million, which the central government sanctioned.<sup>4</sup>

Consequently, under the guise of regenerating the forest, forest officials built forest boundaries in Simdega, West Singhbhum and Gumla districts, leading to a huge conflict between these officials and Adivasis, who strongly protested against these boundary fences, and destroyed many. In response, forest officials unleashed violence against the Adivasis and implicated them in false cases.

To put it bluntly, the CAF Act has completely suppressed the objectives of the Forest Rights Act. The state governments are seen to be a lot more proactive in enforcing the CAF Act than they ever were in implementing the FRA.

According to Johnson Topno, State Manager of PACS, the organisation jointly implementing the FRA with the Tribal Welfare Department of the Jharkhand Government, there are 14,000 villages in the forest

region in Jharkhand alone, where there are possibilities of one million individual and 12,000 community claims, which will take another five years to convert to entitlements.<sup>5</sup> By the end of December 2018, the Jharkhand government had distributed merely 60,143 Pattas (entitlements) under the FRA (58,053 individual and 2,090 community).

In a similar case in Odisha, forest officials in Kandhamal district, in February 2017, fenced a village forest called 'Dadapada', spread over 300 acres, with metal gates, and planted 60,000 saplings of commercial trees in the area.<sup>6</sup> They fixed a signboard at the entrance, which reads that the area is now a tree plantation under CAMPA (the 'Compensatory Afforestation Fund Management and Planning Authority').

'Dadapada' forest is the area that traditionally provides a livelihood to the Adivasis and OTFDs of Pidikia village. Earlier, the villagers used to access this forest freely for collecting forest produce, firewood and fodder. The villagers say that they had filed a claim for a community title under the FRA.

The Gram Sabha opposed the fencing of forest and wrote a letter to the Tribal Welfare Department, Bhubaneswar, asking that the forest be reopened for the villagers. In this instance, the forest department allowed the villagers to use the forest. But what will happen to them when the commercial plants grow and the natural forest is totally lost due to the commercial plantation?

A report called the 'Community Forest Rights Learning and Advocacy', based on analysis of 2,479 plantations, carried out under the CAMPA in 10 states of India, reveals that 70 percent of these plantations

have been set up on forest lands instead of non-forest lands,<sup>7</sup> which is a clear violation of para 3(2)(i) of the guidelines issued under the Forest (Conservation) Act 1980, which states that compensatory afforestation must be undertaken on non-forest land in the same district as the diverted forest.<sup>8</sup> The study further reveals that the plantations were set up on land either claimed by or given to individuals or communities under the FRA.

Of 52 compensatory afforestation plantations in Chhattisgarh, Jharkhand and Odisha, all were taken up on community forest lands vested in the Gram Sabhas by the Forest Rights Act, without the permission of Gram Sabhas.<sup>9</sup> For instance, Pitaguda and Borguda villages in Odisha, and Edmagondi, Tehametha and Bilma villages in Chhattisgarh lost at least 54 individual cultivable and homestead lands to CAMPA plantations.<sup>10</sup>

CAMPA is a national authority set up by order of the Supreme Court, which presides over funds of Rs. 90,000 crores or about \$15 billion.<sup>11</sup> This money is collected from developers who destroy forests through mining, steel plant and other projects. This money is supposed to be used for regenerating forest elsewhere, on non-forest land.

Prior to the CAF Act, CAMPA was an independent authority in charge of these funds. Post-CAF Act, CAMPA is empowered under the Act to utilize this money for afforestation. The report of the MoEF&CC (GoI), shows that from the financial year 2012-13 to 2017-18, Rs. 8,599 crores have been released to the state governments, which is merely 13 percent of the total funds collected under the CAMPA (see Table 18.1).

**Table 18.1: CAMPA fund transferred to the states**

Sl. No.	Year	Amount (in Crore)
1.	2012-13	1029
2.	2013-14	1008
3.	2014-15	2057
4.	2015-16	2213
5.	2016-17	1827
6.	2017-18	465
<b>Total</b>	<b>06</b>	<b>8599</b>

*Source: greewatch.nic.in by MoEF&CC (Gol)*

To summarise, the CAF Act has enhanced the State's power to grab community forest resources, which are one of the major sources for the survival of 91.1 percent of Adivasis, who still live in rural areas. The CAF Act not only violates the Forest Rights Act; it also sidelines the PESA Act of 1996, which empowers Gram Sabhas to manage natural resources. It claims to overrule the consent of Gram Sabhas, which is mandatory for any projects aiming to divert natural resources from use by villagers under both the previous Acts.

The apprehension is that the corporate houses are certain to use the CAF Act as a tool to capture whatever remaining forest resources they can. This poses an unprecedented threat not only to Adivasis, but also to India's environment as a whole, as it has only 21 percent forest coverage against the minimum requirement of 33 percent needed.

Unfortunately, 1.5 million hectares of country's forests have already been diverted for non-forest

purposes.<sup>12</sup> It seems clear that the CAF Act perceives the communities as obstacles to a masterplan for diverting the country's forests for non-forest purposes.

The fact is that Adivasis are not only consumers of the forest, but its protectors and conservers too. In fact, the idea of co-existence, which is fundamental to Adivasi philosophy, is the only way for regeneration, protection and development of the forests. The Adivasis have their century old comprehensive methods, rules and policies for preserving, protecting and conserving forests. These need to be promoted and encouraged, and incorporated into the CAF Act.

If the rights and entitlements of Adivasis and OTFDs over forest and forest land are not respected, this will always generate more and more conflict and complicate the problem of conserving India's forests, instead of resolving the issue.

## 19

# Forest, Development and Climate Change

*"Let our blood flow like a river, but we won't allow mining. Development for us is being able to protect our hills, rivers and jungles."*<sup>1</sup>

*- Lado Sikaka, Leader  
Niyamgiri Movement, Odisha*

The cutting of trees, clearance of forests, destruction of hills, concretisation of agricultural land and displacement of the Adivasis and other local communities have become prerequisites of the corporate model of development in India today, which has not only widened the economic inequality but also created huge climate crisis in the country.

The Oxfam's report unfolds that India's top 1% of the population holds 73% of the country's wealth<sup>1</sup>, and thousands of poor people lost their lives in droughts, floods and heat waves in the last couple of years<sup>2</sup>. Besides, the Adivasis and other local communities are facing multiple crises like lack of livelihood, alienation from resources, shortfall in forest products, decline in agricultural production and lack of drinking water, etc.

The Ministry of Environment, Forest & Climate

Change (GoI), whose prime role is to ensure the protection of forests, maintain good environment and resolve the issue of climate crisis, unfortunately keeps itself busy in helping the businesses by granting forest and environmental clearances to the corporate-run steel, mining and power projects.

The former Union Minister of MoE&CC (GoI), and present member of Parliament, Jairam Ramesh, reminded us about the role of MoE&CC in Parliament when he said that the *“Environment minister’s job to protect environment, not clear projects. The Environment Minister must stand up and say that climate change is more important than ease of doing business. No country is more vulnerable to climate change than India.”*<sup>3</sup>

The government’s facilitation of its business policy has created serious conflict between the communities and government agencies. One of the most poignant examples is Bailadila Hills of Chhattisgarh, where high quality iron-ore is found. The National Mineral Development Corporation (NMDC), a public sector company, has been mining iron-ore here for the last five decades. Bailadila has 14 hills, and mining activities are ongoing in most of these, but hill No. 13, which is considered a sacred shrine by the Adivasis for their deities and ancestors, so far remains untouched. They believe that their God “Nandraj” lives in this hill with his consort.

However, the government has leased out 315.813 hectares of this hill to NCL, a joint venture of the NMDC and the Chhattisgarh Mineral Development Corporation Ltd (CMDC). In 2015, the MoE&CC sanctioned forest and environment clearance to the NCL for mining this hill, and on 11 January 2018, the Principal Chief Conservator of Forest (PCCF), Chhattisgarh, also granted clearance for felling 25,000 trees on the leased out area<sup>4</sup>.

Interestingly, in December 2018, Adani Enterprises Ltd was brought in as mines developer for this area. While initiating these mining activities, the company cut down 2,000 trees and burned them to ashes. In response to this, 25,000 Adivasis from 200 villages located in Bailadila hills started a campaign of resistance. They declared an indefinite protest against the mining of iron-ore in Nandraj hill. On 6 June 2019, they started walking towards the NMDC headquarters in Kirindul. They carried food items, utensils, traditional weapons, traditional drums, etc, and sat in indefinite protest outside the NMDC HQ, cooking food, eating, sleeping, raising slogans, giving speeches and performing traditional dance. They declared that they would not go back to their villages until the issue is resolved.

This forced the state government to act. They invited a delegation for a dialogue and finally declared an investigation regarding the fake Gram Sabha conducted in 2014, that had supposedly given "consent" for mining. Mining activities were stopped at this time<sup>5</sup>. Of course, we must wait and see whether this investigation causes mining on this hill to be abandoned permanently, or whether this was done merely as a masquerade, to appease dissenting voices from the highly visible Adivasi protest.

The Forest Conservation Act of 1980 prohibits the diversion of forests for non-forest purposes. Yet paradoxically, it allows diversion of forest for certain non-forest purposes that have prior permission from the Central government. The figures for diversion of forests for so-called development projects are extremely depressing and revealing. Between October 1980 and December 2018, 1,510,059.89 hectares of forest land was diverted for 26,194 non-forestry project purposes, including mining, irrigation, power, road construction and defence (see table 19.1).

The top three states which have diverted the largest areas of forest land for such projects are Arunachal Pradesh, Madhya Pradesh and Karnataka. Data shows that 335,940.452 hectares of forest land were diverted for 452 projects in Arunachal Pradesh (22.2 percent of the total diverted forest lands), 259,043.43 hectares for 1,539 projects in MP (17.1 percent), and 108,255.902 hectares of forest land diverted in Karnataka for 999 projects (7.1 percent).

**Table 19.1: Status of Forest Diversion (1980 to 2018)**

Sl. No.	States	No. of Projects	Land Diversion	
			Hectares	In %
1.	Uttarakhand	4,523	70,332.998	4.66
2.	Punjab	4,200	80,110.903	5.31
3.	Haryana	3,517	17,206.727	1.14
4.	Himachal Pradesh	989	11,418.775	0.76
5.	Gujarat	1,772	89,877.982	5.95
6.	Madhya Pradesh	1,539	25,9043.43	17.15
7.	Karnataka	999	108255.902	7.17
8.	Uttar Pradesh	918	62,080.276	4.11
9.	Maharashtra	848	39,593.424	2.62
10.	Rajasthan	836	43,658.688	2.89
11.	Andhra Pradesh	770	65,146.922	4.31
12.	Tamil Nadu	674	6,826.908	0.45
13.	Odisha	632	77,698.01	5.15
14.	Sikkim	470	4,030.207	0.27
15.	Arunachal Pradesh	452	335,940.452	22.25
16.	Chhattisgarh	427	52,086.072	3.45

17.	Jharkhand	409	38,159.033	2.53
18.	Tripura	391	3,145.095	0.21
19.	Telangana	299	55,589.133	3.68
20.	Assam	289	10,010.962	0.66
21.	Bihar	287	8,499.63	0.56
22.	Kerala	242	41,424.212	2.74
23.	Dadra Nagar Haveli	149	274.041	0.02
24.	West Bengal	117	7,648.269	0.51
25.	Meghalaya	103	792.536	0.05
26.	Goa	100	2,749.039	0.18
27.	Andaman & Nicobar Islands	94	2,601.073	0.17
28.	Chandigarh	43	129.953	0.01
29.	Manipur	43	3,760.4	0.25
30.	Mizoram	38	11,252.297	0.75
31.	Delhi	16	52.142	0.00
32.	Jammu and Kashmir	7	656.452	0.04
33.	Daman Diu	1	3.95	0.00
34.	Lakshadweep	0	0	0.00
35.	Nagaland	0	0	0.00
36.	Pondicherry	0	0	0.00
	Total	2,6194	1,510,055.89	100.00

*Source: greenwatch.nic.in by the MoEF&CC (GoI)*

Appallingly, the UN Environment Programme (UNEP) bestowed the Indian Prime Minister Narendra Modi with its 2018 ‘Champion of the Earth’<sup>6</sup> award, when his government has a terrible track record on environmental and climate change issues. As per the 15<sup>th</sup> Forest Coverage Assessment Report, India has merely 21.5 percent forest coverage,<sup>7</sup> against the minimum requirement of 33 percent forest coverage of total geographical area in a country, that

is required for a healthy overall environment. This government, through its MoEF&CC (GoI), seems hell-bent on granting as many forest and environmental clearances to so-called development projects as possible. In the last five years alone, 57,864.446 hectares of forest land has been diverted for 2,347 projects (see table 19.2), and this year (2019), by the end of June, 9,421.488 hectares of forest land has already been diverted for 957 projects.

**Table 19.2: Status of Forest Diversion (2014-2018)**

Sl. No.	Year	No. of Projects	Forest Diversion (in Hectare)
1.	2014	699	30,699.389
2.	2015	462	10,265.495
3.	2016	441	5,189.098
4.	2017	686	11,601.078
5.	2018	89	109.386
<b>Total</b>	<b>5</b>	<b>2,347</b>	<b>57,864.446</b>

*Source: greenwatch.nic.in by the MoEF&CC (GoI)*

The MoEF&CC (GoI) describes its role, responsibility and objectives in their website [www.moef.gov.in](http://www.moef.gov.in) in terms of being the nodal agency in the administrative structure of the Central Government for planning, promoting, coordinating and overseeing the implementation of India's environmental and forestry policies and programmes.

The Ministry's primary concern is apparently to implement its policies and programmes relating to conservation of the country's natural resources, including its lakes and rivers, biodiversity, forests and wildlife, ensuring the welfare of animals, and the prevention or minimisation of pollution. While implementing these policies and programmes, the Ministry is supposed to be guided by the principle of sustainable development and enhancement of human well-being.

