

/ Ashis Panda and Mansingh Sisodiya



#### Background – What led to the Forest Rights Act (2006)

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill 2006, is a landmark legislation that recognizes and provides a framework for vesting forest use, protection and conservation rights, and occupation in forest land, to tribes and other traditional forest dwellers, who have been residing in such forests for generations. Until the passing of the Act, such tribal and forest-dwelling communities, have been considered as illegal 'encroachers' on their own ancestral lands and for over the last century have been systematically marginalized, displaced and even brutally evicted.

This process first began when the dominant clans and communities began to invade the fertile plains and drove the tribals or *adivasis* (literally translated as people inhabiting a place from the very beginning) into the enclaves of hills and forest areas. This oppression was continued by the British colonial rulers who declared forests 'reserved' in order to exploit them for timber and revenue, and later by the free Indian State, who in the garb of 'forest and wildlife protection' declared vast forest areas as 'conservation zones', and displaced thousands of communities. Millions of hectares of land in this post-independence period, continued to be diverted for 'non-forest' use, including large projects such as dams, industries, mining projects and highways, and tribal communities continued to face further displacement without any rehabilitation or compensation, and were forced to 'encroach' and move deeper into newer forest lands.

The 2006 Act is thus hailed as a decisive political shift, as for the first time, the Indian State admits and recognizes the historic injustice done to the tribals. It makes a beginning towards giving a voice and recognising the role of local communities in forest and wildlife conservation, who until now were viewed as 'outsiders' who must be kept out of the forest in order for it to be

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'preserved'. While in fact, these forest-dwelling communities who are dependent on the forest resources for their lives and livelihoods had been protecting and using them in a sustainable manner for generations.

It is important to emphasize here that the Forest Rights Act is not a deed of the Indian State's benevolence but the culmination of several democratic struggles spanning over decades and across the country. It is an inspirational story of a successful peoples' campaign, who through sustained democratic, political and non-violent action, were able to translate the local struggles of landless and small land-holding tribals and forest dwellers into an Act of the Parliament.

The struggle for the passing of the Forest Rights Act and its implementation is led by the 'Izzat se Jeene ka Adhikar Abhiyan' (Campaign for Survival and Dignity) New Delhi, a national coalition of 15 community based organizations comprising of lakhs and lakhs of *adivasis* as members, from over 10 States in the country.

### **Box I: Introduction to the Forest Rights Act, 2006**

A Primer by the Campaign for Survival and Dignity, New Delhi (<http://forestrightsact.awardspace.com/intro.htm>)

#### **Why is this law necessary?**

What are called "forests" in Indian law often have nothing to do with actual forests. Under the Indian Forest Act, areas were often declared to be "government forests" without recording who lived in these areas, what land they were using, what uses they made of the forest and so on. 82% of Madhya Pradesh's forest blocks and 40% of Orissa's reserved forests were never surveyed; similarly 60% of India's national parks have till today (sometimes after 25 years, as in Sariska) not completed their process of enquiry and settlement of rights. **As the Tiger Task Force of the Government of India put it, "In the name of conservation, what has been carried out is a completely illegal and unconstitutional land acquisition programme."**

#### **What are conditions like in the forest areas?**

Because of this situation, millions of people are subject to harassment, evictions, etc, on the pretext of being encroachers in their own homes. Torture, bonded labour, extortion of money and sexual assault are all extremely common. In the latest national eviction drive from 2002 onwards, more than 3,00,000 families were driven into destitution and starvation. In Madhya Pradesh alone, more than 125 villages have been burned to the ground. The situation is so bad that the then Commissioner for Scheduled Castes and Scheduled Tribes, in his 29th Report, said that "The criminalisation of the entire communities in the tribal areas is the darkest blot on the liberal tradition of our country."

#### **Why were people's rights not respected when these forests were declared?**

The Indian Forest Act, 1927, India's main forest law, had nothing to do with conservation. It was created to serve the British need for timber. It sought to override customary rights and forest management systems by declaring forests state property and exploiting their timber. The law says that, at the time a "forest" is declared, a single official (the Forest Settlement Officer) is to enquire into and "settle" the land and forest rights people had in that area. These all-powerful officials unsurprisingly either did nothing or recorded only the rights of powerful communities. The same model was subsequently built into the Wild Life Protection Act, passed in 1972, with similar consequences.

