

## **Comments on the draft recommendations of the Working Group on Denotified and Nomadic Tribes**

*By Tushar Dash, Madhu Sarin, Shiba Desor*

We commend the NAC working group on Denotified, Nomadic and Semi-nomadic tribes for bringing out recommendations focussed on these vulnerable communities. While the recommendations address a number of critical issues there are some recommendations which need to be reviewed. We are sharing here our comments and suggestions on the recommendations and urge the NAC working group to review the following mentioned aspects of the draft note-

### **1. The note seems to give a preference to rehabilitation of such communities instead of recognition of their traditional rights which is now a statutory requirement under FRA.**

*3.4.3(a) "steps should be taken to urgently rehabilitate traditional forest based DNTs, 19 of whom were named by the Ministry of Environment and Forests in Revised Guidelines for the Ongoing Centrally Sponsored Scheme Of Project Tiger (dated February, 2008, section 4.6). These are communities involved in traditional hunting, and living around tiger reserves and tiger corridors." Apart from these 19, many more similar communities exist in forests which should be immediately identified for rehabilitation"*

It is requested that the word rehabilitation is clearly defined in the note as providing viable, alternative livelihoods where their traditional ones such as hunting have been banned by law. Rehabilitation must not mean relocation and any relocation from their present living spaces should be done only where the community members are demanding it. Furthermore, for all forest dwelling denotified and nomadic communities, it must be ensured that the procedures for recognition of their individual and community rights under Forest Rights Act 2006 (FRA) have been followed prior to any consideration of their rehabilitation.

*3.4.3 (c)-.....Apart from the rehabilitation provided for hunter-gatherers and shifting cultivator communities, the following special needs should be addressed for pastoral DNTs: Forest rights of pastoralists like grazing rights and rights concerning water for the animals should be recognized.*

It is also to be noted that FRA provides for rights of forest communities who are illegally relocated or displaced or evicted for any kind of government intervention without being provided alternative land or rehabilitation. Therefore communities evicted from their customary lands due to reservation of forests or creation of protected areas need to be facilitated to get their rights recognised under FRA.

*3.4.5(d) Homeless nomadic fishing communities could be resettled, as far as possible, close to the dams and reservoirs, so they can continue their traditional occupation.*

Here the assumption seems to be that all nomadic communities should be 'settled' somewhere but that could totally jeopardise their lifestyles and cultures. FRA has special provisions for vulnerable communities such as nomadic pastoralists and 'Primitive Tribal Groups'. In a parallel vein, for the communities specified above, even if they are not living on forest land, the effort should be to recognize their rights to fishing in different customary locations instead of 'resettling' them near unspecified dams and reservoirs where they may come in conflict with local fishing communities.

**2. Facilitation of Forest rights procedures for these vulnerable communities-** Greater emphasis should be given on procedural clarifications and facilitation for recognition of community forest rights for these communities where they are living or are dependent on forest lands. At present, rights other than land titles do not seem to be given much attention in the draft note.

*3.5.4(b) The rights of nomadic communities who have been relocated from forests should be given land titles while implementing the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*

Rights under 3.1 (d),(e) and (l) of FRA have special significance for such communities (3.1(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 of nomadic or pastoralist communities’, 3.1(e)- rights including community tenure of habitat and habitation for primitive tribal groups and pre-agricultural communities, 3.1(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’).

Facilitation should be provided for not just land titles but also recognition of all traditional community forest rights, including to nomadic pastoralism, by spreading awareness and training officials.

As FRA has special provisions for the rights of forest dependent communities, recommendation need to be made to the MOTA to suggest guidelines for implementation of these provisions. Some of the suggested procedures applicable to DNTs are as follows.

- The forest dependent DNTs should be identified in the enumeration process suggested in this note.
- Concerned district level committees (DLCs) should be instructed to facilitate claim making by such communities through their community leaders or traditional institutions. Necessary technical support in the form of evidence and records, support in the verification and mapping of the rights need to be provided by the DLC and SDLC.
- As rights of these communities are recognized under FRA, forest offence cases pending against forest dependent DNTs need to be withdrawn by following due legal procedure.

**Furthermore, the note doesn't describe a procedure for establishing eligibility of denotified, nomadic and semi-nomadic tribes to claim recognition of rights under Forest Rights Act.** There have been difficulties in implementing FRA for forest dependent DNTs because of their ambiguous status (some of them are STs in one state and not the other, some are listed under OBCs and some are listed under no category). It was being hoped that this draft would set the record straight by specifying a clear cut criteria for recognition of DNTs under Forest Rights Act.

We believe that for all DNTs, the same criteria of eligibility as for STs should be used (instead of Other traditional forest dwellers' criteria). This is because they were only denotified in 1947 and many among them are nomadic so there is barely any chance of them

being in one specific place for three generations or 75 years. To avoid unjust denial of rights on this account, rights of all individuals of denotified forest dependent communities should be recognised and clarifications should be issued about the same.

### **Concluding remarks**

We believe that the members of working group will agree with a need for convergence between acts like Forest Rights Act and recommendations for welfare of denotified communities. We hope that our comments are given due consideration. We are confident that the recommendations of the working group would help in clearing out some of the prevailing ambiguities which are leading to social injustice for these groups.

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