The Ministry is also supposed to serve as India's nodal agency for the UNEP, South Asia Co-operative Environment Programme (SACEP), International Centre for Integrated Mountain Development (ICIMOD) and for following up recommendations by the UN Conference on Environment and Development (UNCED). The Ministry is also entrusted with issues relating to multilateral bodies such as the Commission on Sustainable Development (CSD), Global Environment Facility (GEF) and of regional bodies like the Economic and Social Council for Asia and Pacific (ESCAP) and South Asian Association for Regional Co-operation (SAARC) on matters pertaining to the environment.

The broad overall objectives of the Ministry are conservation and survey of flora, fauna, forests and wildlife, prevention and control of pollution, afforestation and regeneration of degraded areas, protection of the environment and ensuring the welfare of animals.

Against these objectives however, the Ministry has reduced the processing of environment clearance from 599 to 192 days and forest clearance from 430 days to 170, with a view to making it easier for businesses to operate in forest areas. This makes it clear that the Ministry's main aim in practice is to hand natural resources over to the corporate houses as fast as possible.

For instance, the Ministry granted forest and environment clearance for razing 54,000 mangroves spread on 13.36 hectares in Maharashtra for the Mumbai-Ahmedabad bullet train project. Similarly, environment and forest clearances were granted with undue haste for open-cast coal mining in Parsa in Chhattisgarh's dense Hasdeo Arand forests, one of the largest contiguous stretches of very dense forest in central India, spanning about 170,000 hectares.

This diversion of forests for non-forest purposes does not get proper space in development discourse, except when the government has to respond to questions in Parliament. One needs to see the diversion of forests for non-forest purposes project-wise in order to understand its importance. As per the data of forest diversion provided to the Lok Sabha by the MoEF&CC<sup>8</sup>, 897,698 hectares of forest land was diverted for the non-forest purposes from October 1980 to July 2016(see table 19.3).

The data shows that the top three kinds of project for which forest land was diverted are mining, irrigation and hydel power. 132,465 hectares of forest land were diverted for 1,550 mining projects (14.7 percent of the total), 106,509 hectares for 1,886 irrigation projects (11.86 percent), and 86,620 hectares for 8 Hydel power projects (9.6 percent). The data also reveals that 259,584 hectares of forest land was diverted for 'encroachments' (28.9 percent of the total diverted). It is left unclear: what kind of encroachments are such a huge area of forest land being diverted for?

**Table 19.3 : Category Wise Diversion of Forest Land**

Sl. No.	Category of Projects	No of Projects	Forest Diversion Area in Hectare	In %
1.	Borehole Prospecting	4	50.99	0
2.	Defence Projects	235	43,492.19	4.84
3.	Dispensaries/ Hospitals	43	156	0.01
4.	Disputed Settlement Claims	0	0	0
5.	Drinking Water	1468	1,214.04	0.14
6.	Encroachments	56	25,9584	28.92

7.	Forest Village Conversion	8	5,040.15	0.56
8.	Hydel Projects	425	86,620	9.65
9.	Industries	37	83.29	0.01
10.	Irrigation	1,886	106,509	11.86
11.	Mining	1,550	132,465	14.76
12.	Quarrying	1	0.17	0
13.	Railways	273	8,740.71	0.97
14.	Rehabilitation	46	17,415.6	1.94
15.	Roads	5,524	43,591	4.86
16.	Schools	131	2,534.17	0.28
17.	Thermal	54	7,554.45	0.84
18.	Transmission Line	2,270	38,731.4	4.31
19.	Village Electricity	49	177.82	0.02
20.	Wind Power Projects	63	3,630.98	0.4
21.	Others*	7,762	140,107	15.61
<b>Total (Ha)</b>		<b>21,885</b>	<b>897,698</b>	<b>100</b>

*\*Others category includes miscellaneous projects not included in the above indicated major categories such as petrol pump, relocation of villages, disputed settlement claims, stone/sand quarrying, construction of residential complex, pipe lines, borehole prospecting etc.)*

*Source: Lok Sabha starred question No. 334 answered by the MoEF&CC (Gol) on 9 August 2016*

What is being called “development” today is therefore the concretization of Mother Earth, rapid exploitation of natural resources, and promotion of corporate culture.

The question is: how long and to what extent can this situation continue? Lado Sikaka, Adivasi leader of the Niyamgiri Movement, who was imprisoned for leading the protest against Bauxite mining by Vedanta, speaks for all Adivasis when he says, "*Development for us is being able to protect our hills, rivers and jungles.*"<sup>9</sup>

Instead of listening to Adivasis, the government authorities and people of the so-called mainstream keep calling them "enemies of development, anti-State and anti-national"!

Nature is under ferocious assault, and today's climate crisis is one result. The UN General Assembly has declared 2021 to 2031 as the 'UN Decade of Ecosystem Restoration', with one aim being to remove up to 26 gigatons of greenhouse gases from the atmosphere<sup>10</sup>.

The UN reminds us that 60 percent of the earth's species have already become extinct. We therefore urgently need a total paradigm shift. In the present model of development, only a few are benefitting, and the majority of people suffer.

The climate crisis affects the common people far more than the rich, for now, as they can afford to pay to escape its consequences.<sup>11</sup> Therefore, this is the right time to say "No" to unjust corporate model of development for the betterment of all living beings on the planet.

## 20

# Amendment for Injustice

*"The enforcement of Indian Forest Act 2019 will be genocide for the Adivasis."*

*- Dayamani Barla  
Adivasi Activist, Jharkhand*

The Ministry of Environment, Forest and Climate Change (GoI) has prepared a 123 pages draft to amend the colonial-era Indian Forest Act of 1927. The amended Act is to be called the Indian Forest (Amendment) Act 2019. On 7th March, 2019, the Inspector General of Forest, MoEF&CC (GoI), circulated the draft to the Principal Conservators of forest & HoFFs in all States and Union Territories, asking their comments/views on the proposed draft on the comprehensive amendments by the 7<sup>th</sup> June 2019.<sup>1</sup>

The 1927 Act focused on laws related to transport and taxation of forest produce. The Amendment Act has increased the focus to "conservation, enrichment and sustainable management of forest resources and matters connected therewith to safeguard ecological stability to ensure provision of ecosystem services in perpetuity and to address the concerns related to climate change and international commitments."<sup>2</sup> However, the major amendments are threatening in the extreme to the

Adivasis who depend on forests for their survival, as the following list of the Act's main provisions shows.

### **1. Power to reserve the forests**

In the proposed amendments, the state government is empowered to reserve any forest, which has been provided in the section 3(1) stating that whenever the state government considers that any forest area or land by reason of its environmental, ecological, floral, faunal, geo-morphological, botanical, silvi-cultural, zoological, hydrological association or importance is needed to be constituted as a reserved forest for the purpose of conserving, protecting, propagating or managing the forest, it may constitute such area as reserved forest on any land which is the property of the Government, or over which the Government has proprietary rights or to the whole or any part of the forest produce of which the Government is entitled, in the manner hereinafter provided.

The apprehension is that after this amendment, the state government can declare any village forest as reserved forest, completely alienating it from the communities that have always lived in and from it, which will destroy Adivasi and OTFDs' livelihoods completely.

### **2. Bar on accrual of forest rights**

Once a forest is notified as reserved then no one will be given rights on that particular forest, which is clearly stated in the section 5 (a) that no right shall be acquired in or over the land comprised in such notification, except by succession or intestate succession or under a grant or contract in writing made or entered into by or (on behalf

of the government) or some person in whom such right was vested when the notification was issued and (b) no house, shed or other structure shall be built or plantation formed, no fresh clearing or breaking of land for cultivation or for any other purpose shall be made on such land nor any tree therein felled, girdled, lopped, tapped or burnt or its bark or leaves stripped off, or the same otherwise damaged, nor any forest produce removed there from. This amendment is clearly against the principle of the Forest Rights Act.

### **3. Power to de-reserve Forest**

In this Act the state government has been empowered to notify a forest as reserved, but unfortunately, the power of de-reservation of the forest is vested with the central government under section 27 of the Act. This amendment exposes the Indian government's intention: to capture the remaining forests.

### **4. Rights of pasture and forest produce**

It has been provided in section 12 of the Act that in the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part, after considering the viewpoint of the presenting officer, or the DFO. This amendment is again bound to have adverse effects on the livelihood of Adivasis and OTFDs.

### **5. Formation of village forests**

The state government will constitute village forests, which has been stated in section 28 of the Act.

Any forestland or wasteland which is the property of government or over which the government has proprietary rights can be set up as a village forest, and village forests can be modified or amended under this Act. Such village forests shall be managed by the community through Joint Forest Management Committees. This amendment aims to control the village forests through the JFM model.

## **6. Protected Forests**

The state government will constitute protected forests under section 29(1)(a), ensuring Government control over the produce of forests designated as Protected.

## **7. Power to impose duty**

Both the central and state governments have power to impose duty on timber and forest products as per their jurisdiction, which has been provided in section 39 of the Act. This amendment will also have negative effects on the livelihood of Adivasis and OTFDs.

## **8. Power to arrest without warrant**

As per the section 64(1) of the Act, any Forest officer or Police officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having contravened any articles of this Act, punishable with imprisonment for one year or upwards. This amendment grossly violates the right to life of Adivasis and OTFDs, and their traditional forest rights.

## **9. Power to prevent commission of offence**

The provisions of section 66(1)(2) and (3) are the worst in the Act. Forest, police and revenue officers are given absolute power to prevent the commission of any forest offence. These officers can use force including fire arms to prevent an offence, but in case of any allegation against them, no legal action could be initiated without prior permission from the state government. This amendment is very dangerous, allowing forest guards to shoot innocent Adivasis and OTFDs with impunity.

## **10. Power of entry and search**

The Act also empowers forest officers to enter and search based on suspicion, as been stated in section 66(A). Any forest officer not below the rank of an Assistant Conservator of Forests, when he has reason to believe that an offence under this Act has been committed, or is being or is likely to be committed, is given the power – either in person or through an officer empowered by him - to enter and search any such place in which he has reason to believe that any forest produce or tool, plant, equipment, rope, chain, vehicle, machinery, weapon or any other article involved or likely to be involved in commission of forest offences is concealed. This amendment again is likely to encourage gross violations of fundamental rights.

After getting responses and suggestions from 'stakeholders', these amendments are supposed to be tabled in Parliament. If they are passed and the Act becomes Law, the effects for Adivasis, who are struggling for their survival as it is, are likely to be catastrophic.

As per the Census data 2011, Adivasis constitute 8.6% of the total population of India, which is 104 million

people. Out of these just 10.1% have shifted to small towns and the cities, while 89.9% still live in or near the forests. This means that nearly 90 million Adivasis will be affected by the Act.

This Act would not only alienate the Adivasis and OTFDs from their livelihood and habitation but it will also put their life in increased danger of torture, false cases and being shot dead, after getting branded as encroachers of the forests they have always lived in and conserved.

## 21

# Criminalisation of the FRA Claimants

*"The forest department has lodged complaints against us in allegation of encroaching the forest land. Some of us were imprisoned for months but we're still fighting for the forest rights".*

*- Bhukhan Singh, victim  
Jerua village, Latehar, Jharkhand*

The forest rights Act 2006 is a ray of hope for those Adivasis and OTFDs, who live in the forest regions, cultivate forest land and use forest resources for their survival. The FRA recognizes the rights of Adivasis and OTFDs over forest land and forest which they have occupied before 13 December 2005.<sup>1</sup> The role of the law enforcing agencies is supposed to be merely to verify the occupancy and issue entitlement papers to the claimants.

Instead of carrying out these duties, as we have seen, many of them have been playing a highly dubious role. The district level committee of Latehar rejecting the FRA claims of 72 Adivasis of Rinchi village to facilitate coal mining (discussed in chapter 12) is one out of countless examples. The Forest Department has been actively terrorizing villagers who try to assert the forest rights

supposed to be guaranteed under the FRA. In many cases they have been implicated in false cases, imprisoned, and subjected to multiple forms of terror.

The Forest Department in effect is the biggest landlord in the country.<sup>2</sup> It seems to perceive the Forest Rights Act as a tool for communities to encroach on forest land. This perception has created huge conflict with forest dwelling communities. FD allegations of encroaching the forests, cultivating forest land and felling trees for domestic uses has led to widespread abuse. In Jharkhand alone there are many examples of forest officials terrorizing, falsely implicating and jailing villagers, who have simply been using the forest according to traditionally recognised forest rights.

One example is the inhabitants of Jagtu, Jerua, Kope and Lanka villages located in the jurisdiction of Manika development block in Latehar district. Here, Kharwar Adivasis are in the majority, whose livelihood is based on agriculture, collecting forest produce, rearing cattle and daily wage labour. They have small patches of private land and also cultivate forest land.

The FD has accused these villagers of deforestation, and coined them as encroachers of forest land, falsely implicating them in cases and imprisoning them. From 2007 to 2013, the FD filed 31 cases against 99 villagers, including 9 women of these villages. Out of 100 accused persons, 13 were imprisoned for 45 days. Presently, all accused persons are on bail and attend the court regularly. They are also fighting to protect and ensure their forest rights.

Segregating these cases village-wise, one sees that inhabitants of Jagtu village have paid the highest price for claiming their forest rights. The FD filed four cases

against 22 people including two women alleging them as encroachers of 70 acres of forest land (designated as plot no. 284 and 285). They were also accused of cutting 30 bundles of firewood. Out of 22 accused persons, 13 were imprisoned for 45 days (see table 21.1).

Similarly, the FD filed 11 cases against 29 villagers of Jerua village (see table 21.2). No less than 7 cases have been filed against Bhukhan Singh, 6 against Serfuddin Miyan and 4 cases each against Lalan Singh and Preman Bhaiyan, whom the FD accuses of encroaching and cultivating 37 acres of forest land (plot nos. 569, 576, 566, 567, 598, 574 and 499).

