

Breaking the delicate web of forest relationships

Community forest provisions of the Forest Rights Act provide hope of survival, of nature and adivasi.



>> Shiba Desor
Member, Kalpavriksh, Pune
desor.shiba@gmail.com

What would you do if one fine day you wake up to the fact that a large company is taking over the forest in which you live? Could you stop them from bulldozing your home, villages and market place, or chopping down the ancient trees that have been worshipped for generations? Could you force them to take your needs and opinions into account?

For most of us these questions may be hypothetical, but for many people living in and around forests in India, the questions are a reality that they need to constantly confront. And faced with this reality, they use multiple means to demand a semblance of social justice.

One such tool is the Forest Rights Act or FRA and legally referred to as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act.

That Act and its provision of Community Forest Resource rights are being used by local communities in many parts of the country to demand a more democratic decision-making process on forest use.

Who's in charge?

About 100-350 million people are estimated to be directly dependent on forest resources for their livelihoods. In addition, most of us not included in that estimate depend on forests for many indirect ecological services. Moreover, forests are an important source of revenue for Government. Because of such direct and indirect value of forests to multiple stakeholders at multiple levels, governance of forests becomes a serious and contentious issue.

If we consider the history of forest laws in independent India, the power of taking majority of decisions regarding forest use and management has remained with the State level Forest Department under the colonial

“ About 100-350 million people are estimated to be directly dependent on forest resources for their livelihoods.

Indian Forest Act of 1927. But the state government requires prior permission from the central Ministry of Environment and Forests (MoEF) for diverting forest land for 'developmental' activities like mining, electric power plants, huge bridges, etc. That Act has been sceptically termed a Forest Conversion Act by many critics because even after its enforcement, there was a huge rate of clearance for diversion.

The above-mentioned laws do not give power to local people in the process of decision making on forests. On the other hand, the Forest Rights Act of 2006 ensures that the process of decision making is provided with an additional layer rather than remaining the sole prerogative of the Government!

FRA recognises rights of forest dwellers, including the right "to protect, regenerate, or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use." Here community forest resource refers to any customary common forest land to which they have had traditional access. In addition, Section 5 of FRA empowers right holders to protect forest, wildlife and biodiversity and preserve natural and cultural heritage from destructive activities and to ensure that decisions taken by gram sabhas are complied with. To make the Forest diversion process compliant with FRA, a circular was issued by MoEF in 2009 which requires gram sabha consent for projects requiring diversion of forest land.

Asserting rights over community forest resources

A famous example is the case



Katharis of Kathariwadi, village in Murbad taluka. PHOTO: SHIBA DESOR

of bauxite mining by Vedanta in Niyamgiri hills of Odisha where tribals refused to give consent to the project and the government rejected clearance stating that as one of the reasons. But rather than Vedanta being a standalone example of local assertions through CFRs, there are many other instances where the provisions are just beginning to be tested.

Kalu dam project being built on the Kalu river in Thane district of Maharashtra will submerge an area of 2,100 hectares, including 1,000 hectares of dense forests and 28 sacred places. The project, being built to satisfy projected drinking water demand of Mumbai, will displace 62 hamlets fully or partially due to submergence and completely cut off access to 42 hamlets. Twelve Gram Panchayat resolutions have been submitted to the Government in 2011 stating that the dam is in violation of legal procedures of forest clearance. Later, when meetings were convened by the government for discussing a rehabilitation package, the villagers refused to accept the package and in each of these meetings demanded prior

implementation of FRA and required procedures of forest clearance. When asked about the reason for refusing the rehabilitation package, Nausa Damse of Dongarwadi hamlet said 'We adivasis need forests to survive. How long will the compensation package last? How can we live without our forests?' His village and many others in the area have either filed or are in the process of filing claims for recognition of community rights to forests. The dam construction has been stalled by the stay order granted to the project on 1

“ Kalu dam project being built on the Kalu river in Thane district of Maharashtra will submerge an area of 2,100 hectares, including 1,000 hectares of dense forests and 28 sacred places.

March 2012 on grounds of non-compliance with requirements under the Forest (Conservation) Act. Similarly in Sundargarh district of Odisha, mining in Bijahan coal block is taking place to meet the electricity needs of steel plants of Rourkela. As a result, mining is overrunning agricultural land, grazing land, village commons, and revenue and reserved forest land affecting 2,050 villagers directly and 52,500 indirectly. During a public hearing held on December 28 2012, many affected villagers demanded prior recognition of rights under FRA for claims submitted in 2009².

There are also examples where rights over community forest resources are being used to challenge the government's ways of managing forests. One example is the Dindori district in Madhya Pradesh where villagers have received legal recognition of Community Forest Rights over forest resources. The villagers are resisting coupe felling operations by the Forest Department, insisting that these operations are leading to forest degradation and loss of valuable plant diversity. While Forest officials insist that it is a part of working



Hatkeshwara temple, surrounded by stately trees in Chasole village, Murbad. PHOTO: SHIBA DESOR

plans and cannot stop, the villagers say that the forests come under Community Forest Resource, and no such plan can be implemented without gram sabha consent. This has slowed down coupe-felling activities in the area, but remains a contentious issue.

