

Bangalore, novembre 2006

## **Conference Report. Sustainable empowerment in the context of ST (Recognition of Forest) Rights Bill**

**Speakers : Baby Paul & Somanna**

**Chair : Ksheer Sagar**

**Baby Paul** began the session by quoting the words of the Pahadia tribal leader Tikha Majhi, who paved the way for Sidhu Khana and Birsa Munda Tribal movements in Jharkhand.

*« Our People have lived here since the dawn of creation...*

*We have never been the Lords of the Earth...*

*The Earth is our Mother...*

*We are all her children...*

*We are the Trustees of this Land...*

*It is our responsibility to see that the Land continues to sustain  
future generations that we have not even imagined...*

*This is our heritage...*

*Then how can you British, an alien race, declare yourselves the lords and masters of the forest that sustain us and give us life ?*

*How can you deny us entrance to the only home we have ever known ?*

*We will die before we accept this Rule ! «*

This was followed by a PowerPoint Presentation on the Scheduled Tribes (Recognition of Forest) Rights Bill, 2005 & The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2006, which is tabled on the Parliament and waiting for the consent of the Cabinet.

The Bill is evolved in the context of the historical injustice towards the forest dwelling Scheduled Tribes who are inhabiting the forests for generations and are in occupation of forest land.

By formulating this Bill the government recognizes that the :

- Scheduled Tribes are living in Forests for generations and are integral to very survival and sustainability of Forests.
- There was non-recognition of their rights during the process of consolidation of Forests.
- They were under Permanent threat of eviction from their own land.
- Non-conferment of ownership rights over MFP in terms of Provisions of PESA, 1996.

- They were denied the even fruits of Developments Schemes.
- Existing Legislative/Policy Frame of the Ministry of Environment & Forests are not in line with the rights of the Forest Dwelling Scheduled Tribes.

The Ministry of Tribal Affairs took initiative in formulating this Bill with the objective to undo the historical injustice by recognizing and vesting the forest rights and occupation of forest land to forest dwelling Scheduled Tribes who have been residing there for generations and who are integral to the very survival and sustainability of the forest eco-system, including wildlife, but whose rights could not be recorded.

He described the main features of this new Bill as :

- The Bill seeks to recognize and vest Forest Rights to forest dwelling Scheduled Tribes where they are scheduled.
- Recognition of occupation of FDST on forest land and their habitat, where they have been living for generations

This Bill gives certain rights to Forest Dwelling Scheduled Tribes...

- 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.
- Rights such as nistar, by whatever name called, and uses in erstwhile princely States, Zamindari or such intermediary regimes
- To include the responsibility of protection, conservation and regeneration of forests.
- Right of access to, use or dispose of minor forest produce.
- To be exercised for bona fide livelihood needs and not for exclusive commercial purposes.
- Other rights of uses or entitlements such as grazing (both settled and transhumant) and traditional seasonal resource access of nomadic or pastoralist communities.
- Right of habitat and habitation for primitive tribal groups and pre - agricultural communities.
- Not to exceed 2.5 ha per nuclear family of the forest dwelling Scheduled Tribe.
- To be heritable but not alienable or transferable.
- To be registered jointly in the name of the husband and wife when it is in respect of land where a title is vested or recognized.
- To include traditional and customary rights.

Though the Bill will be a powerful tool in retaining the right of the Scheduled tribes over forest land there are certain areas where these rights can be misused like less clarity in the institutional structures and mechanisms through which rights will be recognised as well as executed, exclusion of some communities, fixing of a cut off date, lack of clarity on the jurisdiction of a village community, the authority of the gram sabha, the accountability, responsibility and limits of the powers of state institutions and agencies, insufficient conservation provisions; there are areas of scientific ambiguity around concepts and terms such as sustainability, biodiversity, “impacts on wildlife” etc. ; the penal provisions of the Bill are far too sweeping and vague and require clarification and restriction.

On the basis of all these concerns a Joint Parliamentary Committee was constituted under the Chairmanship of Dr. Shri. V. Kishore Chandra S. to look into the check and balances of the Bill. The Committee after incorporating the submissions and depositions on the Bill from various sources convened 14 sittings and at the end of the sittings, on 23rd May 2006 submitted a unanimous report to the Parliament.

The JPC recommended renaming the Bill as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2006.