#### **Mistakes may have been made, but surely these laws are the best way to protect our forests?**

It is not just people who have lost. The very purpose of the Forest Acts was to convert forests into the property of a colonial department; and when you convert an ecosystem into someone's property, there will always be stronger claims to that property than conservation. To destroy a forest today requires nothing more than either a bribe to the local forest officer or an application to a committee in Delhi. The results include:

- the loss of more than 90% of India's grasslands to commercial Forest Department plantations;
- the destruction of five lakh hectares of forest in the past five years alone for mines, dams and industrial projects;
- clearing of millions of hectares of forest for monoculture plantations by the Forest Department;
- recent proposals to privatise "degraded" forest lands for private companies' timber plantations.

Moreover, the forest laws destroyed all the community management and regulation systems that had existed before, forcing people to choose between either abandoning the forest entirely or living as 'criminals' within or near it. To this day it is a criminal offense for you or I to plant a tree in a reserved forest; but it is legal for the Department to fell the entire forest so long as it has Central government permission.

#### **What does the Forest Rights Act do?**

The Act basically does two things:

- grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws;
- makes a beginning towards giving communities and the public a voice in forest and wildlife conservation.

### Who is a forest dweller under this law, and who gets rights?

There are two stages to be eligible under this Act. First, everyone has to satisfy two conditions:

- Primarily reside in "forests";
- Depend on forests and forest land for a livelihood (namely "bona fide livelihood needs").

It is important that the Rules to the Act provide for a definition of bonafide livelihood needs that excludes contractors, traders and other exploitative elements, while including MFP collectors and subsistence cultivators.

### Second, you have to prove:

- That the above conditions have been true for 75 years, in which case you are an *Other Traditional Forest Dweller* (s. 2(o)); OR
- That you are a member of a Scheduled Tribe (s. 2(c)); and
- That you are residing in the area where they are Scheduled (s. 4(1)).

In the latter case you are a *Forest Dwelling Scheduled Tribe*.

### What kind of rights do forest dwellers get under this Act?

The law recognises three types of rights:

#### Land Rights

No one gets rights to any land that they have not been cultivating prior to December 13, 2005 (see section 4(3)) and that they are not cultivating right now. Those who are cultivating land but don't have document can claim up to 4 hectares, as long as they are cultivating the land themselves for a livelihood (section 3(1)(a) and 4(6)). Those who have a patta or a government lease, but whose land has been illegally taken by the Forest Department or whose land is the subject of a dispute between Forest and Revenue Departments, can claim those lands (see section 3(1)(f) and (g)).

There is no question of granting 4 hectares of land to every family. If I am cultivating half a hectare on December 13, 2005, I receive title to that half a hectare alone; and if I am cultivating nothing, I receive nothing. If I am cultivating more than 4 hectares without documents or a dispute, I receive title to only 4 hectares. The land cannot be sold or transferred to anyone except by inheritance (see section 4(4)).

#### Use Rights

The law secondly provides for rights to use and/or collect the following:

- a. Minor forest produce things like tendu patta, herbs, medicinal plants etc that has been traditionally collected (see section 3(1)(c)). This does not include timber.
- b. Grazing grounds and water bodies (sections 3)
- c. Traditional areas of use by nomadic or pastoralist communities i.e communities that move with their herds, as opposed to practicing settled agriculture.

#### Right to Protect and Conserve

Though the forest is supposed to belong to all of us, till date no one except the Forest Department had a right to protect it. If the Forest Department should decide to destroy it, or to hand it over to someone who would, stopping them was a criminal offense.

For the first time, this law also gives the community the right to protect and manage the forest. Section 3(1)(i) provide a right and a power to conserve community forest resources, while section 5 gives the community a general power to protect wildlife, forests, etc. This is vital for the thousands of village communities who are protecting their forests and wildlife against threats from forest mafias, industries and land grabbers, most of whom operate in complete connivance with the Forest Department.

