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INDIA  
**Four Years On, Debate Rages On Forest Rights Law**  
 By Keya Acharya



**BANGALORE, Aug 26, 2010 (IPS) - It was supposed to help right old wrongs as well as protect India's forests, but four years after it took effect, a landmark law recognising the forest rights of scheduled tribes remains the subject of acrimonious debates among the country's government officials, environmentalists, and rights advocates.**



Wildifiers worry the Forest Rights Act will threaten India's last critical habitats, which include Ranthambore National Park in Rajasthan.

Credit:Keya Acharya/IPS

Just last February, the environment and tribal affairs ministries, which had been bickering over the 'right' implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, held talks in an effort to come to an agreement on forest sustainability.

One result was the setting up of a committee that would look at sustainable forest management and protection, as well as the settlement of forest dwellers' rights.

Yet in August 2010, India's Tribal Affairs Minister, Kanti Lal Bhuria, was apparently agitated enough to write to Environment Minister Jairam Ramesh, complaining that the committee was "going beyond its purview to tell how the Forest Rights Act should be implemented" and was meant only to "study" the situation in the states it visits.

Headed by former planning commission member N C Saxena, the committee has since replied that it has been working "well within its mandate" and suggested that Bhuria needed clarity in his understanding of its role.

Better known by its acronym FRA, the act had attracted criticism even during its drafting stage. While lawmakers were discussing the bill from 2005 to 2006, some 107 organisations and individuals submitted objections and suggestions to the Joint Parliamentary Committee.

In the end, the committee included non-tribal but "traditional forest dwellers" into the FRA's purview, removed a ceiling limit of 2.5 hectares of land per family, and made the 'gram sabha' or local village administration an authority in the determination of rights.

The act, which was finally passed in 2006, also noted that critical wildlife habitats had to be inviolate while communities within these were to be re- settled.

Some environmentalists and rights groups see FRA as the correction of historic injustice against tribal communities evicted from forest lands. But it has also roused protests from organisations that say it threatens wildlife conservation even further by usurping forest lands or by having communities within them.

The controversy over giving forest lands to communities has also led to at least six petitions seeking FRA's annulment being filed before the Supreme Court and state high courts.

Belinda Wright of the Wildlife Protection Society of India (WPSI) echoes some activists in saying that while forest dwellers have "rights that are inalienable", the act may be flawed in its incorporation of local village administrations to decide issues. In fact, she says, it contradicts the clause that protected areas be kept inviolate.

"What is or is not a critical wildlife habitat is... a policy decision that must be based on scientific criteria and in the interests of the nation," says Wright. "Unfortunately, section 2(c) of the FRA requires the free informed consent of the 'gram sabhas'... that is not just hard to obtain, but completely irrelevant as far as determining an area as critical wildlife habitat."

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'Sanctuary Asia' magazine editor Bittu Sahgal has also described the FRA as an example of "democracy's lowest hour" in India.



Focusing his ire on the giving individual land rights to tribal groups, he says, "Land rights were always their (tribal communities) their due! But community rights, not individual rights."

Argues Sahgal: "Deforestation and conflict with nature is now firmly written into the fate of millions whose lands are ripe for the picking by rapacious mining, timber, and commercial lobbies whose lawyers have already figured out how to bypass weak protective clauses."

Such views, however, clash with those from other activists like Ashish Kothari, convenor of the Pune-based green group Kalpavriksh.

Kothari, who is also a member of the committee resulting from the environment and tribal affairs ministries dialogue, first refutes Wright's contention that 'gram sabhas' are "final authorities".

"The entire system of identification of rights is a process and 'gram sabhas' are involved in this process in terms of consultations," he says.

"These village sabhas are also rich sources of traditional biodiversity knowledge, they know as much about biodiversity and conservation," he adds. "This is not just the domain of 'outside' wildlife experts. In my mind, this lack of involving local communities has been one of the primary reasons for conflict between people and wildlife so far."

As for Sahgal's comments, Kothari remarks, "Where I agree with Bittu is that states have so far focused only on individual rights. We are now asking for community rights."

But he dares Sahgal to show proof of the dispensation of individual rights. Kothari says as well, "Ask the wildlife experts to tell us why they have allowed the denotification of wildlife lands under the Forest Conservation Act."

In the Jun. 26, 2010 issue of the 'Economic and Political Weekly of India', Kalpavriksh members Manju Menon and Kanchi Koli write that from 1998 to 2010, the National Board for Wildlife, working under the Forest Conservation Act, had allowed the diversion of 7,949 hectares of protected area lands.

Of these, 4,453 hectares were declassified as "protected", 2,102 cleared for mining, 625 for projects such as transmission lines and wind turbines, 237 for dams, 170 for roads, and 90 for "constructions". A mere 271 hectares were earmarked for community rehabilitation.

Menon and Koli also note that during the period, the board's standing committee did not reject a single mining project.

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