In the third village of Kope, the forest department has filed 6 cases against 16 people alleging them as encroachers of 44 acres of forest land (plot nos. 521, 524 and 526) (see table 21.3).

The fourth village is Lanka, whose residents have faced a similar ordeal. The forest department lodged 10 cases against 33 villagers including 6 women alleging them of encroaching and cultivating 21 acres of forest land (plot nos. 69, 75, 425 and 489) (see table 21.4).

Apart from these cases, the district administration has also filed several criminal cases when villagers participated in block and district level protests in demand of forest rights. For instance, in GR no. 294/09 and GR. no. 528/09, two criminal cases were filed against Bhukhan Singh of Jerua village along with 7 other named and 250 unnamed accused persons, alleging them of not allowing government authorities to carry out their duties.

In another case (GR. no. 132/09), a criminal case was lodged against Dileep Singh of Kope village and Sohan Singh, Preman Bhuiyan and Shyamdev Bhuiyan of Jerua village, alleging that they beat a government

Table 21.1: Case details of Jagtu village

Sl. No.	Name of person	No. of accused cases	Case No.	Allegation	Status of case
1.	Amar Dayal Singh	03	C.F. 44/09 C.F. 96/09 C.F. 80/09	In the case No. C.F.44/09, the accused are alleged of encroaching of 22 acres of forest land of plot No. 284 and 285 and felling trees for fire wood.	In the case No. C.F. 44/09, eight accused were in jail for 45 days. Presently they are in bail and attending court regularly.
2.	Madan Singh	01	C.F. 44/09		
3.	Mohan Singh	01	C.F. 44/09		
4.	Kuldeep Singh	01	C.F. 44/09		
5.	Tirhut Devi	01	C.F. 44/09		
6.	Anarkali Devi	01	C.F. 44/09		In the case No. C.F. 96/09 the accused are on bail and attending regular court.
7.	Manohar Singh	01	C.F. 44/09	In the case No. C.F. 96/09, the accused are alleged of encroaching 18 acres of forest	
8.	Bira Bhuiyan	01	C.F. 44/09		
9.	Shukan Singh	01	C.F. 44/09		
10.	Naresh Singh	02	C.F. 44/09 C.F. 96/09		In the case No. 12/09, five accused

11.	Balo Singh	02	C.F. 12/09 C.F. 80/09	land of plot No. 284-285.	were in Jail for 45 days.
12.	Smitar Bhuiyan	01	C.F. 12/09	In the case No. C.F. 12/09, the accused are alleged of encroaching and cultivating 30 acres of forest land.	Presently, they are out on bail and attending the court regularly.
13.	Bishwanath Bhuiyan	02	C.F. 12/09 C.F. 96/09		
14.	Amrica Singh	01	C.F. 96/09		
15.	Mundrika Singh	01	C.F. 96/09		
16.	Jageshwar Singh	01	C.F. 96/09		
17.	Mohar Singh	01	C.F. 96/09		
18.	Ramdash Singh	01	C.F. 96/09		
19.	Jhaman Singh	01	C.F. 96/09		
20.	Arvind Singh	01	C.F. 96/09		
21.	Ishrail Miyan	01	C.F. 96/09		
22.	Reyaji Miyan	01	C.F. 96/09		

Source: Case documents provided by the villagers

Table 21.2: Case details of Jerua village

Sl. No.	Name of accused person	No. of accused cases	Case No.	Allegation	Status of case
1.	Bhukhan Singh	07	C.F. 79/10 C.F. 89/09 C.F. 97/09 C.F. 52/10 C.F. 29/09 C.F. 70/08 C.F. 104/09	In the case No. C.F.80/09, the accused are alleged of encroaching of 2 acres of forest land of plot No. 569 and 576 and felling trees for fire wood.	All the accused are on bail and attend the court regularly.
2.	Lalan Singh	04	C.F. 80/09 C.F. 27/09 C.F. 89/09 C.F. 97/09	In the case No. C.F. 27/09, the accused are alleged of	
3.	Sudhan Singh	03	C.F. 52/10 C.F. 80/09 C.F. 53/10	In the case No. C.F. 27/09, the accused are alleged of	
4.	Sohan Singh	03	C.F. 54/10 C.F. 79/10		



12.	Sarfuddin Miyan	06	C.F. 52/10 C.F. 80/09 C.F. 27/09 C.F. 89/09 C.F. 97/09 C.F. 52/10	2.5 acres of forest land of plot No. 574. In the case No. C.F. 52/10, the accused are alleged of encroaching on 3 acres of forest land of plot No. 566.	All the accused are on bail and attend the court regularly.
13.	Ganauri Singh	02	C.F. 29/09 C.F. 53/10		
14.	Pandu Singh	02	C.F. 104/09 C.F. 53/10		
15.	Preman Bhuiyan	04	C.F. 104/09 C.F. 89/09 C.F. 97/09 C.F. 54/10	In the case No. C.F. 97/09, the accused are alleged of encroaching on the forest land of plot No. 566, 567	
16.	Gumani Singh	02	C.F. 104/09 C.F. 53/10		
17.	Jokhan Singh	01	C.F. 102/09		
18.	Sudhan Singh	02	C.F. 53/10 C.F. 52/10		

19.	Indradev Singh	02	C.F. 104/09 C.F. 52/10	<p>and 598.</p> <p>In the case No. C.F. 29/09, the accused are alleged of encroaching and cultivating 26 acres of forest land of plot No. 568 and 569.</p> <p>All the accused are on bail and attend the court regularly.</p>
20.	Latang Singh	01	C.F. 29/09	
21.	Abha Devi	01	C.F. 53/10	
22.	Malhori Singh	02	C.F. 29/09 C.F. 54/10	
23.	America Bhuiyan	01	C.F. 104/09	
24.	Madhim Singh	02	C.F. 54/10 C.F. 53/10	
25.	Shivnath Singh	01	C.F. 104/09	
26.	Dhaneshwar Singh	01	C.F. 54/10	
27.	Jitan Singh	01	C.F. 54/10	
28.	Nageshwar Singh	01	C.F. 54/10	
29.	Dhanvat Singh	01	C.F. 54/10	

*Source: Case documents provided by the villagers*

Table 21.3 : Case details of Kope village

Sl. No.	Name of accused person	No. of cases	Case No.	Allegation	Status of case
1.	Jhama Singh	01	C.F. 22/09	In the case No. C.F. 22/09, the accused persons were alleged of encroaching 3 acres of forest land of Plot No. 521 and 526.	All accused persons are on bail and attending the court regularly.
2.	Julfan Singh	01	C.F. 22/09		
3.	Shyamdev Bhuiyan	02	C.F. 22/09 C.F. 11/09	In the case No. C.F. 90/07, the accused persons were alleged of encroaching and cultivating 3 acres of forest land of Plot No. 521.	
4.	Dileep Singh	01	C.F. 22/09		
5.	Pandu Singh	01	C.F. 22/09	In the case No. C.F. 11/09, the accused persons were alleged of encroaching and cultivating 2 acres of forest land of Plot No. 521 and 524.	
6.	Basudev Singh	03	C.F. 11/09 C.F. 90/07 C.F. 70/08		
7.	Lilu Singh	03	C.F. 11/09 C.F. 90/07 C.F. 70/08		
8.	Vinwsar Singh	01	C.F. 115/09		

9.	Ishwar Singh	01	C.F. 115/09	<p>In the case No. C.F. 11/09, the accused persons were alleged of encroaching and cultivating 18 acres of forest land.</p> <p>In the case No. 21/09, the accused persons were alleged of encroaching and cultivating on 18 acres of forest land of Plot No. 521.</p>	<p>All accused persons are on bail and attending the court regularly.</p>
10.	Surat Singh	01	C.F. 115/09		
11.	Sitaram Singh	01	C.F. 115/09		
12.	Ramesh Bhuiyan	01	C.F. 21/09		
13.	Sudhan Bhuiyan	01	C.F. 21/09		
14.	Krishna Mochi	01	C.F. 21/09		
15.	Nanhu Mochi	01	C.F. 21/09		
16.	Damodar Singh	01	C.F. 70/08		

*Source: Case documents provided by the villagers*

Table 21.4 : Case details of Lanka village

Sl. No.	Name of accused person	No. of cases	Case No.	Allegation	Status of case
1.	Malo Parhin	01	C.F. 133/07	In the case No. 133/07, the accused persons were alleged of encroaching and cultivating 1.5 acres of forest land of Plot No. 69.	All accused persons are on bail and attending the court regularly.
2.	Mahangu Parhin	01	C.F. 133/07		
3.	Mahendra Parhiya	01	C.F. 10/07		
4.	Binu Parhiya	01	C.F. 10/07		
5.	Banarasi Parhiya	01	C.F. 10/07		
6.	Kanohar Parhiya	01	C.F. 10/07		
7.	Mahavir Parhiya	03	C.F. 70/08 C.F. 10/07 C.F. 125/12	In the case No. 10/07, the accused persons were alleged of encroaching and cultivating 3 acres of forest land of Plot No. 75.	
8.	Kamta Singh	02	C.F. 71/08 C.F. 101/09		
9.	Ramjit Singh	02	C.F. 71/08 C.F. 101/09	In the case No. 71/08, the accused persons were alleged of encroaching	
10.	Prabhu Singh	02	C.F. 71/08 C.F. 101/09		

11.	Arjun Singh	02	C.F. 71/08 C.F. 101/09	and cultivating 2.5 acres of forest land of Plot No. 425.	All accused persons are on bail and attending the court regularly.
12.	Puran Singh	02	C.F. 71/08 C.F. 101/09		
13.	Jhaman Singh	02	C.F. 71/08 C.F. 101/09	In the case No. 101/09, the accused persons were alleged of encroaching and cultivating 5 acres of forest land.	
14.	Ramjanam Singh	02	C.F. 71/08 C.F. 101/09		
15.	Chhadu Singh	02	C.F. 71/08 C.F. 101/09		
16.	Laleshwar Oraon	01	C.F. 126/12	In the case No. 122/12, the accused persons were alleged of encroaching and cultivating 6 acres of forest land of Plot No. 489.	
17.	Bhukhli Devi	01	C.F. 109/12		
18.	Lalo Devi	01	C.F. 122/12		
19.	Agahan Singh	01	C.F. 122/12		
20.	Rupdev Singh	01	C.F. 122/12		
21.	Jagatpal Singh	02	C.F. 122/12 C.F. 109/12		
22.	Girvar Nayak	01	C.F. 122/12		

23.	Sukhlal Oraon	01	C.F. 125/12	<p>In the case No. 125/12, the accused persons were alleged of encroaching and cultivating 3 acres of forest land and felling 30 bundles of wirewood.</p> <p>All accused persons are on bail and attending the court regularly.</p>
24.	Kanhai Singh	01	C.F. 125/12	
25.	Jamuna Bhuiyan	01	C.F. 109/12	
26.	Rajendra Singh	01	C.F. 50/13	
27.	Jhugli Devi	01	C.F. 50/13	
28.	Janesar Bhuiyan	02	C.F. 50/13 C.F. 109/12	
29.	LalesarBhuiyan	02	C.F. 50/13 C.F.122/12	
30.	Sitaram Singh	02	C.F. 50/13 C.F. 109/12	
31.	Fulmani Devi	01	C.F. 50/13	
32.	Birendra Singh	02	C.F. 50/13 C.F. 109/12	

Source: Case documents provided by the villagers

officer. Similarly, another criminal case (GR. no. 77/09) was filed against 21 villagers including 10 from Jerua, 8 from Jagti and 3 from Kope for demanding their forest rights.

These villagers all filed claims under the Forest Rights Act, and are simply occupying forest lands that have long been recognised as theirs. Being criminalised by the law enforcement agencies contravenes the FRA. It is clear that the coal reserves under their lands is the main reason for denying such villagers their lawful forest rights.

The State sponsored crimes against these Adivasis and OTFDs seems intended to alienate them from the forests that have been theirs since time immemorial - a gross violation of the Forest Rights Act and Article 21 of the Indian Constitution.

## 22

# Iron-ore Mining and Forest Rights

*"We have been living in the Saranda forest for years. We had filed claims for entitlements of the forest land we possess but our claims were rejected but the mining leases were sanctioned to the mining companies."*

*- Vijay Kerai, Claimant of FRA  
Saranda Forest, Jharkhand*

55-year-old Vijay Kerai, of Jojodera village in Saranda, was extremely upset because the government authorities had rejected the forest rights claims of all 20 families of his village. They had settled Jojodera village in the 1980s during the Forest Movement (discussed in chapter 6 of this book). They are legitimate claimants of forest rights under the FRA, but their village is not yet recognised as a revenue village.

Jojodera is not the only village whose existence is denied: it is one of 17 forest villages in Saranda forest which are not yet recognised as the revenue villages. Thus, the Adivasis of these villages are denied basic government facilities like roads, drinking water, health, education and sanitation facilities.

A survey conducted by the Adivasi Samanvay Samity

(ASS) in 2014 shows that 1,918 persons of 431 families are living in these villages. All the families filed claims for entitlements of forest land they possess under the FRA criteria. Their claims were rejected, but the government authorities neither informed them of this, nor mentioned the reason for rejection; falsely alleging them instead as encroachers of the forest lands they occupy.

In fact, these villagers have documents to prove their existence much before 13 December 2005 (the date fixed in the FRA), including records of cases filed against them by government authorities during the Forest Movement in the 1980s.

The ASS has been campaigning to demand these villagers' forest rights for a decade. This has forced the government to recognize the forest rights in some villages. As per the government record, there are 56 villages in Saranda forest, though unfortunately individual rights have been recognized of merely 416 families in 14 villages (see table 22.1) and community rights were recognized in only nine villages.