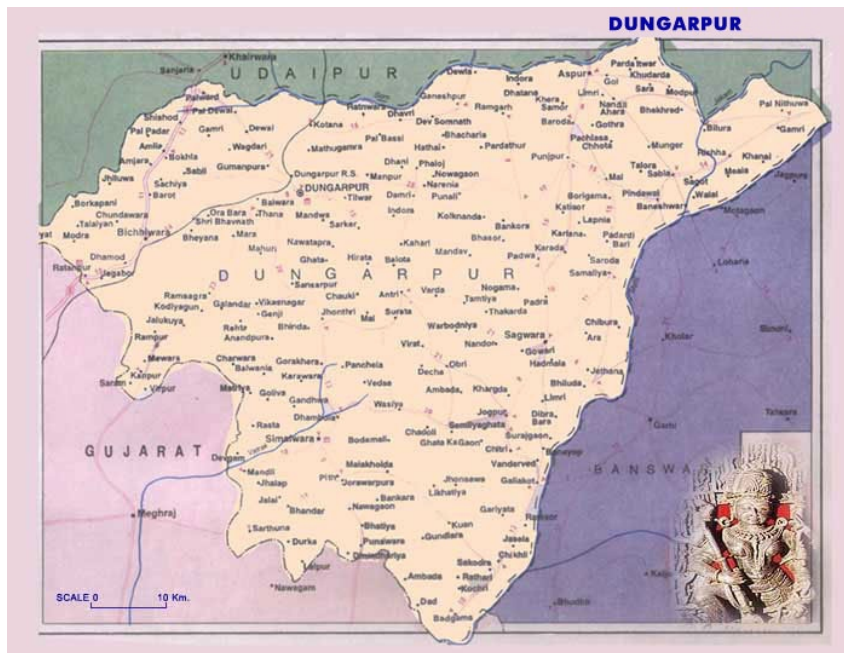




## Status of implementation of the Forest Rights Act (2006) in Dungarpur district, Rajasthan

### About Dungarpur district

Dungarpur is located in the southern part of Rajasthan, bordering Udaipur district on its north and Gujarat state on its south, its headquarters about 150km from Ahmedabad. Its land area is marked by a harsh hilly terrain, of which 16% is forest (largely teak), 25% un-cultivable wasteland, 9% permanent pasture/grazing land and the rest - cultivable land. The district has an average annual rainfall of about 760mm and its population as of 2001 was about 11 lakhs, of which 93% was rural and 51% were women. More than 65% of the population belong to Scheduled Tribe (largely Bhil communities) and 5% to Scheduled Caste, therefore Dungarpur is classified as a schedule area, where in several special development schemes and provisions of the government are applicable.



Much of the ST/SC population here are small-holding farmers (average land holding of 3.5 acres, not including occupied forest land) and unskilled/semi-skilled labourers, and for their livelihoods depend on minor forest produce (largely *tendu patta*), dry-land agriculture (largely maize, black gram for self-consumption and cotton, redgram for sale), small ruminant livestock, local wage labour (Nregs) and migrant labour (largely construction sector to Gujarat cities and agricultural labour to Gujarat villages). Apart from Tendu Patta, other important minor forest produce are Amla (Gooseberry), Baheda (*Terminalia belerica*), Billa (*Aegle marmelos*), Puvad (*Cassia tora*) and Nagarmotha (*Cyperus rotundus*).

As per the 2002 State Human Development Report, Dungarpur ranks the lowest (32<sup>nd</sup>) in terms of district-wise Human Development Index of the 32 districts in Rajasthan. This district is part of the southern sub-region of Rajasthan, that includes the contiguous districts of Udaipur, Banswara and Rajsamand which together have the lowest combined HDI compared to all other Rajasthan sub-regions, and therefore where the maximum human poverty is concentrated. The Southern sub-region is characterised by its hilly terrain with still some standing forest cover and is an area which has a majority forest-dwelling tribal population.

### Campaign for forest rights in Dungarpur

The campaign for forest rights of the tribals in Dungarpur (and adjacent Banswara district) is anchored by the Vagad Mazdoor Kisan Sanghathan (VMKS). VMKS started in 1997, and is a community based organisation of tribal labourers and farmers. It is presently working in about 260 villages in Dungarpur district and 220 villages in Banswara district, with a total membership of about 10000 members, including 3500 women in Dungarpur district and 7000 members including 2500 women in Banswara district.

VMKS' overall focus of work is to enable and organise marginalised tribal farming and labour communities secure their rights and provisions from the Government, make an attempt to reduce social and economic disparities and raise awareness of the local people on political issues. VMKS has been working on the effective implementation of PESA Act (Panchayati Raj - Extension to Schedule Areas Act), Forest Rights Act, NREGA, Loan-waiver scheme, BPL



schemes, rehabilitation schemes for people displaced by government infrastructure projects such as dams and highways and demanding accountability from local elected representatives and government department officers.

The Sanghatan is part of the larger 'Jangal-Jameen Jan Andolan' coalition of Rajasthan, which is one of the 15 member organisations of the national coalition – Izzat Se Jeene Ka Adhikar Abhiyan, New Delhi (Campaign for Survival and Dignity).