The New Bill added the following provisions :

- Matters will be decided in village assembly.
- In case of disputes, a higher body will make a recommendation on resolving the dispute.
- If the dispute remains, then a final settlement can take place at the district level. Both officials and non-officials will be involved.
- Include two groups of people who are dependent on forests for a livelihood: Non-STs who have been in forest for more than three generations; and Some of the non-STs who are in the forest because of the government (settled by govt. agencies in forest, displaced into the forest etc.)
- Require that government should establish scientific basis for any resettlement and provide rehabilitation for secure livelihood.
- All relocation to be voluntary and with right to return if rehabilitation unfulfilled.
- Cut off date : 13th December 2005
- Community should have right to protect along with right to use community forest resources.
- Community to have power to make regulations to prevent damage to wildlife, forest, biodiversity, water, etc.
- Duties removed.
- Rights cannot be taken away without consent of community and rehabilitation, including land for land.
- There will not be any ceiling limit on Land.
- Those who were forcibly displaced earlier for development projects, through eviction, or through plantations have a right to rehabilitation
- To be offered alternative employment in afforestation to forest dwellers found ineligible for rights.
- Central government must provide forest land if necessary for development facilities such as schools, anganwadis, training centres, roads, etc.

After explaining in detail the various aspects of the Bill and how it is going to benefit the tribals of India he concluded his session by emphasizing the importance of Land to Adivasis for any kind of the development.

An artist needs his canvas to paint; a sculptor his metal or stone or wood ; a writer his pen; so does a tribal. Without his land, be it in forest or outside, where will he be? Unless land and natural resources are made available to him any effort to empower him is doomed ; and unless this Bill is implemented in letter

and spirit, such empowerment will remain a pipe dream...

From various part of India the tribal movements and activists are pressurizing the government to get the Bill passed as it will have a greater impact on their life and livelihood, he said.

**Somanna :**

After the presentation on the Tribal Rights Bill and its importance in the empowerment of Tribals Somanna, a tribal leader from H.D. Kote and the convenor of the tribal movement BKS (Buddakkattu Krishikara Sanga), shared his experiences in working on issues related to them.

He said he has seen three generations of tribals of H.D. Kote and Kodagu and had undergone the threat of eviction from forest areas. They were forced to move to the fringes of the forest. As a community entirely depends on forest for their livelihood they found it very difficult to live outside the forest. More than 4000 tribals became bonded labourers. 18% recognized by govt. and got some kind of relief from government and there is no compensation to others.

There are 106 tribal settlements in H.D. Kote Taluk. Several Tribal people died because of hunger and population lessened from 21,000 to 12, 0000. He said till 1986 they suffered these all without understanding what is happening. This is the context we formed the movement BKS in order to fight the injustice towards the Tribal people. He said he is very thankful to Siddhartha in bringing them together to assert their right to live in the forest with dignity.

Whenever we asked for our right to land and livelihood government diverted our attention to toilet and other such things. And whenever we fought for our right to dignified life government responded with lobbies, he added. However we continued our struggle.

There are several tribal movements all across the country fighting for their right over forest land long since and the present Bill has come out of this effort. But it is not satisfying all our demand. Non-STs' Rights have not been recognized. Who have been thrown out of forest has not been recognized as legitimate forest dwellers. To enact this Bill needed a wide range of struggles and mass mobilizations.

**Ksheer Sagar :** All the environmental laws are against the tribals. When the Wildlife Conservation Act came in 1972 tribals were thrown out from the reserved forest areas without any compensation. Their rights were neglected. Several tribal people have died because of hunger. Several tribal movements fought against the stand of government and some were arrested.

In the Panchayath Raj system there is no place for the tribals. Although some of the states has included a provision for STs to contest in elections it is only on the paper. They are not able to act as a representative. Other community people make advantage out of these provisions by showing them as tribals.

**Discussions :**

**Baby Paul :** The bill has not becoming a law in India due to the fight between Ministry of Environment and Forest and Ministry of Tribal Affairs. MOEF never want to see that the Bill is implemented. They don't want to see that again power on forest land come back to the adivasis.

**Simon Joseph :** By the time all the forest are destroyed. Now the government wants to use the tribals to do the work of afforestation without paying anything.