Interestingly, in those villages where individual rights were recognized, the community claims were rejected, and vice versa. Was this done to facilitate the iron-ore mining projects?

**Table 22.1: Status of Individual Entitlements**

Sl. No.	Name of the village	Accepted claims	Entitlement distribution	Area of Land (in acre)	Average per family (in decimal)
1.	Kumdi (Rogada)	20	20	4.30	21.5
2.	Diripidh	125	125	168.77	1.35
3.	Tontogada	39	39	7.55	19.3

4.	Digha	74	74	107.37	1.45
5.	Kulatupu	19	19	3.17	16.6
6.	Ratamati	10	10	1.63	16.3
7.	Koynarbeda	04	04	0.44	11
8.	Gundijora	20	20	3.30	16.1
9.	Nurda	18	18	2.47	13.7
10.	Kaulidoda	04	04	0.62	15.5
11.	Dumangdiri	14	14	2.26	16.1
12.	Hinua	14	14	2.64	18.8
13.	Nuiyagada	22	22	4.22	19.1
14.	Jombai	33	33	07	21.2
	<b>Total</b>	<b>416</b>	<b>416</b>	<b>315.74</b>	<b>75.8</b>

*Source: DC office, Chaibasa, RTI Later No. 594 dated 17 May 2016*

The government authorities recognized the community rights on 3,558.32 acres of forest land of nine villages (see table 22.2), but all the individual claims were rejected in these villages! The reason for this was not told to the claimants. Interestingly, 415 individual claims of Raimati, Maranglonga, Tantai, Timra, Chodari, Tirilposi, Bitkilsoy, Bahada and Tantrighat village were rejected, alleging that the villagers don't have possession on the land,<sup>1</sup> which is totally false.

The villagers have occupied this forest land and cultivated it for years. The reason for rejecting these forest rights claims is evident: these villages fall in iron-ore deposit areas. The government authorities clearly understand that once forest rights are recognised, it is very difficult for them to displace the villagers for mining activities without their free, prior and informed consent and compensation.

**Table 22.2: Status of Community Entitlements**

Sl. No.	Name of the village	Accepted claims	Entitlement distribution	Area of Land (in acre)
1.	Chiria	01	01	553
2.	Binua	01	01	555
3.	Lado	01	01	1300.32
4.	Tirilposi	01	01	200
5.	Jojogutu	01	01	200
6.	Rajabeda	01	01	200
7.	Mamar	01	01	150
8.	Gindung	01	01	200
9.	Nayagaon	01	01	200
	Total	09	09	3558.32

*Source: DC office, Chaibasa, RTI Later No. 594 dated 17 May 2016*

There is a clear link between forest rights refusals and iron-ore mining interests in Saranda. Jharkhand has one of the oldest heritages of mining and industrial growth in India, which started through the pioneering work of a number of eminent geoscientists, who contributed significantly in exploring the region's minerals.<sup>2</sup> The state has a total iron ore (hematite) reserve of 4,036 million tonnes, which accounts for about 29% of the national reserve.<sup>3</sup>

Presently, the state is producing about 160 million tonnes of various minerals annually, worth Rs.15,000 crore (approx. \$2.5 billion). Saranda Forest is estimated to contain 25% of the total iron ore of the country. The average iron content in iron ore from Saranda Forest varies from 58-67%, and its low sulphur and phosphorus content makes it a prime resource for steel manufacture.<sup>4</sup>

The exploitation of Saranda's iron ore began in 1925 by TISCO or Tata Steel Limited, with its principal mines at Noamundi. The erstwhile privately-owned Indian Iron and Steel Company (IISCO) took control of the Chiria iron ore mines complex in Saranda Forest in 1936. IISCO became a fully-owned subsidiary of the Steel Authority of India Ltd (SAIL) in 1978, and a final merger took place in 2006 on the premise that the six mines in Saranda Forest operated by IISCO would be made available to SAIL, since it had been forced to absorb substantial losses on IISCO's account.<sup>5</sup>

In Jharkhand, the most important iron ore is hematite ( $\text{Fe}_2\text{O}_3$ ), which is confined to the Iron Ore Series of West Singhbhum district, and is among the richest deposits in Asia.<sup>6</sup> The production of iron ore has been booming in Jharkhand since the inception of the state in 2000. It stood at 12.56 mtpy (million tonnes per year) in 2001-2, but jumped to 16.42 mtpy in 2004-5, boosted by a 70% growth in iron ore prices in the international market. Presently, the state produces nearly 23 million tonnes of iron ore annually, which is 10.5% of the total annual production (218 million tonnes) of the country.<sup>7</sup>

There are still vast un-mined iron ore deposits in the vicinity of Ghatkuri, Bokana, Diruburu, Kasiapicha, Hatnaburu, Kodlibad, Parambaljori, Barabaljori, Raika, Ankua, Ledaburu, Matkamburu, Rurangburu and Jantaiburu villages of Saranda Forest, whose potential attracts numerous investors.

The number of iron ore mining leases in Saranda Forest has increased exponentially in recent years. According to the Indian Bureau of Mines, West Singhbhum is the most intensely mined district in Jharkhand and accounts for almost the entire share of iron ore mined in the state. Already, 50 iron ore mining leases are operational, covering an area of 14,410

hectares. At present, most of the mining activities in West Singhbhum district are concentrated on the periphery of Saranda Forest.

Clearly, the largest lease-holder in Saranda is SAIL, with 13 iron ore mining leases (6 leases in Chiria mines, 4 in Gua and 3 in Kiriburu-Meghahatuburu).<sup>8</sup> SAIL's Chiria Mines cover the largest area, totaling about 2,376 hectares, which is about 3% of the entire Saranda Forest area; and out of this, around 194 hectares (8%) has already been broken up.<sup>9</sup>

The government of India's decision to privatize mines for captive use by private companies in 1993 intensified the exploitation of iron ore in Saranda. For example, the private mining company Usha Martin Ltd got its mining lease from the Government in 2005, and started operations there in 2006. Similarly, more than 20 private companies got mining leases and clearances too. A recent list of proposed mining leases submitted by the District Mining Officer, Chaibasa, to the state government, shows that 85 private companies have applied for iron ore mining leases in Saranda Forest, covering more than the total area of the Reserved Forest.<sup>10</sup>

Out of the 85 applications, the state government has sanctioned 22 mining leases to several national and multinational companies, including Arcelor Mittal India Ltd, Tata Steel Ltd, Jindal Steel & Power Ltd, JSW Ltd, Bhushan Steel & Power Ltd, Essar Steel Ltd, Rungta Mines Ltd and Electro Steel Casting Ltd (see Table 22.3). Once these 22 mining projects, which are in different stages of approval, are given the go-ahead, an additional 9,337.54 hectares, or more than one-seventh of Saranda Forest, will be opened-up for mining,<sup>11</sup> which is indeed a severe threat to the continued existence of Adivasis and Saranda Forest itself, with all its outstanding biodiversity.

**Table 22.3: New approved mining leases in Saranda**

<b>Sl. No.</b>	<b>Name of the company</b>	<b>Village/ Mauza</b>	<b>Area in hectares</b>
1.	KYS	Kantoria	139.50
2.	Balmukund	Nuia	373.25
3.	Balajee Songe Iron Ltd.	Bokna	420.96
4.	AML Steel Ltd.	Bokna	383.54
5.	Rungta Mines Ltd.	Bokna	343.00
6.	Jindal Steel & Power Ltd.	Jeraldaburu	537.00
7.	Bhushan Steel & Power Ltd.	Chatuburu	422.75
8.	Sunflag Iron & Steel Ltd.	Kodalibad	120.00
9.	Electro Steel Casting Ltd.	Kodalibad	350.50
10.	Rungta Mines Ltd.	Kodalibad	192.50
11.	JSW Steel Ltd.	Ankua	999.90
12.	Sesa Gua Ltd	Dhobil	999.40
13.	Bihar Songe Iron Ltd.	Roam	543.00
14.	Ispat Industries Ltd.	Raika	520.00
15.	Horizon Loha Udyog Ltd.	Setaruian	215.00
16.	Essar Steel Ltd (PL)	Ankua	568.75
17.	Anindita Traders & Investment Ltd.	Parambaljori	47.14
18.	Tata Steel Ltd (PL)	Ankua	1,808.00
19.	Arcelor Mittal India Ltd (R.F.)	Karampada	202.35
20.	Adhunik Group	Bhangaon	45.00
21.	Jai Balaji Industrial ProductsLtd.	Bhangaon	60.00
22.	Kohinoor Steel Pvt. Ltd.	Bhangaon	46.00
<b>Total</b>			<b>9,337.54</b>

*Source: Mining Map published by Govt. of Jharkhand in 2011.*

The MoEF&CC (GoI) is busy facilitating business interests by granting environment and forest clearances to the mining companies. In this process, the forest rights of the Adivasis are being denied.

As per the available data, the government authorities have rejected 17,000 individual claims in the entire Saranda region, and sanctioned 22 new mining leases to Indian and overseas mining companies. As per the latest information from the MoEF&CC, it will soon form a committee to explore the prospect of opening conservation or no-mining zone approximately 43,000 hectares area in Saranda forest for iron ore mining. The no-mining area has mining proposals from SAIL, JSW Group, Vedanta Ltd and others<sup>12</sup>.

What does this mean? Doesn't it mean that mining interests have vastly overshadowed the forest rights of Adivasis? It is devastatingly clear that the Indian State has been violating its law to serve the mining interests.

## Denial of FRA to PVTGs in Tiger Reserve

*"Conferring of habitat rights within the core will create barriers for free movement of tigers and other wild animals. And also there is apprehension of life risk of PVTGs."*

*- Dr. JD Pati, Deputy Director,  
Similipal Tiger Reserve, Odisha*

'Mankidias' are one of 13 particular vulnerable tribal groups (PVTGs) of Odisha, whose habitat rights were denied by the District Level Committee of Mayurbhanjin the Similipal Tiger Reserve (STR). The STR is a compact block of elevated plateau located in the centre of Mayurbhanj district.

The stretch of forest that includes Similipal Reserve spreads over an area of 2,750 km. It was declared a 'Tiger Reserve' with effect from 4 December 1973 under 'Project Tiger' Scheme of Government of India.<sup>1</sup> The Mankidias are a very small group of Odisha Adivasis with a population of just 1,050.

In the Similipal Tiger Reserve, 203 Mankidias are living in 9 villages. Their population was only 142 in 2001,<sup>2</sup> which clearly means that their population growth is low due to

marginalisation. Mankidias collect Siali fibres from the core area of STR and sell it to traders and artisans for Rs.120 to 150 per kg. Artisans make ropes and handicrafts from them.

Unfortunately, good quality Siali fibre is available only in the core area, not in the buffer zone of the STR. The group ventures out to forests where they stay for a month or two at a stretch. They build small huts and offer worship to their deities before starting the collection of the Siali fibre. Now, they are facing fundamental livelihood challenges after the DLC's decision.

In the vast majority of cases, the district administration has become an obstructor in conferring the forest rights to the Adivasis; but in the case of the Mankidias, the administration of Mayurbhanj district played a very positive role, even though this failed. In fact, the district administration was enthusiastic in conferring the Forest rights to the Mankidias. It initiated the FRA process and conducted a series of consultations with Mankidias in the villages in 2015.

In 2016, the district administration initiated a process to enable the Mankidias to file claims for their habitat rights in the STR, and documented their customs and livelihoods. The District Collector, Rajesh Pravakar Patil, played a very impressive role in motivating the Mankidias to file claims for habitat rights. He conducted several meetings with Mankidias in villages.

He confirmed this in the Media, saying, "*A process has already been initiated by the district administration to recognize habitat rights of Mankidias under the FRA. We are documenting life and livelihood of Mankidias and their access to forest for food and other daily needs.*"<sup>3</sup>

The Collector was very hopeful that the hard work of the district administration would bear positive fruits for the Mankidias. He said, "*We have conducted detailed*

*deliberations with the community leaders of Mankidias residing in 14 villages in the district. Efforts are being made to get their claims approved through Gram Sabhas at the panchayat level. Our process of recognizing habitat right will be definitely better than that of others. Documentation of life of Mankidias is being done in a very systematic manner. If everything goes smoothly, the small primitive tribal group will have habitat rights in their hand within next one to one and half month."*<sup>4</sup>

Ironically, the habitat rights of Mankidias were rejected by the DLC, which is also headed by the District Collector. At the DLC meeting held on 15 December 2017, the Deputy Director of STR vehemently opposed allowing habitation rights in the core area. As per the proceeding of the DLC, Dr. JD Pati, deputy director of STR, clarified that conferring habitat rights within the core would create barriers for free movement of tigers and other wild animals, while putting the PVTGs' lives at risk.<sup>5</sup>

Indeed the STR's logic is ridiculous because there is no record of the Mankidias being attacked by wild animals in the STR. The fact is that the Mankidias have lived with the forests along with its wildlife for at least the last 200 years (far longer presumably) and they know how to tackle the challenges.

The STR used the letter of the National Tiger Conservation Authority (NTCA), India's nodal body for protection and conservation of tigers dated 28 March 2017 on the issue of 'Conferring rights under the FRA in critical tiger habitats, stating that 'in absence (of) guidelines for notification of critical wildlife habitats, no rights shall be conferred in Critical Tiger Habitats which is duly notified under the Wildlife (Protection) Act 1972.'<sup>6</sup>

However, the National Commission for Scheduled Tribes (NCST) rejected the order of the NTCA in its meeting held on 2 January 2018. The NCST Chairperson,

Nand Kumar Sai, recommended that 'no tribal shall be vacated from the forest area until an alternate land is provided to them.' It was also noted that tribals cannot be evicted from Tiger Reserves without their consent'.<sup>7</sup>

The denial of habitation rights to Mankidias in STR is a violation of section 4(2) of the FRA, which recognizes the co-existence of communities, forests and wildlife.