### Process of vesting of rights as defined in the Act

The process for vesting forest rights to tribals in brief is as follows:

- The entire process is organised through village-level Gaon Sabhas, led by a Gaon Sabha Secretary, which will constitute a Forest Rights Committee in every hamlet, to examine and verify claims through an on site inspection visit with all the necessary proofs from individual applicants as well as a consolidated claim for community rights and then forward the list of claimants to a Sub-divisional Committee.
- It must be noted that Goan Sabha here refers, not to a Panchayat level meeting or to a revenue-village level meeting, but to the assembly of all villagers within each and every distinct hamlet present within each revenue village. In Dungarpur, there are about 1311 Gaons (villages) approximately in 832 revenue villages which are part of a total of 237 Gram Panchayats.



- The Sub-Divisional committee, led by a Sub-Divisional officer, will play a coordinating and support role to the Goan Sabhas in terms of making available the necessary forms, which were already printed in Act, providing information, resolving disputes etc, and finally to forward the collated list of claimants and other related information after checking the veracity of the claims in coordination with the Gaon Sabha, to the District-level committee.
- The District-level committee, led by the Collector or Deputy Commissioner, will finally approve the claims as well as provide support to the SDC and GS, to ensure that the overall processes function as per the objectives and spirit of the Act.
- The entire 3-level process and the final disbursement of the titles for forest land and community's rights to the forest use, was slated to be completed by Jan 31<sup>st</sup> 2009.

### Status of Implementation

The Forest Rights Act came into force in January 2008. In Dungarpur, Gaon Sabhas and Forest Rights Committees began being constituted in March, with the first set of claims filed by the individual applicants received by the Forest Rights Committees in May 2008. As on November 2008, with only two more months till the deadline, ***NOT EVEN ONE tribal/forest dwelling family or community has been given a title to individual forest land or community forest rights.***

### Problems and Issues: Why has the Act not been implemented so far?

- **State Government following a parallel, unconstitutional Forest Department list to approve claims of the tribal families**

As per official statistics of the Forest Department given in the table below, there exist only 5193 families in 368 forest villages, who have occupied forest land in the entire district.

VMKS' conservative estimate is based on a sample survey conducted in 33 villages in Nov 2008, wherein 2253 families had 3380 Ha of occupied forest land, at an average of 68 families per village and 1.5 Ha per family. VMKS estimates there are a total of 375-400 villages in Dungarpur district, that have individual occupied forest land, and at least 16000 families (at a conservative average of 40 families per village) owning at least 24000 Ha of forest land. Apart from this, there are at least 225 villages and about 3000 families, who do not have individual forest land but who depend on the forest as a collective and therefore have community rights to the forest.





*The official statistics regarding the total families who possess forest land, in the district are completely off the mark;* the sample survey by the VMKS organised through focus group discussions indicates that the total families figure is at least 4 times and the total land figure at least 13 times the official statistic.

As regards to the official status of the progress on the forest rights application process, as per a State Government report released in a newspaper article about the inspection visits conducted for files received till date (Ref: Dainik Bhaskar, 7<sup>th</sup> November 2008), 312 families have been found eligible for awarding forest land titles in Dungarpur district.

As per the VMKS survey, of the 2253 families in the 33 villages, only 1780 files had been prepared by the Forest Rights Committee. And of these 1780 files, inspection visits had been carried out by the Forest Rights Committee only for 401 files; and for many of these 401 files, the Revenue and Forest Departments have not visited the village even once. Therefore, the Government figures regarding approval of titles for 312 families are almost certainly wrong, as even this much work by the State Government is not visible in the field. This was proven when the Sanghatan volunteers met the Additional Collector on November 10 2008, and demanded the list of 312 families who have been approved and were told that all the files received by the Collectorate were incomplete and sent back to the Sub Divisional Committees/Gaon Sabhas, and not even one had been approved for

awarding of titles.

The Forest Department statistics have not been collected through Gaon Sabhas or Forest Rights Committees as defined in the Act, or through any democratic process involving the tribal communities at stake. These statistics are however, being used by the Revenue Department, who at the stage of verification (when the claim form moves from the Gram Sabha to the Sub-divisional Committee) do not accept the claim stating the family's name is not in the Forest Department list, **when actually this list has no constitutional position**. The FRA provides that every claim submitted has to go through the process of an inspection visit and only on that basis if it is found that the family does not have enough proof or is not occupying the land in reality, can their claim be rejected.

Further, this list does not include many clear cases, some of which are listed below, of families who were involved in displacement or eviction by the Forest Department or have been occupying since two generations. Many families have submitted petitions directly regarding their forest land applications to the State Government through the Collectorate as part of the numerous rallies, protests and meetings held by the Sanghatan, but many of these families don't figure in the list. **All this seems to indicate, that the Government does not seem to care to listen to the voice of the people.**

1. On the 26 August 2003, the VMKS had organised a camp attended by more than 500 affected families, and had submitted a petition with all the

claims of the members present to the Collector. Many of these families do not figure in this list.

