

15 February 2010

Dear Shri Ramesh,

We thank you for the invitation to join the Committee to look into the implementation of the Forest Rights Act. An assessment of the current status of implementation is very much due, to enable its more effective implementation in a way that protects both forests and forest-dwellers.

However, while we would be happy to take part in such an exercise in principle, we are concerned that the way the Committee has been set up, will not achieve this purpose. Specifically, our concerns are the following:

1. The composition of the Committee: Other than the two of us who work with conservation/environmental NGOs, all members of the committee are forest officers, serving or retired. While any such committee must have forest officers, an overwhelming domination by any single sector is not likely to be conducive to balanced discussions and a balanced outcome. The Act is not primarily about forests, but about the rights of those dwelling in forests. It is not primarily about how the Forest Dept will manage forests, but about how forest-dwelling communities can protect and manage them. This of course has to involve forest officers in many ways, but in a role very different from the colonial heritage of top-down, centralised control, and more towards genuinely equitable partnerships with the communities that have lived in and/or related to forests for generations. We believe that the Committee can in fact deliberate on such new paradigms of forest conservation (as indicated in one of its Terms), and has the potential to come up with strong and useful recommendations on these, but it cannot do so if it is dominated by one sector and lacks representation from a wider set of viewpoints.

It is therefore important to have a composition that includes not only forest and tribal dept. officials, but also civil society members and members of communities

who are knowledgeable about and involved in implementation of the Act on the ground. Such experience is crucial to meeting the aims of any committee looking into implementation. How can a review of implementation of a forest rights legislation not involve those whose rights are supposed to be guaranteed by it, and those groups who are involved with such people?

2. A couple of the Terms are ambiguous or problematic, and need to be changed:

(i) Term 3 asks to "identify the role of stakeholders and beneficiaries in the conservation, restoration and regeneration of forests." However the Act and its Rules already identify such a role (especially for rights-holders, and in particular in Section 5 and Rule 4). What is needed is to understand how communities might want to, or are thinking of, implementing these roles, suggest additional ways if any, and identify what could be the role of the Forest Dept (and other govt depts or civil society organisations) in facilitating this.

(ii) Term 5 talks about "Gram Panchayat"; the Act empowers the Gram Sabha. As you know these can be very different institutions, and there has been much struggle around the need to empower the Gram Sabha at the smallest individual settlement level.

We support however the general Terms, in so far as they are broad and could help the Committee to define a truly new role for the Forest Dept.

3. The task before the committee is complex, especially given the very inadequate state of information on the implementation of the Act, and the diversity of situations across the country. A 3 month time frame is therefore inadequate. But more importantly, the process the Committee adopts is crucial, and we would urge that it be mandated to conduct open consultations in at least a few parts of the country where different sections of society impacted by the Act can make submissions.

We hope these changes would be acceptable to you, and if so, we would be glad to be members. We would also be happy to suggest possible names of people who could be members of the Committee to make it more balanced, and to suggest rewording of the Terms we have expressed concern about.

With regards,

Ashish Kothari and Harini Nagendra