Needless to say the PVTGs are the most vulnerable groups among the Adivasis in India, who need special protection. In 1960s, the Debar Commission observed the inequality in the development of the Adivasis. Thus, in 1973, the Commission created Primitive Tribal Groups (PTGs) as a separate category for 'less developed' tribal groups.

In 1975, the India government initiated the identification of PTGs and declared 52 such groups as PTGs. In 1993 an additional 23 groups were added to the category, making a total of 75 groups out of 705 Scheduled Tribes in India.<sup>8</sup> In 2006, the GoI renamed the PTGs as Particularly Vulnerable Tribal Groups, due to the racist overtones of calling them 'primitive'.

Unfortunately, the status of PVTGs has not changed. They are becoming more and more vulnerable as they are being denied their habitation and livelihood rights in the forest regions, where they have been living for generations.

## 24

# Conservationists and Forest Rights

*"They believe forests should remain undisturbed by people so that wildlife and biodiversity remain protected. But the model seems highly impractical as the rights of people living on forest land and cultivating it for centuries remains unrecognized."*

*- N C Saxena, Expert  
Chaired, NCFR of 2010*

'Coexistence' is a law of nature, and it is one of the major aspects in the Adivasi way of life. Most Adivasis live in the forests alongside wildlife even today, which is acknowledged as a 'symbiotic' relationship in the National Forest Policy of 1988. The Forest Rights Act 2006 and the Wildlife (Protection) Act 1972 also legitimize it. The FRA recognizes the habitation rights, and the Wildlife Protection Act emphasizes encouraging the coexistence of humans and wildlife in the buffer zones of wildlife sanctuaries.<sup>1</sup>

However, the hard-core conservationists and environmentalists seem set against coexistence, since they strongly advocate keeping forests aloof from the communities, apparently believing that this is what will

protect wildlife and biodiversity. This is why certain conservationists, the FD and the MoEF&CC (GoI) have been opposing the FRA since its inception, in the belief that the forests belong to the State and the communities living there are 'encroachers', who must be evicted.<sup>2</sup>

This view is neither practical nor acceptable. It not only denies the traditional rights of Adivasis but it is also against the basic law of nature. N.C. Saxena, a renowned bureaucrat, who also chaired the National Committee on the Forest Rights Act in 2010, slams it saying, "*They believe forests should remain undisturbed by people so that wildlife and biodiversity remains protected. But the model seems highly impractical as the rights of people living on forest land and cultivating it for centuries remains unrecognized.*"<sup>3n</sup>

Nevertheless, the intervention of the so-called conservationists and environmentalists has created a huge crisis for the Adivasis and OTFDs, who rely on the forests for their survival.

There are several so-called conservationist NGOs, i.e. the Bombay Natural History Society (BNHS), Wildlife Trust of India (WTI), Wildlife First, Tiger Research and Conservation Trust (TRACT), Nature Conservation Society (NCS) and Wildlife Society of Odisha, who are foremost in playing a dubious role against conferring forest rights to the communities. They have strategically been using litigations to block the FRA.

In 2008, immediately after the FRA was enforced, some of these NGOs filed a writ petition (civil) no(s). 50/2008 Wildlife Trust of India & Ors vs. Union of India & Ors), challenging the constitutional validity of the Act. Later, many other conservationists and retired Forest Department officials also filed several petitions in the high courts of various states against the Act. These

petitions were clubbed together and the Supreme Court started hearing them in 2015.

The most significant petition of these is the writ petition filed by a so-called conservationist NGO called Wildlife First. It states that communities must be removed from forest land because they degrade forests and thus destroy wildlife habitat.<sup>4</sup> Besides this, in January 2019, three so-called conservationist NGOs - Wildlife First, TRACT and NCS filed an interim application in the Supreme Court in an ongoing case in Writ Petition (C) (Wildlife First and Ors. Vs. Union of India and Ors. No(s). 109/2008) with a prayer that if a claim of rights under the FRA is not found to be tenable by competent authorities, then the claimant is required to be evicted.

Many people are amazed to see the role of these so-called conservationists because they have challenged the constitutional validity of the FRA in one petition, and prayed to the court to enforce the FRA for rechecking and evicting illegal encroachments in the other. What is their intention? It seems that they intend to ensure the eviction of Adivasis and OTFDs from the forests no matter how.

These so-called conservationists put the main or entire blame for degrading the forests onto Adivasis and OTFDs. Yet government data suggests the exact opposite. The Forest Survey of India, a government body responsible for surveying and assessing forest resources of the country, is the most reliable source of information on the health of forests in the country.

Its State of Forest Report 2017 lays the blame of degraded forests on development activities such as mining, and not onto forest communities, as suggested by Wildlife First.<sup>5</sup> This raises many questions about the biased acts and underlying intentions of these so-called conservationist NGOs. They have not raised a single

question on the degradation of forest by the mining, steel and power companies in the petition. Why?

According to the data of MoEF&CC (GoI), from October 1980 to December 2018, 1,510,055.89 hectares of forest land was diverted for 26,194 non-forestry purposes, including mining, irrigation, power, road construction and defence. The present government is even more proactive in granting forest and environmental clearances to the so-called development projects. In the last five years, 57,864.446 hectares of forest land was diverted for 2,347 projects and the clearance of hundreds of such projects are in the pipeline.

But these so-called conservationist NGOs are keeping silent about it. How can they pretend to conserve the forests and wildlife without stopping mining and developmental activities in the forest regions of India? How do they see only the Adivasis and OTFDs as a threat to the forests and wildlife, closing their eyes to corporate-run mining and other developmental activities? Doesn't this indicate that they are really battling for the big mining, steel and power companies?

The so-called conservationist NGOs were heavily criticized from all corners for their dubious role in the eviction order issued by the Supreme Court in February 2019.<sup>6</sup> This group of critics includes wildlife biologists, scientists and conservationists from the Nature Conservation Foundation, Azim Premji University, Ashoka Trust for Research in Ecology and the Environment, Indian Institute of Technology, Guwahati, Indian Institute of Advanced Studies, Indian Statistical Institute, Indian Institute of Science, and the Madras Institute of Development Studies. All these joined in to criticize the anti-community move of the so-called conservationist NGOs.

While jointly addressing to the media they said, *"The rights of local communities are an integral part of any sustainable and just model of conservation, as is now recognized in international law. Furthermore, the Forest Rights Act not only recognizes these rights, it also legally empowers communities to protect their forests and wildlife as well. It is the first and only law in India that gives those who live in and with forests the power to protect them."*<sup>7</sup>

While criticizing the petitioning wildlife groups in the case, they said, *"We find it particularly ironic that they (the petitioners) went to court claiming that the procedures under this (Forest Rights) Act are 'arbitrary', and are now seeking to say that those same procedures are so effective and sacrosanct that millions of people should be evicted based on their results."*<sup>8</sup>

Similarly, the FRA campaigners - Campaign for Survival and Dignity, Kalpavriksh, Vidharbha Nature Conservation Society, Vasundhara, All India Forum of Forest Movement, Mahan Sangharsh Samiti, Society for Promotion of Waste land Development, scientists and ecologists from Nature Conservation Foundation and Ashoka Trust for Research in Ecology & Environment also vehemently opposed the move of the so-called conservationist NGOs, and wrote them a joint letter.<sup>9</sup>

The letter reads, *"We are writing to express our deep dismay at the position you have recently taken before the Supreme Court, in your interim application (IA 5) filed in January in Writ Petition 109/2008 (Wild life First and Ors. vs. Union of India and Ors.). We fail to understand why, at a time when it has become clear to everyone that the key enemy of the environment is the Forest Department-facilitated corporate looting of natural resources, you insist on continuing to attack the rights of the country's poorest citizens while further empowering that very same bureaucracy."*<sup>10</sup>

The letter further reads, *"We are shocked that you could file a petition like this at a time when the Central government is seeking to accelerate clearances and industry is piling on pressure to make forest, biodiversity and resource destruction easier. Across the country a significant force that has stopped this resource loot are local communities fighting to protect their natural resources and habitats, often by using FRA provisions."*<sup>11</sup> They have also appealed to the petitioners to withdraw the petition against the FRA, and the present interim application filed by the three groups.

The fight between the so-called conservationists and the FRA supporters may continue but the facts will never change. Of course, the primary fact is that long before the words- "Conservation", "Protection" and "Preservation" were created, the Adivasis had been protecting, conserving and preserving the forests and wildlife by using indigenous knowledge.

Unfortunately, their lands and forests were taken over by the State in the name of "Conservation", "Protection" and "Preservation" of the forests and wildlife, and they were declared as encroachers.<sup>12</sup> Therefore, their rights must be recognized. The forests and wildlife will be protected, conserved and preserved only with realisation of the idea of coexistence.

## 25

# Illegal Eviction in Madhya Pradesh

*"The forest officials were trying to run JCBs over farms in which villagers had just sown seeds. When the villagers protested, and shouted, the officials fired pellet guns on them."*<sup>1</sup>

*- Madhuri K, an activist  
Jagrut Adivasi Dalit Sangathan, MP*

The Supreme Court's order of 13<sup>th</sup> February 2019 for eviction of the forest dwellers whose claims were rejected under the FRA (while hearing the case based on the writ petition no(s). 109/2008 (C)Wildlife First and Ors. Vs. Union of India and Ors), was stayed on 28<sup>th</sup> February. However, the Forest Department of Madhya Pradesh carried out eviction moves anyway in a number of villages, violating the SC's stay order.

This illegal eviction move by the FD came to light after an eviction team fired pellet guns on Adivasis of Siwal village, located in Khaknar Tehsil in Burhanpur District of MP, where four Adivasi men were severely injured and admitted to hospitals for treatment.

Siwal has 708 families with a population of 3,712 people. The village is dominated by Barela Adivasis,

whose livelihood is based on agriculture and forest produce, occupying forest land and cultivating it over many years. They applied for entitlements under the FRA, submitting proof of their occupancy since 1988-89 with their claim forms, but their claims are still pending. Forest officials carried out the eviction move in the village despite this.

The incident took place on 9<sup>th</sup> July 2019, when an eviction team comprising 50 personnel of the local police and forest officials of Burhanpur district arrived at Siwal with JCBs with the intention of clearing so-called encroachments, and planting commercial plants on these Adivasis' forest land. They started digging over 150 hectares of land for the new plantation, where Adivasis had already sown seeds a few days back.

Once they had dug up 60 hectares, the Adivasis launched a protest, raising slogans against the forest officials.<sup>1</sup> Obviously, they were angry to see the forest officials digging up their planted fields, and they started pelting stones at the JCBs. In retaliation, the forest officials fired pellet guns at them. Consequently, four Adivasis were severely injured on their necks, chests, hands and legs. The pellet gun victims were as follows:

1. Mr. Gokhriya Badole, s/o Mr. Gathla Badole
2. Mr. Bhurala Achale, s/o Mr. Mangasya Achale
3. Mr. Rakesh Achale, s/o Mr. Rama Achale
4. Mr. Vakil, s/o Mr. Bhiktal

The villagers claim that the forest ranger, Rajesh Randhava, opened fire on them and that Shukla, the SDO was leading the eviction team. After the police firing, the eviction team left the village. Thereafter, the villagers went to Neapanagar police station to file an FIR against the eviction team, but they were refused.

However, an FIR was lodged under sections 336 and 337 of the Indian Penal Code only after intervention by local activists. Surprisingly, though the villagers had mentioned the names of some perpetrators in their complaint, the police officer of Neapanagar police station deliberately filed an FIR against unknown persons, to shield the perpetrators.

Later, the eviction team also filed a counter FIR in the same police station against 150 villagers, including 26 named accused under sections 353, 147, 148, 149, 332 and 472 of the Indian Penal Code, accusing them of unlawful assembly, rioting and obstructing government officials from performing their duties. The police officers claimed in the FIR that around 150 Adivasis from the village started protesting and pelting stones at the forest officials. Therefore, to bring the situation under control, they fired in the air, and in the process, some Adivasis got injured.

One should be surprised at these claims of the police and forest officials. How can four Adivasis get severely injured if they had only fired in the air? Secondly, how can they allege Adivasis of unlawful assembly on their own land? How could they be expected not to protest when their lands are being grabbed?

On 1<sup>st</sup> May 2019, the state government of MP had issued a notice to all district collectors to review FRA claims as per the order of the Supreme Court of 28<sup>th</sup> February. The eviction team, however, didn't bother about this and dug up the land with a view to planting commercial crops without any review of the village's FRA status. The fundamental questions are; who had ordered them to evict the Adivasis, when their FRA claims were still pending? And how could they think of carrying out an eviction drive when the government was supposed to be reviewing FRA claims?

Clearly, the eviction team grossly violated section 4(5) of the Forest Rights Act 2006, which categorially states that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.<sup>2</sup>

It also violated Article 21 of the Indian Constitution, which guarantees the right to life with dignity to everyone. But the question is; who will punish the law enforcement agencies for violating the laws and constitutional provisions?

## Plantations on FRA Land

*"We can't eat teak. Why should we accept these plantations? We have been taking care of the forest for ages. It's our protector."<sup>1</sup>*

*- Tumma Manjhi, Villager  
Burlubaru, Kandhamal, Odisha*

The FRA was aimed at righting historic wrongs that Adivasis and OTFDs have suffered. The recognition of forest rights, however, is a tedious process<sup>1</sup> and even after getting entitlement of the land, one shouldn't take this as a guarantee that no-one will alienate the landholder from his/her land. The forest department may evict the landholders anytime, with a view to planting commercial plantations such as teak, eucalyptus, sisso, etc.

In one such case in Odisha, forest officials forcefully established such a plantation on the land of 52 families of the Kutia Kondh community, which has been classified as a PVTG in Odisha. As members of a PVTG, such families should have been provided special protection by the government.

