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NCF STATEMENT ON THE FOREST RIGHTS ACT (MODIFIED), JULY 23, 2019

By The NCF Community · July 23 2019, 12:01 PM



Historically in India, and across the world, mainstream conservation efforts have often been carried out largely using an exclusionary approach, which has come at a considerable cost to the land rights and livelihoods of the most marginalized and voiceless people.

More recently, there has been widespread recognition of both the injustice of such an approach, and that tribal people and other forest-dwellers can and should be natural allies in conservation.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (also known as the Forest Rights Act or FRA) is an attempt to right these historical wrongs and to also recognize the role of India's Scheduled Tribes and Other Traditional Forest Dwellers (OTFD) in conservation.

Specifically, the FRA sought to legally recognise and vest forest rights and occupation in forestlands by Scheduled Tribes and Other Traditional Forest Dwellers which they have inhabited and resided in for generations. But this had never been recorded historically during “the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice.” Thus, the FRA was enacted to “address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.” Therefore, the Act provides a framework for recording such rights and the nature of evidence required for recognition and vesting of such individual rights in forestland. It is to be noted that though these settlements were in designated forestland, the FRA seeks to recognize those already under cultivation/occupation before December 2005, and is restricted to a limit of 4 ha per family. The Act says that it “shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares”.

Therefore, it does not entail giving new forest land, nor is it a land grab or a land distribution as is often misinterpreted. The Act also provides for “the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwellings Scheduled Tribes and other traditional forest dwellers”. This is important for securing livelihoods of forest communities and strengthening local governance of forests and natural resources. It provides for the community protection of forests and the sustainable use of resources within these lands. The FRA defined community forest resource as “customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access.” It is also important to note that the FRA provides for statutory powers to the gram sabhas (village councils) to regulate, protect and govern the forests that they get community forest rights for. They can also exercise their powers to give or withhold consent for any diversion of these forestlands by governments for any other purpose, such as various development projects (mining, industrial projects, dams etc). Before the FRA was enacted, the discretion for such diversions rested only with forest authorities and the political leadership.

Across India and globally, there are many examples of the benefits of and value in community-based forest governance and an inclusive approach in conservation. The Supreme Court passed an order on February 13 (made public on February 20) directing state governments to ensure the eviction of around 11 lakh people from forest areas spread across 17 states, by July 27. Following a plea by the Union Government to modify this order, the Supreme Court has stayed the order on February 28, permitting states to temporarily stop the eviction of tribal people

For these reasons, NCF supports the FRA and believes that attempts to remove or dilute it are morally wrong. Indeed, it is also detrimental to conservation. The misgivings on wrongful claims and misuse of the FRA needs to be addressed with adequate safeguards and vigilance but these apprehensions should not result in questioning the validity of the Act itself or to use it as an instrument for eviction of indigenous people and forest-dwelling people in the name of conservation.

The case is coming up for hearing on July 24 and we hope that it does not result in a fresh call for using the FRA to evict large numbers of indigenous and other forest-dwelling people. The FRA was enacted to correct historical injustices and recognize pre-existing claims and rights of people. It was never meant to be used as a tool for evictions and has no provisions for such decisions.

Apart from devastating millions of lives, such an outcome will ultimately prove highly detrimental to conservation in India by further alienating potential allies and by strengthening the false notion that conservation can only be carried out by excluding forest-dwelling peoples.

Having practiced conservation for more than two decades, we believe that conservation ought to be carried out in an inclusive and just manner, and that there are many successful examples of such approaches both in India and elsewhere in the world. An approach that embraces the rights of marginalized forest peoples and works with them as partners and allies is the kind of conservation we can and should pursue as a country. Globally, this is an approach that is accepted and followed.

In our view, the FRA must be implemented in the true spirit that it is intended, and we stand for the rights and dignity of the forest-dwelling peoples in India and elsewhere in the world.

Photo: Kalyan Varma

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