2. 400 families were displaced by the dam in Kodyagun village in Bicchiwada block in 1996. None of the families received any compensation or rehabilitation, and were forced to move further into the forest occupying newer lands. Many of these families too, do not figure in the official list.
3. Inhabitants of Mewara village in Bicchiwada block, were displaced by a minor irrigation dam in 2002, and were forced to occupy forest lands, but still their occupation does not feature in official records.
4. In Untiya village, Genji Panchayat in Bicchiwada block, 11 families have been occupying since 1965 and have receipts to prove it, but still their names don't figure in the list.

● **Forest Department continuing to carry out unconstitutional evictions and attempting to violate Community Rights provision of the Act**

The Act mandates that every claim must be first accepted by the Government, irrespective of whether the family figures in the Government lists (Forest Department) or not, and that the claim can be rejected only on the basis of the on-site inspection organised by the Forest Rights Committee. Until this process, the Act specifies that no eviction should be done.

In spite of this, the **Forest Department continues to brutally evict tribal families without offering any notice or providing compensation or rehabilitation**. VMKS estimates that in Dungarpur district, at least 400 families since VMKS started work, till date have been evicted, beaten up, their crops and houses destroyed by the Forest Department. There have been at least 10-12 FIRs filed by the Forest Department against the people in the past decade, but the extent and number of evictions are far more than those recorded on FIRs. The following are two examples:

1. On 2 September 2006, the Forest department without giving any to



notice, evicted 10 families from Nayatalab village, Bicchiwada block (Ref: FIR dated 2/9/2006, Forest Department against “Vakshi Ganesh and others”), even though all the families had been occupying the land before 1980 and had revenue department receipts to show as proof.

2. 14 families from Kodyagun village, Bicchiwada block were evicted (Ref: FIR dated 13/8/2002, Forest Department against “Khatra and others”), even though it was the State government that first displaced them in 1996 during the construction of the Kodyagun dam. None of these families received any rehabilitation in terms of new lands.

Revenue and Irrigation departments gave cash compensation but the Forest department, encouraged people to occupy lands in forest in return for this cash compensation as bribe. (Ref: Oral testimonies of Kodyagun villagers). Even after this, the Forest Department files an FIR against these families in 2002 and still many of them don't figure in the official list!

The Forest Department is also illegally making individual agreements on stamp paper in return for doing its inspection. This has been reported in at least 10 villages. Rampur and Manipur villages of Bicchiwada block are two examples. The agreement prevents the village community from entering the forest and will deprive them of all the community rights to the forest for their household use and livelihoods, protection or conservation, and is a **gross violation of the community rights to forest resources provided in the Act**.

- **Forest Rights Committee ineffective, as they are formed at Panchayat (Gram) level instead of Village (Gaon) level**

The Act mandates that the forest rights committees be formed at the village/hamlet level, in order for better participation from the tribal families involved. This is also a provision recognised by the Panchayati Raj Extension to Scheduled Areas Act 1996, which devolves the power of local self governance from Panchayat level to

Village level for tribal majority regions (Schedule areas).

As on date, FRCs have been formed in about 350 villages at Gaon level. While in the rest, the implementation has been organised through FRCs anchored by Panchayat level Gram Sabhas.

It is **impossible for families from far flung tribal hamlets (Gaons) to participate in such Gram Sabhas** and operating through Gram level instead of Gaon level is a violation of the process defined in the Act. Many of the FRCs thus formed are completely ineffective, and do not represent all the geographical regions fully. In most cases, the FRCs include people put up by the Panchayat and Revenue Department, who pursue their self interest and only serve to block the process against the favour of the applicants.

- **Blatant corruption by Revenue and Forest Department at various levels**

The Government till date has come out with 4 forms for filing of claims, each of varying lengths but containing essentially the same information. Forms no. 2-4 are still not available with many of the government offices itself and therefore these 3 forms have not reached most of the villages. In many cases, even though forms are available, the departments refuse to give them, hoping for bribes in return. **Many villagers do even not know that they have to submit another 3 forms after the first one.**

The Act had provided for a form, through which applicants had already submitted their claim. This form no. 1, had no requirement of a signature by the Forest Department or Revenue Department official and thus the control was in hands of people through the Gaon Sabha and Forest Rights Committees set up by them. The new State Government issued forms no. 2-4, require the signature of Revenue and Forest department officials and now directly cannot be sent to the Sub Divisional Committee without their seal.