These families live in Burlubaru village, in Kandhamal district. They mainly live in the hills on an indigenous diet, cultivating tubers, fruits, millets and

other indigenous crops on the land for the past several generations.<sup>2</sup> They had filed individual FRA claims on forest land they have been cultivating since the time of their forefathers,<sup>3</sup> and had received individual titles of 166 plots of forest land in 2012-13 under the FRA.<sup>4</sup>

The FD however, without taking their consent, carried out massive plantations on their cultivated FRA land, alienating these Kutia Kondhs from their land. This illegal measure not only deprived them from their basic livelihood sources, but was also likely to impinge negatively on the ecosystem of the area, since indigenous plants and trees were cut down by the forest department.

Such plantations are made under schemes such as the Odisha Forestry Sector Development Project (an externally aided project funded by the Japan International Cooperation Agency), and CAMPA, which, as we have seen, propagates plantations for 'compensatory afforestation', drawing on funds from the corporate sector as well as the Mahatma Gandhi National Rural Employment Guarantee Act scheme.<sup>5</sup>

However, in September 2015, the Kutia Kondh Adivasis conducted a Gram Sabha meeting and passed a resolution against the plantation. They decided to stop the forced plantations, which were contravening their forest rights and livelihood, and also significantly damaging the local biodiversity.

The villagers also sent complaints to various government authorities, including the NHRC. Consequently, a team of the NHRC visited the village and submitted its report to the government, which confirmed that the plantations were being carried out on land whose title had been validated under the FRA.<sup>6</sup>

When the forest department was caught out by the

NHRC, it changed its tune, claiming that the plantations had been taken up with the help of Vana Sanrakshan Samiti (a joint committee of the FD and Gram Sabha for conserving the forest), and with the consent of the villagers. The VSS has no relevance after enforcement of the FRA. The FD also claimed to have obtained a proper resolution of the Gram Sabha for the plantation as proof of the Adivasis' consent, proving that this was no case of forcible plantation.

The Adivasis, however, Adivasis denied it and, insisted that the FD must stop forcible plantations of commercial species on their land, and that it constituted a gross violation of their rights under the FRA. But despite these protests from the Adivasis, the FD officials didn't stop making plantations.

The civil society organisations of Odisha also sent a joint petition to the Ministry of Tribal Affairs on 8th August, 2015, stating that these forcible plantations on the land of Kutia Kondhs violates India's obligation under the Convention on Biological Diversity (CBD), citing also the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>7</sup> They demanded a complete stop to plantations on FRA land.

The situation is not different in other villages of Kutia Kondhs in the region. According to an assessment by the environmental organisation "Vasundhara", massive plantations have been carried out without settlement of forest rights and without consent of the Kutia Kondhs at Rangaparuru, Pandamaska, Kusumunda, Madaljunda, Deoghada, Guchuka, Tidipadar, Kadapana and many other villages.<sup>8</sup>

The plantation of commercial trees on FRA land, has adversely affected the livelihood of the Kutia Kondhs.

A Kutia Kondh woman, Basanti Majhi, explains this

frankly. She says, *“We cultivate almost 72 types of millets and pulses and it is the single source of livelihood. This is less water-intensive and more efficient in the time of drought. But due to the forced plantation of teak and eucalyptus by the forest department, the share of millets and pulses in our food basket is reducing and we are compelled to depend on rice given by the government under PDS (Public Distribution System). This is against our food culture.”*

The question is; how can Adivasis be alienated from their forest land for commercial plantation without their free, prior and informed consent?

## Bhils Denied Forest Rights

*"We went to the panchayat several times. But every time they said the file was under process."<sup>1</sup>*

*- Devi Lal, Claimant  
Rawatbhata, Rajasthan*

The individual forest rights claims of 61 Bhil Adivasi families of Amba and Bevdaki Khal hamlets located at Rawatbhata Tahsil in Chittorgarh district of Rajasthan were rejected by the District Level Committee of Chittorgarh. The Bhils have occupied the forest land and been cultivating it for ages.

However, in 2002, the forest department filed several cases against them, alleging that they were encroaching this forest land. Consequently, the civil court summoned them in 2002. This event became one evidence that helped them to prove their eligibility to claim the forest land under the FRA, where the occupancy period is fixed as 13 December 2005.

In 2012, while filing the individual claims, these claimants had attached the court's summons as one of the proofs with other required evidence. Nevertheless, the DLC, Chittorgarh rejected, their claims without giving them a hearing or informing about the reason

for rejecting their claims. They came to know about this rejection only after they filed petitions in the Panchayat's office under the Right to Information Act 2005, in June 2018.

Unfortunately, they could not appeal against the rejection of their claims because they were not informed by the DLC,<sup>1</sup> and there is no such time bound period for the disposal of claims.

Yet the documents they received through the RTI contains interesting information. It shows that the Gram Panchayat - a body of elected representatives that governs a village - had sought the records from the forest department for each of the claims in 2012, and a letter from the department had acknowledged that the request was under process.

There is also an undated document from the SDLC listing 61 rejected claims, including all applicants from two hamlets, Amba and Bevdaki Khal.<sup>2</sup>

The RTI responses expose the fact that a forest rights committee was not formed in the village when the claims were rejected. The forest rights committee was constituted only in June 2018, three days after an RTI was filed seeking the names of the committee members.

The committee had five members, though the law says it should have no fewer than 10. There were no women representatives, as the law says there must be. There was a "vice president" appointed to the committee, an illegal position.<sup>3</sup> Indeed, the processes of forest rights was carried out illegally at the Gram Sabha level, which indicates the nexus between the local body and Sub-division level committee.

The DLC's arbitrary actions violated several provisions of the Forest Rights Rules 2007, including section 12 (A) (3) that states that in the event of

modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such a decision or recommendation on the claim shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days, which shall be extendable to a period of thirty days at the discretion of the above said committees.<sup>4</sup>

Similarly, the DLC violated section 12(A)(10) of the Forest Rights Rules, which categorially states that all decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the SDLC shall give detailed reasons for such modification or rejection.<sup>5</sup>

Though the Bhils were not given the reasons for rejecting their claims in writing, the Panchayat official verbally said that their claims were rejected because Amba and Bevdaki Khal hamlets are in the buffer zone of the Jawahar Sagar Wildlife Sanctuary.<sup>6</sup> This is not actually a valid reason in the FRA, because the Act recognizes habitation and livelihood rights even in the core area of a Wildlife Sanctuary.<sup>7</sup>

After rejection of the forest rights claims, the Bhils are under threat of eviction due to the SC order of 13<sup>th</sup> February 2019, based on the intervention of the so-called conservationists. As we have seen, Wildlife First, Nature Conservation Society and Tiger Research and Conservation Trust have argued that rejection of an FRA claim implies that the claimant is an encroacher and not a *bona fide* forest dweller.<sup>8</sup> The facts are otherwise.

Growing evidence from the ground shows a huge number of rejections that were illegal and arbitrary. So many claims were rejected despite the claimants providing comprehensive and conclusive evidences of their occupancy to the authorities. In many cases, the claims were rejected to serve mining or FD interests.

In these circumstances, all rejected claims must be verified by the Gram Sabha. Adivasis can't continue to be denied their rights on forest lands they have occupied, cultivated and survived from for generations.

## Forest Rights with RTI

*"The Authorities should have approved the claim of Jana Hadkya Kutade because our recommendation was based on the survey conducted by the revenue department itself."*<sup>1</sup>

*- Ganpat Janu Pawar, Chief of FRC  
Hateri, Thane, Maharashtra*

Getting recognition of forest land under the FRA is not an easy task, as this book has shown all too clearly. Adivasis have been forced to adopt various strategies. The Adivasis of Jawhar and Vikramgad Talukas in Thane district of Maharashtra are using the Right to Information Act 2005 as a legal weapon in their battle for forest rights. They file petitions under the RTI and extract information regarding their forest rights claims.

These Adivasis had started filing the RTI petitions on 6<sup>th</sup> September 2012. In April 2013, their campaign broadened, and over 700 Adivasis from 11 villages from Jawhar (Kogda, Hateri, Malghar, Anantnagar, Akre, Kahandolpada, Dhadhri, Dabhosa, Ozar, Vinwal and Dapti) and three villages from Vikramgad (Wehelpada, Dohyachapada, Sawarkhind) filed RTI applications in a single day in the district collector's office at Jawhar.<sup>1</sup> Thus, within couple of years, they filed 1,272 petitions.<sup>2</sup>

Interestingly, they refer to section 12A (2), (3) and (7) of the Forest Rights Rules 2007 in their RTI petitions. The RTI petitions seek the following information - 1) A copy of letter, if any, sent to the Gram Sabha for verification of my claim for my land as per Section 12A (2); 2) A copy of recommendation made by the Forest Rights Committee or Sub-Divisional level committee to reduce the area of my claim for my land as per Section 12A (3); 3) A copy of the letter as per section 12A (7) letter of rejection or of only partial allotment of land sent to the Gram Sabha; and 4) A copy of the letter sent to me stating the reason for rejection or only partial allotment of my claims to my land.<sup>3</sup>

These Adivasis were compelled to file RTI petitions because many of them were not given any information about their claims even after five years, and most of those who had been given entitlements, received less land than they occupied and claimed for.

According to these FRA claimants, after enforcement of the FRA in January 2008, a village forest rights committee (FRC) was formed and the claimants filed their claims. The committees verified the claims by spot visits and measurements and the Gram Sabhas finally approved these claims.

The claims were then forwarded to the SDLC and then to the DLC, presided over by the District Collector. The SDLC and DLC were expected to clear the claims within 60 days each. But the claimants received their pattas only after five years. After this long wait of five years, people were still distraught and shocked at what the government has given on paper.<sup>4</sup>

Most of the claimants had received entitlements with much less area of forest land than what they have actually been tilling and had claimed entitlements for.

These claimants had attached all the proper evidence, including a verification report by the FRC showing a land holding of 5 to 6 acres of land. However, the government patta showed only a half or single acre. The government authorities did not explain to the claimants the reasons why this unjust allocation was done.<sup>5</sup>

For example, Jana Hadkya Kutade of Hateri village had filed a claim for over 9 hectares of forest land, but he eventually received entitlement to merely 1.5 hectares, while the Hateri FRC had cleared his claim for over 9 hectares. Angry, Jana Hadkya Kutade filed an RTI petition in the office of the district collector to know why he was allotted such a small patch of land, even though he has occupied and cultivated 9 hectares over years. Under the FRA amendment rules of 2012, the authority must disclose why it has partially or entirely rejected the claim of an applicant.<sup>6</sup>

Another claimant, Ashok Lakhan of Anantnagar village, had filed a claim on 16,777 square metres of forest land in 2009. On 23<sup>rd</sup> June 2009, the officers of forest and Revenue departments did physical verification of the land using GPS. They confirmed the occupancy on this holding.<sup>7</sup> However, on 10<sup>th</sup> August 2011, he received the entitlement paper for merely 3,500 sq.mt, which is not even one fourth of the claimed land. He says that he had submitted all the required documents with the claim form but this was ignored, and again, he was not told the reason.

A third claimant is Sakharam Wahut of Ozar village, who had claimed six acres of forest land, which he had occupied and cultivated for years. But he was given entitlement paper of merely 300 sq. mt, which is less than one acre. He was surprised to know that without even physical verification of the land, he was given entitlement of so much less land than he had

claimed. Finally, he filed RTI petition to know the truth.

Unfortunately, the Public Information Officer (PIO) of the Collector's office entertained none of the 1,272 RTI applications within the stipulated 30 days. Therefore, 450 applicants of the 1,272 filed a first appeal on 1<sup>st</sup> May 2013. On 25<sup>th</sup> June, the First Appellate Authority (FAA) directed the PIO to give the requisite information, but the latter did not pay heed.<sup>8</sup> Hence, the Adivasis approached the State Chief Information Commissioner (SCIC) in Mumbai.

On 27<sup>th</sup> August 2013, the SCIC heard the case and ordered compensation for ten Adivasis, who were made to file unnecessarily appeals. The SCIC also issued a show cause notice to the PIO with penalty proceedings. The PIO was asked to provide the required information in the format sought by the applicants before 31<sup>st</sup> October 2013. Besides, the SCIC directed the revenue secretary to *sue moto* display information about claims under FRA for all applications received after 1<sup>st</sup> April 2011, on notice boards and on the website, that should be updated every month.<sup>9</sup>

Indeed, it was a great victory for the Adivasis, after huge energy and labour. However, the fight for forest rights continues but nobody knows whether their forest rights will be recognized.

## 29

# Aftermath of SC Order

*"The people were made to sign affidavits saying they didn't have proof. Since the reason for rejection was lack of proof, getting people to accept not having one justified the rejection."<sup>1</sup>*

*- Archana Soren,  
Independent Researcher*

While staying its 13<sup>th</sup> February 2019 order of eviction regarding the Writ Petition No(s). 109/2008 (C) Wildlife First and Ors. Vs. Union of India and Ors., the three-judges bench headed by Justice Arun Mishra of the Supreme Court (SC), on 28<sup>th</sup> February 2019, ordered the chief secretaries of all states to file a detailed affidavit in the court before the next hearing on 24<sup>th</sup> July 2019, covering all aspects, and to place on record the rejection orders and details of procedures followed to settle claims, describing the main grounds on which claims had been rejected.<sup>1</sup>

The Court further asked for it to be stated whether the tribals were given an opportunity to bring evidence; and, if so, whether reasonable orders had been passed regarding rejection of the claims.<sup>2</sup> The SC panel expressed its concern over the encroachment of forest lands by the mighty people, industrialists and other persons under the

guise of the OTFDs. It ordered the state governments to give category-wise details of incumbents who had been occupying lands belonging to STs and OTFDs; and to furnish affidavits from the Chief Secretaries.<sup>3</sup> It also ordered the FSI to make a satellite survey, and to place encroachment positions on record.

