

Immediate response to the Report of the Saxena Committee on Forest Rights Act (released in January 2011)

13 Jan 2011

Based on a reading of the Executive Summary, the following immediate points of concern are submitted herewith:

1) As stated in the preamble, the FRA is meant to correct the 'historic injustice' done to forest – dwelling people both of Scheduled Tribes and Other Traditional Forest Dwelling Communities. The immediate motivation for this is the apprehension that the rights of many of these occupants were overlooked or not given recognition at the time of settlement of the rights and privileges when the Reserved Forests of the country were formed following the process laid down in the Forest Act/s. For Other Traditional Forest Dwellers, it is necessary that they have had 3 generations' continued occupation, defined as 75 years. Thus, there is a very clear understanding that these people should have been in occupation on the stipulated date (13 December 2005). Hence the suggestion in the Report that this prior occupation should not be insisted upon is a matter of serious concern and can not be accepted, as it will open a flood gate to parcelling out unbroken forest land for private uses, defeating the very purpose of the FRA. In fact, **this may well grow to become a land scam of gargantuan proportions, dwarfing the biggest scams we have seen in this country**, given the growing pressure of commercial forces in the country.

2. As regards community rights, many of these are undoubtedly already recognized in the Reserved Forest Settlements/Notifications, and are also being practiced without hindrance, which is the real reason why community rights have been applied for in relatively lesser numbers than individual claims. However, once the community rights are recognized and notified, now it is the question of who will have the overall control on the Community Forest areas. Obviously any system of dual control/responsibility will be

unviable on the long term, and will only lead to endless conflicts and resultant hostility between the Community and the State Forest Departments. Further, it is the uniform experience of the foresters that local communities are not able to withstand pressures from powerful partisan interest groups, and therefore the forest officials will always be in a defensive position vis-a-vis civil society in carrying out protection duties. This is why all the community representatives who have been interacting in various meetings and workshops with the Government of India, have invariably stressed the need to keep the forests outside the influence of factional political forces and mechanisms. Hence it is necessary to devise appropriate sturdy arrangements whereby both control and responsibility are clearly specified. The proposal that State Forest Department will give the protection while community would have ownership/control is not a workable arrangement.

3. It is suggested, as a via media, that wherever the community feels that they require the services/assistance of the State Forest Department to manage and protect the community lands, they could enter into a MOU with the Forest Department, clearly laying out powers and responsibilities, and protection/management could be pursued in a joint manner based on such a clear-cut MOU. Given the excellent relations developed by the Forest Departments with the communities, it is anticipated that this will be the arrangement preferred by most of the communities themselves for those forests where the community rights would be recognized under the FR Act 2006.

4. Since these lands are bound to become more and more valuable as the economy develops, there will be tremendous pressures from various sources, such as industries and corporate houses, municipalities and town planning, land developers, entrepreneurs, and various development departments of government, for diversion of both the community lands and the individual land holdings, and for the latter category there is bound to be pressure from the holders to be allowed to transfer them by sale or lease to non-residents and

non-eligible persons. Since the lands under both categories continue to remain as forest lands, this will again put enormous pressures on the concerned forest officials, who will be made out to be the villain if they fail to endorse or abet such diversion, and at the same time be called to account by higher courts and activists for failing to protect the forest land. It would be necessary to think of a more viable long term vision for the management of these lands, otherwise **over a short period of time they will be diverted to other uses amounting to a land scam of gargantuan proportions.**

5. For JFM areas, it is not advisable to do away with the present arrangements, as that would amount to a massive breach of faith on the part of Government with the local communities who have invested their time and efforts in protecting the forests. The JFM Programme is based on the 'care and share' principle, and despite criticism has been a very successful attempt by a Government department to genuinely involve the people in the management of resources. The JFMCs are always constituted by taking all the adults of the community as general body. Now the JFMCs will be framed as part of the Gram Sabha (i.e. on hamlet or settlement level), and some arrangement would have to be worked out to decentralise the functions of the forest department to them after building up their capacity, but this could be left to the Gram Sabha to decide in their own time, without so much interference from outside. Over time, as the investment of resources, effort and money by the JFM members has got its due return, the broader Gram Sabha could take a decision on its further management. The Ministry has already written to the States to give legal backing to JFMCs under both the Forest Act and through the Panchayati Raj legislation. While doing so the livelihood needs of the people and ecological condition of these forests should be the overriding factor in the future management strategies of JFM forests. In the midst of climate change scenario the food and water security of fringe villages will largely be dependent on retaining the good condition of fringe forests.

6. As stated in the Expert Committee report, a matter of serious concern is that in many States/Districts, titles are being distributed without identifying the lands under occupation, amounting to an abetment of large-scale encroachment (eg, in Tripura and Andhra Pradesh). This is leading to a parcelling_out of the forest. It will in time lead to endless strife, unrest and dissatisfaction due to the uncertainty in the legal standing of such titles. A special effort is required to cancel such allotments, and reverse what amounts to a flagrant violation of the Act and the consequent fragmentation of the forest. A clear message needs to go out to the State administrations indulging in this type of unwarranted activity

7. Caution has to be exercised in transferring large tracts, where larger landscape-level, national and even global interests are involved. **The dichotomy in thinking about wildlife areas as against general forest areas is unwarranted and indicates a faulty perception that general forests are not of much importance in a broader sphere** (for their overall ecological values). In fact, wildlife areas have been carved out of forests, and there are still vast tracts of forest and natural landscapes (many of them not even under the State Forest Departments, but continuing as revenue wastes etc.) which are extremely rich in wildlife, both faunal and floral. Even landscapes that do not presently harbor large or charismatic animal species, are critical from biological, watershed, biodiversity habitat, climate amelioration, and other values, apart from livelihood support to local communities.

8. It has to be realized that forests burdened with heavy rights or under heavy pressure of hacking for fuelwood, grazing, ground fire, encroachment from other uses, etc, generally cannot be restored to a healthy state, which is why some of the notified forests are in various stages of degradation. At the same time, there are innumerable examples to show that when such degraded forests are given better protection, they spring back to life over a period of

time. Not only does this improve the biomass available for meeting the fuel, fodder livelihood and small construction needs of the communities, but it also improves the status of water recharge and period of availability in the wells and ponds in the nearby settlements. This leads to better agricultural productivity, reduced out-migration, better nutrition and family cohesion, and so on (in Tamil Nadu, we have seen how dependence on free-grazing goats decreased as agriculture developed as a result of the afforestation programme). Further, forest products contribute only a minor portion of annual incomes (we saw, in the tendu leaf case, that the collection season is only a few weeks in a year, and average earnings only Rs.1200 per person in a working season), and so we cannot depend solely on forests for removing poverty. Much more social infrastructure has to be developed, i.e. schools, health centres, sanitation and clean water, public hygiene, information and communications, market outlets, etc. As the general economy expands, more employment opportunities beyond the subsistence levels will be available, there will be less dependence on forests and biomass, and the forest and watershed status will improve, leading to a virtuous cycle in place of the well-known vicious cycles of poverty perpetuation. Therefore, while the policy of granting community control on natural resources in order to set right historic wrongs is appreciated, this has to be coupled with a well-thought out programme to protect these resources and garner the benefits mentioned above, in the larger interests of the communities and the nation. Further, a focused programme of development (health, education, small and medium industry, skill development etc) needs to be launched so that the people's dependence on land based resources could be reduced. Without this broader approach, the expectations raised among the people that mere recognition of rights will lead to economic prosperity, will be belied, resulting in a sense of renewed frustration and deprivation, at the cost of massive ecological degradation of the countryside.

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