**The purpose of this change and introduction of the newer forms is clearly to delay the whole process, and**

with an intention to force bribes from the common people who will get desperate to complete the process and get a title to their lands. This is proved from the examples stated below:

1. In Galendar & Bhiyabhedhi villages, Bicchiwada block where Forest department officials demanded Rs. 1500-2500 per file for conducting (their part of) inspection visits.
2. In Gaid village, Palichoda panchayat, Bicchiwada block, the Forest Rights committee demanded Rs 500 per file for conducting inspection visits.
3. In Kodyagun, the Forest Rights committee and the Forest Department deposit files at a charge of Rs. 100 per file.

The Act clearly mandates that the entire process including cost of forms, inspection visit etc, will be completely free of charge for the applicants. At many places, government departments, forest rights committees and panchayat sarpanches, secretaries, **demand charges from the villagers for forms, and blatantly demand a bribe for completing various processes** – accepting the file, conducting inspection visits, issues titles etc.

- **Irregularities by the Revenue Department in processing claims**

The Act puts 13 December, 2005 as the cut off date, meaning if families occupied land before this date, they can file a claim to the forest land. However, the Revenue department (Patwaris) while approving the form is using 1980 as the cut off date, and is quoting previous government orders to justify his/her position. This confusion was initiated by a State Government Order in 2006, after the passing of the Act, which stated that 1980 should be taken as the cut off, even though the Act had clearly stated 2005 as the cut off!

After protests and campaigns against this order by the affected tribal communities, the State Government released a second order, correcting its earlier stand and asked all implementing bodies to consider 2005 as the cut off as stated in the Act. This



confusion is however still being used and to the fullest by Revenue officials who conveniently quote the first State Government Order and ignore the second. The 2006 Act supersedes all previous government orders on the subject, and the stand of the Revenue Department is unconstitutional. *The State Government on its part has made no effort to clear this confusion and to clearly instruct its officials regarding the issue.*

In Manipur, Bharatpur and Rampur villages of Bicchiwada block, both the Patwari and Forest officer, refused to do inspection of families who had claims till the 2005 cut off, stating that they will follow the 1980 cut off only.

The Act provides a maximum claim of 4 hectares per claimant. The Patwari however, is making a common claim for 4-5 descendant families (children), instead of filing separate claims for each family, which will lead to an intra-family fight over the common title. According to tribal culture, the sons live separately and not as a joint family. Individual families must get claim, and map made accordingly.

Further, the Patwari is also subtracting the existing revenue land owned by the family from the 4 hectares limit, while actually the limit is for new forest land claimed irrespective of previous land owned. *This will lead to a loss in total forest land ownership by the individual families.*

The Patwari *also refuses community rights* to villages who may not own forest land, but still depend on the forest for their livelihoods and their household. This is a violation of the Act, which is operational for all the villages, not just villages which have forest land occupation, as long as there is a history of the villagers depending and using the forest resource.

● **Elected representatives not representing people's interests in State level or District level committees**

In spite of numerous problems emerging from the field, the State-level committee has been ineffective in ensuring implementation of the Act. Elected representatives from Dungarpur in the State-level committee (currently the MLA of Chaurasi and



## Box II: Interview with villagers of Damod, Bicchiwada block

**Members present:** Ramji Homa, Devilal Aahari, Ramesh Aahari, Nathu Veshat, Nathu Nana, Gangabai Babulal, Vaji Dungar, Mani Ramji, Kakku Ramji, Vali Ramji; **Total 10 including 5 women.**

**Date:** 7 Dec 2008, **Place:** Damod Primary School

**What is the total number of families in your village who deserve rights to occupied forest land and the approximate total land area? Since when have you been occupying your land?**

In all, there are about 400 families in our village, of which there are 120 families who have submitted claims for forest land, covering an area of about 400 Ha (2000 bighas). Our grandparents were the first who cultivated this land in the 1960s. We have proof of receipts since 1977.

**What has been your experience with the Forest Department? Have they made any attempts to evict you and destroy your property and crops?**

In the 1980s, was the first time, the Forest Department made an attempt to evict us. They destroyed the homes of 70 of our families and destroyed our Millet, Udad and Maize crops. They then forcibly made a 2-foot stone wall, around the land of these 70 families which covered about 400 Ha. They also filed a court case against us which lasted for 4 years. We later broke the wall and reoccupied our land.