The state governments of FRA states, following the SC's order, re-verified the rejected claims under the FRA. In this re-verification process, the government authorities took various arbitrary high-handed steps, including ignoring all initiatives from Gram Sabhas. For example, the Odisha government rejected more than 10,000 're-verified' claims.<sup>4</sup>

The affidavit they submitted to the SC put 45,000 forest dwellers' livelihoods at risk. Among the rejected claims were 52 unfortunate families of Ambapadiya village, located near the Chandaka Wildlife Sanctuary in Mayurbhaj district. These families claimed to have lived in the region since the 1950s, and to have filed claims under the FRA in 2008, which were rejected in 2010 without any explanation. They had written to the authorities but nothing happened.

After the SC order, on 15<sup>th</sup> June 2019, Bhubaneswar block's sub-divisional magistrate sent notices informing claimants from Ambapadiya and four nearby villages that a hearing was to be held with the SDLC on 18<sup>th</sup> June.

The SDLC was due to review the appeals of about 500 forest dwellers there.<sup>5</sup> At this public hearing, the claimants were made to sign an affidavit stating that they accepted the decision of the SDLC<sup>6</sup>. Similar steps were taken across the state of Odisha. According to the affidavit submitted to the SC, the DLCs completed the herculean task of hearing around 11,000 *suomotu* appeals, and the SDLCs about 29,000 appeals. As these appeals did not account for all rejections in the state, the Odisha

government sought another nine months from the court to hear them.<sup>7</sup>

In this entire process, a most peculiar aspect is that the state governments admitted before the SC their fault in passing adverse orders against the STs and OTFDs by rejecting their claims, and decided to review their decision.

In compliance with the SC order, 16 states filed responses. Nine of these - Maharashtra, Tripura, Karnataka, Chhattisgarh, Goa, West Bengal, Assam, Jharkhand and Rajasthan - in agreeing to make a review, admitted there had been irregularities in how authorities had rejected claims, on 'extraneous' and 'incorrect' grounds.<sup>8</sup>

Interestingly, the states told the SC that officers had not followed due procedure while rejecting claims of lakhs of tribals over forest land, thereby putting them at risk of eviction.<sup>9</sup> Certain other state governments, like Haryana, Andaman and Nicobar Islands, Mizoram, Nagaland and Manipur, told the court that they had not received any claims under the Forest Rights Act.

In the documents submitted, the state governments exposed their appalling error of failing to communicate the rejection of claims to the claimants, which was mandatory under rule 12A(10) of the FRA (amendment) Rule 2012. For example, the state of Maharashtra, which had rejected claims of 13,712 STs and 8,797 OTFDs, admitted in its affidavit that 45 per cent of rejection orders had not even been communicated to the claimants; and that officials had rejected these claims on spurious grounds.<sup>10</sup>

The state of Tripura, in its affidavit, stated that those who were found ineligible for getting forest patta were neither informed about reasons for rejection, nor was any formal order of rejection passed.<sup>11</sup>

The state of Chhattisgarh was even more explicit

about this fundamental failure. Apart from acknowledging that the process followed for rejection was not in accordance with the FRA (amendment) Rules, it also said that forest dwellers were not notified properly by the authorities when claims needed to be filed or clarifications were required. It asked for two years to review all rejected claims and stated that the question of eviction (under the law) did not arise.<sup>12</sup>

The Tripura government told the SC that it had initiated review of all claim cases, seeking six months to complete the process. The state government of Karnataka said that most claims had been rejected without giving claimants a proper opportunity to bring evidence; and without following the principles of natural justice or even recording reasons for rejection.<sup>13</sup> It informed the court that it had issued directions to all deputy commissioners and other concerned officials to initiate a *suomotu* review of all rejected cases, which would take another 18 months.

Other states also took the stand and told the court that they would re-examine all claims cases with a view to passing fresh orders. Madhya Pradesh had rejected claims of 204,123 STs and 150,664 OTFDs. Rejection of claims by others states were: West Bengal 50,288 STs and 35,858 OTFDs; UP 20,494 STs and 38,167 OTFDs; Uttarakhand 35 STs and 16 OTFDs; Tripura 34,483 STs and 33,774 OTFDs; Telangana 82,075 STs; Tamil Nadu 7,148 STs and 1,881 OTFDs; Rajasthan 36,492 STs and 577 OTFDs; Odisha 122,250 STs and 26,620 OTFDs; Kerala 894 STs; Karnataka 35,521 STs and 141,049 OTFDs; Jharkhand 27,809 STs and 298 OTFDs; Chhattisgarh 20,095 claims (not distinguishing between STs and OTFDs); Assam 22,398 STs and 5,136 OTFDs.<sup>14</sup>

Instead of 24<sup>th</sup> July, the SC heard the case again on 6<sup>th</sup> August 2019. The Court observed that some states or Union Territories had filed responses but others hadn't, namely Bihar, Uttar Pradesh, Arunachal Pradesh, Jammu

& Kashmir, Meghalaya, Panjab, Sikkim, and the UTs of Delhi, Lakshadweep and Puducherry. Surveying the affidavits submitted, the SC also expressed shock that due procedure had not been followed in rejecting claims.<sup>15</sup>

The court granted one last opportunity to those states that had not filed responses. The SC strongly said that in case any state or UT had not filed a response, its Chief Secretary must attend the Court on its next hearing,<sup>16</sup> which was 12<sup>th</sup> September 2019.

When the three-judge bench headed by Justice Arun Mishra duly heard the case on 12<sup>th</sup> September, 2019 the central government, appallingly, just as before, sent no one to defend the forest rights of the millions of Adivasis and OTFDs facing the terror of eviction from their traditional lands and habitations.<sup>17</sup> When the SC asked where the Central Government was, it was told that the Solicitor General, Tushar Mehta, was absent without any valid excuse.

The court then heard the case, allowing all requests for impleadment by a large number of organisations defending the Forest Rights Act, and allowing the petitioners' request to make the FSI a party.<sup>18</sup> The Apex Court expressed concern over the degradation of forest areas like Pachmari in Madhya Pradesh and Gir in Gujarat, due to constant urbanisation and construction of high-end hotels. It observed that forest areas across the country are 'finished' due to urbanisation and construction of five-star hotels, for which politicians, social workers and even courts are responsible.<sup>19</sup>

The Court also said that many lands for building high-end hotels and commercial buildings had been illegally transferred from tribals. It emphasized that "the forest needs to be protected."<sup>20</sup> Representing the tribals, senior advocate Colin Gonsalves told the bench that tribals involved in practices of transferring land for commercial purpose should be evicted, but not the innocent forest-

dwellers.<sup>21</sup> The court granted time to the FSI until 30<sup>th</sup> October to collect information regarding satellite survey and encroachment positions in forest areas,<sup>22</sup> and listed the matter for 26<sup>th</sup> November 2019 for further hearing of final arguments.

The entire process of this SC hearing has exposed bad faith and manipulations on the part of central as well as state governments, that show a fundamental lack of care and ill intentions towards India's forest-dwelling citizens. When the SC ordered the eviction of two million families, whose forest rights claims were rejected, they were following the blame levelled against Adivasis by state and central governments, which alleged that Adivasis are illiterate and poor, that they do not understand the proper procedure, and failed to submit proper evidence, which is why their FRA claims were rejected.

However, when the SC asked the States and UTs to file affidavits, this forced them to admit their fault. The central government also showed itself to be fundamentally at fault and of bad faith by not sending its solicitor general to defend the case. What more evidence do Adivasis need that the entire system has conspired against granting them their due forest rights? How can Adivasis believe in the State, unless it corrects this injustice? How can they celebrate being part of 'the world's largest democratic republic'? The Indian State has grossly violated the right to life of two million families by putting them under threat of eviction from their livelihood resources and traditional habitations.

The Indian State owes a strong apology to its Adivasis and other forest-dwelling citizens. The historic injustice Adivasis and OTFDs face regarding lack of recognition for their forest rights has been compounded. This should now be corrected once and for all: the government must grant them entitlements to the forest lands that have long been under their de facto possession, that they cultivate and depend on for their survival.

## 30

# Concluding Remarks

*"We have been protecting the forest of our village for generations. How can the government claim on our forest and handover it to the corporates without our consent?"*

*- Santosh Bandusoy, Villager  
Perka, Khunti, Jharkhand*

*"Bir Buru Ote Hasa okoya? Abuwa, abuwa!"* (Whose forests, hills and lands are these? These are ours). This is a famous slogan of Jharkhand's Munda Adivasis, which they repeat even today to emphasize their claims over the land, forests, hills, water and mineral resources. The slogan may have been created and used for the first time during the popular Adivasi resistance against British Imperialism, widely known as the *Ulgulan* (Revolution), led by the Adivasi legend Birsa Munda, who is also called "*Dharti Abba*"<sup>1</sup> (father of the land).

The "Ulgulan" has inspired millions of Adivasis in India to fight for the protection of their lands, territories and resources. And of course, this fight will continue till the Adivasis exist in the corridor of the natural resources of India because there is a huge nexus between the State and the Corporates, who are determined to exploit the natural resources under the guise of growth and

development (and even conservation and wildlife protection) for their economic and political gain. Nevertheless, the Adivasis are also not going to give up their fight easily.

The Adivasis have been strongly claiming for ages that they are the first settlers and Indigenous Peoples of India. Therefore, they have the first rights over the land, territory and resources. The Adivasi resistance for claiming their hereditary rights over their natural resources goes back to the mid 18<sup>th</sup> century, when the British imperialists took over the political power by defeating the joint Army of the Mughal Emperors at Buxar of Bihar in 1764.<sup>2</sup> This was the beginning of the Indian State.

Later, the British Army crushed and captured several kings and traditional heads, and their autonomous territories were merged into the Indian State, which continued in a different form after India's independence. Nevertheless, the mighty Indian State has not yet succeeded in merging the entire territory into one State or so-called 'nation'.

The tribal peoples of north-east India, in Nagaland, Assam, Manipur and other states, are generally as uncomfortable with the Indian State as Adivasis are in mainland India, for treating them in the same top-down, undemocratic manner characteristic of colonial rule.

They have been demanding their autonomy in many territories within the country. The 'Pathalgarh' Movement of Jharkhand, Odisha and Chhattisgarh is one such autonomous resistance, which insists that Adivasis have a constitutional right to autonomy over their land, territory and resources.<sup>3</sup>

Before the invasion of the British rulers into the Adivasis' territories, the Adivasis were fully autonomous, living in their communities and enjoying their hereditary rights over land, territory and resources.

For example, the Mundas of Chhotanagpur, Santhals of Santhal Parganas, Hos of Kolhan, Oraons of West Chhotanagpur and Kharias of South Chhotanagpur had their own traditional system of governance and used to call their territories like *Munda Dishom* (Mundas' Country),<sup>4</sup> *Santhal Dishom* (Santhals' Country) *Kharia Raiz* (Kharias' Country) and so on.

Similarly, they had community ownership over the natural resources, which is prevalent even today. For instance, the *Khutkatti* rights of the Mundas in Khunti and West Singhbhum districts in Jharkhand, where there is no individual ownership of the land, but the community rights are upheld in practice, which is recognized by the CNT Act 1908.

Undoubtedly, the Adivasis are the first claimants as well as custodians of the forests, hills, lands, water bodies and mineral resources of their territories. But today, there is huge conflict over the natural resources, which began when the British Indian State introduced a centrally organized administration, judiciary and police system.

Besides, the concept of private property was imposed on the land, as opposed to the traditional notion of collective usufructuary rights of the community. The community resources were considered as the 'eminent domain' and taken over. Thus, forests, hills and other individually unclaimed fallow lands were declared as the property of the State.<sup>5</sup>

The Adivasis collectively opposed the idea of imposition of the State on them, the concept of private property and tax on land and forest produce. After taking over the ownership of the land through the Permanent Settlement Act 1793, the British rulers also took over control of the forests through the memorandum outlining the rules for conservation in 1855, and soon they also brought the Forest Act.

Hence, they secured control over the country's entire forests and imprinted in the people's minds the idea that forests are State property. Thus, the Adivasis were alienated from the forests.

The Adivasis fought against the British imperialism and succeeded to some extent. For instance, the Kol Rebellion of 1832, the Santal Hul of 1855 and Birsa Ulgulan of 1855 forced the British Indian government to bring laws for the protection of identify, culture and land of the Adivasis.<sup>6</sup> Thus, the government enforced Wilkinson's Rule 1832, the Chhotanagrpur Tenancy Act 1908 and Santal Pargana Act 1955.

However, after India's independence, the Indian government proceeded in the same direction of the British Imperialists, and formulated various forest policies in the name of afforestation, protection, preservation, conservation and management of the forests. But instead of fulfilling its objectives, the policies deprived the Adivasis from their rights, privileges and concessions on the forests and forest land.

The forest policies did not only alienate them from livelihood resources but also took away their autonomy, destroying their rich culture and identity. The policies have also depicted them as encroachers and enemies of the forests, and a threat to the wildlife, and created food insecurity for them. They are also excluded from the so-called social security schemes merely because they live in the forests having no entitlement on the land they cultivate.

The social, economic and political systems of Adivasis are also ruined in the process of the implementation of the forest policies. At the same time, the Adivasis are denied access to the forests and its management, protection and conservation. The forest policies also created unrest among the Adivasis and violated their rights.

However, after a long struggle of the Adivasis, the civil society organizations and like-minded political parties, the Indian State recognized their symbiotic relationship with the forest through the National Forest Policy 1988, and their individual and community rights on the forest land and forests were recognized through the Forest Rights Act 2006. The State also acknowledged the historic injustice inflicted on the Adivasis and OTFDs, and promised to right the historic wrongs.