**Baby Paul :** The Bill is very vague and this interest also can be there. By doing justice bringing them into the forest and they can be made use of by paying out nothing. This can be an interest in the part of bureaucracy. The Bill will do good to the FDST, if it is passed as per the new recommendation of the JPC which gives right to all FDST.

Right from the colonial period the government was keeping the people those who live in the forest away from forest. The Bill will ultimately benefit the Tribal people and hence voluntary organization and tribals are welcoming the Bill though there are so many loopholes in it.

**Rajeev :** The Biodiversity Bill will take care of some of the rights of tribals over forest land. Is it in conflict with the current Bill?

**Baby Paul :** The Biological diversity Bill is under discussion and it is waiting for approval from cabinet. But it is something which is related to the regulation in transferring the natural resources to outside the country. So it is totally different from the ST Forest Rights Bill. (Political document, NFFPFW)

**Simon Joseph :** How advocacy work secure the rights of the tribals in this context

**Somanna :** When dam constructed in the forest area they were thrown out of the forest. Some of them were rehabilitated. They forced to live in the periphery of the forest. Several became bonded labourers and became victims of harassment and threatening. Once we formed the movement BKS we started talking and negotiating with non-tribals on these issues and we succeeded in building a kind of coordination with non-tribals.

**Baby Paul :** When coming to the lobbying and advocacy in the area of tribals, general people, the settlers, are not for the interest of tribals at least in the context of Kerala. But when we look the rest of India the situation is entirely different. After the historic struggle Muthanga, once the police took action tribals were forcefully evicted from the forest. Very same time the non-tribals were just driving away the Tribals as dogs, abusing and stoning. This is the situation in civilized Kerala, the literate state. This is happening because all the land belongs to the tribals are under the occupation of the settlers. They feel they are going to loose the land. When the landless tribals asked for land they asked for land in other areas of Forest. In other part of India, the non-tribals are not at all bothered about the whole process since they are not going to loose any land.

**Siddhartha :** There is false impression that if the tribals live in the forest it is bad for the forest environment. They feel that the presence of human beings is the cause of destruction of the forest. How can various tribal movements create a consciousness that tribals who live in the forest are deeply committed to the protection of the forest? Those who are destructing the forest are not tribals. What can do to articulate more powerfully so that reduces the opposition from the Ministry of Environment and Forest?

**Somanna :** The comments of the environmentalist are wrong. The forest was green when the tribals were living in the forest. The destruction of the forest is followed by the eviction of tribal people from forest area. To divert the right of the tribals they are passing comments. The BKS is trying to keep the villagers alerted in protecting the forest resources through its village meetings.

**Dr. Vinod Krishnan :** We forget the fact that there is enormous amount of detribalization happened. Enormous changes are happening to the community itself. 90% of the Adivasis have nothing to do with forest. In Kerala there is a trend to highly romanticize the Tribals' interaction with the forest. As a community which depends on the forest they are forced to misuse the forest resources.

**Somanna :** Somanna completely disagreed with the comment of Dr. Vinod. He opined that these are baseless. Tribals are living by making use of Minor Forest Produces and we are not destructing the forest.

**Dr. Vinod Krishnan :** Due to economic pressures they are forced to destruct the forest in order to survive. It is not to blame the Tribals; this is a question of good governance.

**Ram :** I feel with 36 years of experience with Tribals the blood purity of the tribals is reduced. I see the Tribals as protectors of the forest. But they are going to get corrupted due to economic pressures. It is only a traditional norm we live on the forest and how we will harm. There is development of new

consciousness and development of new strategies. Not that they corrupted, they are individuals in the new generation.

**Ksheer Sagar :** We can not completely deny these facts. But the Bill will be a turning point in the history of the Tribals in India and it will be a stepping stone in realizing the rights of Tribals for a dignified life.

**Baby Paul :** I agree with Ram's statement. There is nothing to be deleted from the statement. As Somanna mentioned whenever it comes to the interest of tribals the environmentalist are against. They saw the people of this country as little more than animals or savages to be disregarded at best and slaughtered at worst. Unfortunately, the rulers of independent India continue to use and even strengthen this inhuman colonial legacy to terrorize the poor and marginalized in the society, and drive them to death through starvation and disease.

### **Versions dans d'autres langues**

- L'autonomisation durable dans le contexte de la Loi des Droits Forestiers des S.T. (\*)