They continue to harass us every year. In 2007, even after Act had been passed, they destroyed crops and homes of 70 of us, and filed a case against 9 families. We had to bribe the local police as they would not agree to file our FIR against the Forest Department for destroying our property and crops. We fought the case in the SDM court with the help of a lawyer (Kanti Shankar Shukla, who is also an advisor to the Sanghatan) incurring an expense of nearly Rupees 20000, and won the case. In spite of this in 2008, the Forest department came in the monsoon time and destroyed our homes and crops again.

**Why did they file a case against only 9 families, why not all 70?**

We were demanding that they file cases against all of us, however they are clever and filed only a select 9 of us. They want to save their skin and only show that a small percentage of us have occupied forest land. Otherwise, they will be asked questions by their higher officials.

**Since when have you been with the Vagad Sanghatan and what is the work you have taken up through the Sanghatan till date?**

We have been with Sanghatan since 1997 and have been part of 'Jan Andolan' to fight for our rights to the forest. We have participated in nearly 100 rallies, demonstrations and events



organised by the Sanghatan within Dungarpur, about 12 such events at Udaipur and 2 each in Delhi and Jaipur, apart from participating in all the regular meetings of the Sanghatan. In 2006, after our demonstration in Delhi, we were successful in getting the Government to recognise our struggle and got the Jangal Jameen Act passed. In spite of this the Forest department does not recognise our rights and continues to harass us.

**What is the status of implementation of FRA in your village? How many of you have received titles to your forest land?**

The forest rights committee has been formed by a Gaon Sabha. 120 claim files have been prepared and the Forest Rights Committee has completed its inspection. However the Patwari and Forester refuse to come for their part of the inspection, they say that our land falls within the boundary wall and our occupation is not legal and we will not get our titles. Not even one inspection has been completed by them. We have not received the 3<sup>rd</sup> and 4<sup>th</sup> forms, which came later.

**How is the forest important for you? What all needs does it provide for you?**

We depend on the forest for grass, stone, mud for lipai and housing, wood for firewood and for making our homes. We get bamboo, gum, a number of medicinal plants, amla (goose berry), tendu fruit, sitaphal (custard apple). We use the leaves of the Dovda, Kabda and Khakra trees for fodder for our goats and cattle. In summer, we get about Rs. 3000 per family from tendu patta collection. We have two drinking water wells which we use for us and our livestock. The forest is our path to go to visit our relatives in Kodyagun, an adjacent village. We have two temples in the forest. We want rights over our water, land and forest and the government must recognise our rights.

**The Government says that the villagers are not interested in saving the forest and if it were not for the Forest Department, the forest would have been wiped out for now? What is your position regarding this?**

This is completely untrue. The forest is linked with our lives, it brings us rain. The Forest department is behind the felling of the forest. There are about 70 families in the village who act as sub-contractors who have a setting with the local forest official and guard and they cut and transport trees in the night. When we stop them they say they have sanction from the Forest department and who are we to stop them? These sub-contractors together own nearly 100 camels for this purpose. Why else do you need camels in our village if not to carry logs? And it is impossible for these sub-contractors to do all this without colluding with the Forest department for their guards will immediately stop the camel on the roads and check posts.

We will show you patches that we have fought for and control, where the forest still stands. You can compare it with patches controlled by the Forest Department which are completely devoid of any trees. The forest department is the real culprit behind cutting the trees and they put the blame on us. They sell one camel load of nearly 50 trunks for Rs. 50000, and the sub contractor gets only a small margin in this. If the complete forest is in our control, we will save it.

**You have been fighting since the 1980s and for more than 12 years through the Sanghatan, for your rights to the forest. Now you have the Act which recognises your rights to the Forest on a legal basis. Yet, the forest department and revenue department is not ready to recognise your right and not one of you have received a title to your land, in spite of your application being complete. What do you plan to do?**

Clearly, the Government is not interested in granting us our rights to our land which we have been inhabiting since 2 generations. We will fight till our last for our rights and in no case will we give up our land, even if they beat us up. It is the only base we have to survive upon for our food and income, and we have nowhere to go. We will continue to cultivate our land.

What is happening with us is complete injustice and we will continue to fight through our Sanghatan and demand and fight until we get our rights. Our land, water and forest is a gift of nature and we have been here with it for generations; why and from where has this government come in between?

Dungarpur Constituencies) or in the District level committee (currently the Zilla Parishad member and Bicchiwada Panchayat Samiti member), do not seem to have as powerful a voice in representing the interests of the common people, against the Forest Department officials (Chief Conservator-Forest or Divisional Forest Officer) and State/District level officials of the Government, who on their part, seem to be least interested in giving away their control of the forest lands. The entire process below them, implemented by the Revenue and Forest Department officers at the District and Sub Divisional levels, seems to be going on in complete



collusion with their higher level officers.