Even though there may be no clear verdicts of 'success' in such local assertions, the demands for accountability and a larger negotiation space becomes stronger and difficult to be easily ignored when given legal support of FRA.

It has to be kept in mind that the same tool may be used by a group differing in opinions and objectives. For example, while some may be using it to say 'no' to a project, others may just be using it for demanding a different or better compensation package. Moreover, such

assertions are seldom used as the sole means of demanding social justice and participation in forest governance. More often, these are in conjunction with a number of strategies which may be legal, political, or based on mass-protests.

“ As described in a traditional song of the soliga adivasis of Karnataka, relationships between different components of a forest are as intricate and inter-related as the thread of 'gorukana' or spider-web.

Yet, such assertions become crucial as a means of factoring in some level of accountability in decisions taken on forests to the people most directly dependent on it, and who may often be more easily neglected. It creates some space within the process not only for considering local reactions and local needs but also local and traditional knowledge and systems of forest-people interactions. Therefore, by providing recognition of not just economic but also socio-cultural rights to forest spaces, Community Forest Rights can allow for a broader definition of well-being to be factored into any Social Impact Assessment rather than simple utilitarian solutions.

Challenges at the local level:

The presence of such legal

provisions doesn't necessarily mean that these will be employed by all villages facing take-over of their traditional forest land. There is often a reluctance and sometimes disdain at the local level to get too engaged in 'paper work legality' procedures when they have more immediate and 'real' problems of eking out their day-to-day livelihoods. In addition, there is also usually a lack of consensus due to the heterogeneity of any community in terms of class, caste, clout, needs, aspirations and political inclinations. Because of this, and for creating awareness about the Act and its effective implementation, pro-active local civil society organisations or nodal officers are required.

Implementation problems

Sadly, the 2009 circular on gram sabha consent is being completely ignored in the majority of cases of clearance. In fact the Forest Advisory Committee, which is supposed to recommend or reject all cases for forest clearance, only mentioned it for the first time in April 2012. Even after that, the FAC minutes reveal an inconsistent approach towards giving consideration to FRA compliance, sometimes ignoring, sometimes applying and sometimes misconstruing. There are cases where MoEF is issuing conflicting 'certificates' such as a letter dated September 20, 2012 to Principal Secretary (Forests) of Himachal Pradesh according to which there is no need to take gram sabha consent and other prescribed procedures because 'according to the Honourable Chief Minister, rights and concessions on forest land throughout the State including the tribal areas have been settled long back and recorded in settlement reports, and that no FRA compliance issues exist which need to be settled'.

A bigger question that arises is what does the presence of such provisions and their increasing yet limited use mean for the overall trajectory of forest use and governance? In any



Women of Pondi village. Such communities look to the Forest Rights Act for protection. PHOTO: SHIBA DESOR

discussion on forests, we cannot lose sight of the developmental context and the GDP growth dream. The requirement of gram sabha consent in forest clearances has been seen as an irritant in the path of progress or as a stumbling block to the quick inflow of large investments which needs to be removed. With such reasoning, there has been politico-economic pressure from the PMO on the ministries of environment and forests and of tribal affairs to relax the norms of Forest Rights Act and make them more clearance-friendly, irrespective of the environmental or social costs that they entail.

MoEF has yielded and recently diluted the 2009 circular to relax need of gram sabha consent where forest diversion is for linear projects. As stated by economist Aseem Srivastava during a National Consultation on Sustainability and Development on March 18, 2013 in New Delhi, 'The much needed green tape is being confused, perhaps deliberately, with red-tape, and as a consequence environmental policies are being diluted.'

As described in a traditional song of the soliga adivasis of Karnataka, relationships between different components of a forest are as intricate and inter-related as the thread of 'gorukana' or spider-web. The linkages are not always immediate, obvious or

clearly defined. This would appear true not just for ecological but also social, cultural and economic implications of our activities, local or national, conservative or developmental, within forests. While the legal provision of Community forest resource rights is not a panacea for either forests or forest people, it does have a potential of being used as a significant tool for assertion of rights and for demanding more democratic, socially justified and ecologically sensitive processes. How it plays out in the long run will depend upon how aspirations and sensitivities of this nation shape the visions for our forestland.

¹For detailed analysis, see Kohli, K, A.Kothari and P.Pillai. 2012. *Countering Coal?*

Community Forest Rights and Coal Mining Regions of India. Kalpavriksh, Delhi/Pune and Greenpeace India, Bangalore.

²Banerjee S. 2013, 'Public hearing for Bijahan coal block mining: residents oppose forest land diversion', *Down To Earth*, January 3.