Unfortunately, the Act was not enforced by the governments properly with a clear intention to serve the corporates' interests. At the same time, the CAF Act 2016, National Forest Policy 2018 and Indian Forest (Amendment) Act 2019 were brought in to contradict the legislation just mentioned, denying Adivasis their fundamental land rights.

Similarly, the so-called conservationists have also been campaigning for eviction of the Adivasis and OTFDs from the forests. The PIL was used as a legal tool to serve this purpose. Based on the PIL, the Supreme Court issued eviction orders in 2002, and again in February 2019. Consequently, an estimated 100,000 people were evicted in 2002 and now as many as 10 million people are under threat of eviction.

In fact, if the CAF Act 2016, National Forest Policy 2018, Indian Forest (Amendment) Act 2019 and SC's eviction order are all enforced, an estimated 90 million Adivasis will be drastically affected, as 89.9 percent of Adivasis still rely on agriculture and forests for their survival.

Therefore, some fundamental questions need to be answered: are the Adivasis encroachers of the forest land and forests? Are they a threat to the forests and wildlife? Are they enemies of the forests and wildlife? Should they be blamed for the deforestation? Have they not

contributed in protecting and conserving the forests, biodiversity and wildlife?

The Adivasi life cycle moves around nature. They do not only depend on natural resources for their livelihood but their identity, culture, equality, autonomy and dignity are based on free access to them. The Adivasis have been living in the forest for centuries and having customary rights over it. They maintain a symbiotic relationship with their natural environment and treat forests like a child treats its mother. Their social, economic and political systems are based on the forests.

In thousands of villages in Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh and Maharashtra, Adivasis have formed forest protection committees, implementing their own rules and regulations for protection, conservation, preservation, utilisation and regeneration of the forests. How can they be coined as enemies of the forests and a threat to the wildlife?

Adivasis are neither enemies of the forests nor a threat to wildlife. They are the actual protectors and conservators of the forests, biodiversity and wildlife. They have their centuries-old comprehensive methods, rules and policies for protection and conservation of the forests, which need to be promoted and encouraged.

There is no need for any new forest policy designed by the Forest Department, the Law Ministry of India or the so-called conservationists, who have always seen the forests and wildlife in isolation, to serve their interests. The forests shouldn't be a source of revenue but must be treated as the livelihood resources of the Adivasis and OTFDs, and their rights, privileges and concessions on forests and forest land must be protected, ensured and secured.

Of course, the forest policies have further marginalized the Adivasis, who are one of the most

marginalized communities in India. The methods which are being used for forests' protection, conservation and management are major threats to Adivasis' existence. The forests cannot be conserved without Adivasi involvement.

This being so, community ownership over forests would clearly form the best way of protecting and conserving India's forests and wildlife. This means that present forest policies must be repealed and the pro-Adivasi ones, that are follow the spirit of India's Constitution, should be enforced. The pro-indigenous forest policies would not only ensure the protection, preservation and conservation of the forests but would also ensure Adivasis' future existence. As a starting point, the FRA should be enforced as per the provisions in the law.

The FRA not only confers individuals' title to habitat, but it also aims to protect their traditions and culture by recognizing their collective ownership over a larger landscape within or outside their traditional village territories. After decades of Adivasis and OTFDs living at the mercy of forest officials and under threat of losing their homes and livelihood for more than a century, the Act empowers Gram Sabhas by giving them several statutory powers.<sup>7</sup>

Therefore, without their written consent, forest land should never be diverted for non-forest purposes like mining, steel and power projects, etc. This is the main reason why the governments are not enforcing the FRA and creating situations for their eviction from the forest.

The so-called conservationists reject the idea of co-existence. This is hugely dangerous not only for the Adivasis but also for the forests and wildlife. If the Adivasis are chased out of the forests, the forest mafias, corrupt forest officials and poachers are bound to destroy the forests rapidly, and the wildlife will also vanish. The conservationists must know that the Adivasis have been

living in the forests alongside the wildlife long before the creation of the words 'protection', 'conservation', 'preservation' and 'regeneration', etc.

Of course, they had their own rules, regulations and methods for protecting, conserving, preserving, regenerating and utilizing the forests, biodiversity and wildlife, and continue to do so even today, which reflects in the 15<sup>th</sup> forest survey, showing that the forest coverage area has increased in the tribal dominated districts of India. What does this indicate?

Adivasis have been trying extremely hard, against all obstacles, to claim title to their forest lands, as promised under the FRA. Instead of granting them ownership rights, they are being portrayed as enemies of forests and wildlife. On the one hand, the consumerist intellectuals who hardly know anything about Adivasi philosophy, call them prisoners of the forests. On the other, the so-called conservationists coin them as enemies of the forests and wildlife. Don't they see even one good thing in the Adivasis?

Whatever they may say, the fact remains that the Adivasis are lovers of nature and protectors, conservators and preservers of the forests and wildlife; whereas those who pretend to be the protectors and conservators, including the central and state governments, are the real exploiters of the forests and wildlife, colluding with the corporate and financial entities whose takeovers of forest land the government is facilitating on such a vast scale.

The Adivasis, forests and wildlife are in danger today because of these so-called protectors, conservators and preservers. The Adivasis should be given complete ownership rights over the forest land and forests, on the understanding that they are the rightful owners and custodians, since they are the real protectors and conservators of the forests and wildlife.

# Notes

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## About the Author



**Gladson Dungdung** is an activist, author, researcher, publisher and public speaker. He is founder of Adivasi Publications, Adivasi Hunkar and Jharkhand Human Rights Movement. He comes from the Kharia Adivasi community in Jharkhand (India). His family was displaced for an irrigation project built at Chhinda River in

Simdega district of Jharkhand in 1980. His parents were brutally killed on 20<sup>th</sup> June 1990 while they were going to attend the civil court, Simdega in a land related dispute of a family in the village. Consequently, he has had to undergo through a long struggle for survival.

He has accomplished the fact-finding of more than 500 cases of gross human rights violation and intervened legally in 300 cases. He has also submitted series of memorandums and written several letters to the President of India, Indian Prime Minister, Cabinet Ministers (GoI), Governor of Jharkhand and Chief Minister of Jharkhand on Adivasi issues. Consequently,

many victims of gross human rights violations were delivered justice.

Since he started raising issues about the gross violations of the civil and political rights, as well as social, economic and cultural rights of the Adivasis (India's indigenous peoples), on the global stage, he has come under attack by the State several times. In July 2012, while he was leading a protest march against the forceful acquisition of Adivasis' land on the outskirts of Ranchi, police severely beat him and filed a case falsely alleging that he had destroyed government property.

The Indian Government twice impounded and seized his passport, the first time in October 2013, which was restored in July 2014, and the second time in May 2016 when he was also offloaded from a Delhi-London Air India flight, on his way to attend an international seminar highlighting the situation of Adivasis. On this occasion, he was branded an 'anti-State and Maoist sympathizer', even though he has always impartially criticized both sides in the Maoist conflict, and believes that criticism of wrong doings by State officials should be understood in a positive light, as part of an effort to bring about changes for the better.

In 2016, his Bank Account with the State Bank of India, was blocked in alleged suspicious of his involvement in the money laundering. In June 2017, two cases were filed against him for protesting against the amendment of Chhotanagpur Tanacy Act 1908 and Santal Pargana Tanacy Act 1949, falsely accusing him for instigating the Adivasis for protesting against the Jharkhand government.

He is the author of several books: *Adivasis and Their Forest*; *Endless Cry in the Red Corridor*; *Mission Saranda*:

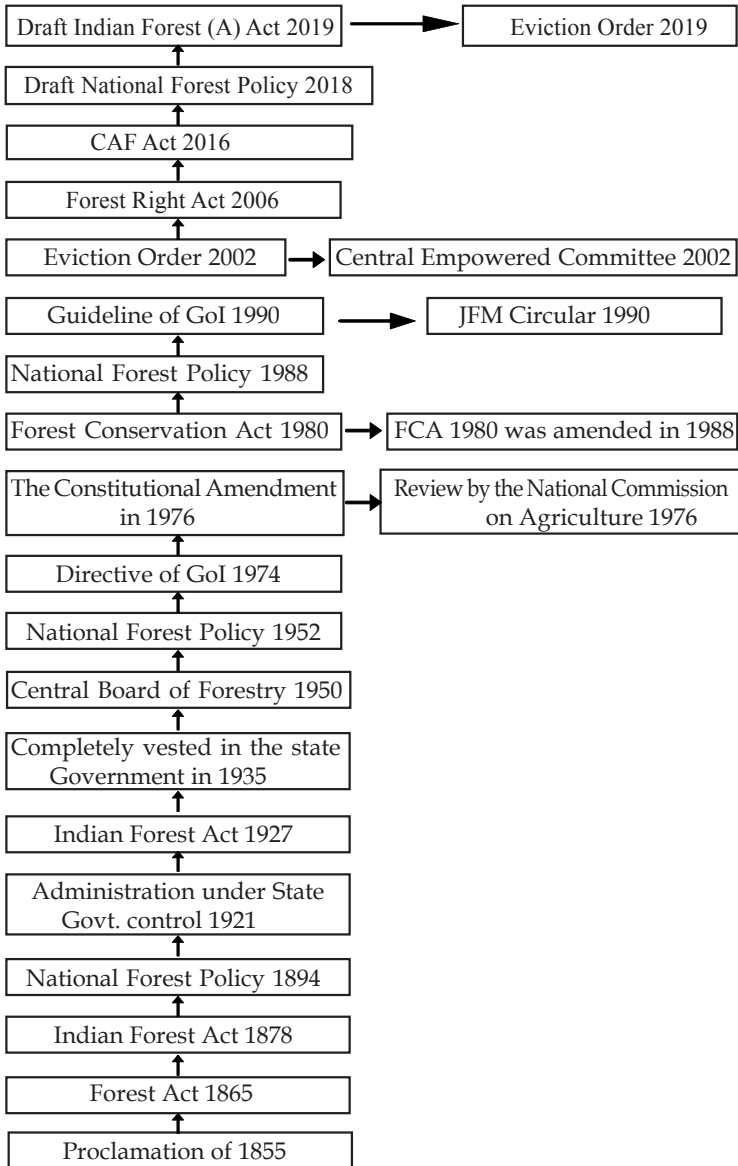
*A War for Natural Resources in India; Whose country is it Anyway? – Untold Stories from India's Indigenous Peoples; Crossfire; Adivasi aur Vanadhikar; Adivasi Pahchan aur Asmita; Pathalgari se Kyun Bhaybhit Hai Rajsatta? Adivasi Adhikar; Jharkhandi Kaun? CNT/SPT Kanoono main Sanshodhan Kyun? Bhumi Adhigrahan, Punrvas aur Punarsthapna Kanoon main Sanshodhan Kyun? Jharkhand main Jameen ki Jung; Supreme Court ke Judgement aur Adivasi Adhikar; Panchvi Anusuchi aur Adivasi Adhikar; Hamare Gaon men Hamara Raj; Adivasi Adhikar, Jharkhandi Kaur? and Ulgulan Ka Sauda.* Books he has co-authored with others include: *Crossfire; Vikas Ke Kabargah* and *Jharkhand main Asmita Sangharsh*. He has edited two others: *Nagri Ka Nagara* and *Jharkhand Human Rights Report, 2001-2011*.

He has also written more than 300 articles focused on human rights issues, Adivasi rights, displacement, politics and social change published by daily newspapers, magazines, journals and news web portals.

He has spoken in the international seminars and conferences held in Hague (Netherlands), Paris (France), Geneva (Switzerland), Copenhagen (Denmark), Bonn, Berlin and Badboll (Germany), University of Sussex (England) and Chiang Mai (Thailand).

He served as an honorary member in the Assessment and Monitoring Authority under the Planning Commission of India (GoI) from May 2011 to April 2013, and was awarded the Samata Ratan Award, 2014, for his extraordinary work for the Adivasi communities of India. He can be reached at [gladsonhractivist@gmail.com](mailto:gladsonhractivist@gmail.com)

**Annexure - I**  
***Evolution of National Forest Policies***



*"In the book 'Adivasis and Their Forest' Gladson Dungdung brings together all laws and policies related to forest dating from the colonial period to the present at one place and critically engages with them in relation to tribes in India. He cogently argues how the state and its agencies have consistently acted against the interests of the tribes and thereby posed a great threat to their security and survival. Anyone interested in issues of tribes will find the book greatly handy and rewarding."*

Dr. Virginus Xaxa  
Sociologist & Author, India

*"This book gives an excellent summary, with much human detail, of a history of soul-scorching injustice: the alienation between Adivasis and forests, from the British era laws that started it to new ones that perpetuate it in a situation of extreme internal colonialism."*

Dr. Felix Padel  
Anthropologist & Author, UK  
Great-great grandson of Charles Darwin

*"This book is a beautifully readable and important story of the forest people of India. It is about their love and dependence on the power of nature and the political history of their alienation from the very force that gives them life and culture."*

Dr. Michael Yorke  
Anthropologist & Filmmaker, UK

*"In this searing indictment of the Indian Government's forest policy in Eastern India the activist Gladson Dungdung carefully outlines and details the deforestation, land evictions and corruption of the State and corporate companies in what is essentially a massive land grab of the lands and forests of the Adivasis. This is a powerful book and an insightful document of what is happening to indigenous communities and their forests in contemporary India"*

Dr. Vinita Damodaran, Director  
Centre for World Environmental History  
University of Sussex, UK

*"Adivasis and their Forest" is a timely and important publication. It provides thorough information about the forest rights of Indigenous Peoples/Adivasis in India from pre-colonial times until today. In today's challenges of climate change, we need to learn from the Adivasis and not deny them their right to protect the remaining natural resources under their guardianship."*

Signe Leth  
Activist, Denmark



ISBN : 978-81-940838-9-4



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₹ 300/-