That the State Government is least interested in effective implementation of the FRA, is visible from the fact, that there has hardly been any capacity building or orientation of its officers regarding the implementation process of the Act. Compare this to the amount of time spent on training and orientation for the officers (Ref: Newspaper reports for month of November and December 2008), for smooth conduct of the recent assembly elections in the district. ***Why is the FRA something so crucial to the lives and livelihoods of marginalised tribal communities any less important than the Assembly elections?***

## Conclusion: The State Government is repeating the historic injustice

The Forest Rights Act, seems to be destined for a similar fate as the PESA Act passed in 1996. After 12 years, many villagers do not even that such an PESA Act exists. The State government has not even made rules for this Act except for passing some orders that were to suit the interests of the mining lobby.

From the status today and with two more months to go before the deadline, the State government does not seem in the least interested to implement the Act in its spirit and its provisions. This will wipe out all promise that this land mark policy measure holds for improving the lives of the marginalised tribal and forest dwelling communities and will only **repeat the historic injustice**.

Irrespective of the Act and the State government's gross failure to implement it, any effort to displace and evict tribals from their land is being met by them, with fierce resistance and not with meek submission. On 5<sup>th</sup> November 2008, people of Valota village, Dungarpur block, chased out a group of Forest department officials who had arrived in the village to carry out evictions without notice. The villagers had been occupying the land before 2005 and had valid proofs. With stones and sticks, villagers beat up the forest officials and nearly burnt their vehicles and the Police had to be called in to control the violence.

This tension and violence is bound to increase if the State government continues to illegally push such marginalised communities to the brink. These communities have have high stakes in this matter and will only fight to the finish. ***This injustice must stop and the State government must recognise the possible fallout and make full attempts to implement the Act in its true spirit and provisions set.***

### Some of the immediate measures required are:

- Scrap forms no. 2-4, which require the signatures of the Forest and Revenue Department officials, and go by Form no. 1 only.
- Extend the last date of filing and processing claims by another six months and ensure that all deserving

families obtain individual titles and community rights to their land and forest by the dead line, in line with the spirit and procedures laid down in the FRA.

- Put a complete full stop to illegal evictions without notice and provide rehabilitation including full compensation and reimbursement of legal costs incurred, to all families who have been evicted.
- Banks and other financial institutions must be ready to recognise the legal rights of the tribals over their forest land and provide loans and other financial support against this land.
- Recognising the extreme poverty of the tribals in the district, the Government must make investments on developing their existing cultivable land and facilities for agriculture by providing electricity, irrigation facilities through water conservation structures and investing in land development and soil conservation works through bunding, levelling etc, so that the productivity and income from agricultural land can increase.
- The Government must provide viable and cheap, non-wood based alternatives and incentives to tribal forest dwelling families, for housing and fuel requirements which are currently based on the forest resource.
- It must be recognised that the biggest plunderer of the forest wealth is the Forest department itself, who have little interest in respecting the spirit of the Act towards the role of local resident communities in conservation and protection or in giving up their control over the forest. The Government must bring these true culprits to book, and realise that real conservation and protection can only be done by involving the communities dependent on them and abolishing the Forest department. The Government must work in a constructive manner with the tribal families in developing programs for regenerating and conserving the forest.

- A case in point of the ability of local communities in protecting and conserving the forest, is that of Manatgaon village in Bicchiwada block of Dungarpur district, where the community has regenerated about 200 hectares of initially barren forest land, and maintain two watchers paid by community funds and protect the forest from any felling or grazing. There are numerous such examples.

The Sanghatan realises that while the Act was a significant achievement for the local people, the struggle is not over. Even though the Act has been hailed as a decisive shift in the attitude of the Indian State, none of this shift in sensitivity or attitude has seeped down to the Patwari in the Revenue Department or the Forester or other officials at the Panchayat, Block or District levels, who continue to exploit the tribals as they had been doing for years, before the coming of the Act.

***In the only way that any change has ever been brought about in favour of the marginalised and disadvantaged people, the adivasi members of the Vagad Mazdoor Kisan Sanghatan, the Jangal-Jameen Jan Andolan and other organisations of the Izzat Se Jeene Ka Adhikar Abhiyan across the country, are rallying themselves for the second phase in their continued struggle, to fight for their basic human rights to be allowed to survive and live with dignity.***

### Resources and References

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Ranjan Kumar Baral  
rkbaral@gmail.com