

Conservation of Forest and the issue of Tribal Rights: A way out

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The recent Tribal Rights Bill 2005 proposed by the Ministry of Tribal Welfare has generated much heat and debate all over the country. The Ministry of Environment and Forests and a large section of the society had opposed the Bill in its present form.

Many articles have appeared in the newspapers and magazines and a raging controversy is going on which is diverting attention from the real problem. It is necessary to put up a professional point of view based on a 'hand's on experience approach' before the country and the media so that we once again focus on finding the solution rather than confusing it. As a nation we need to understand that hunger and shelter and thus the livelihood of the Tribal people need not be left entirely on the forests for that the aspirations of modern day tribals are no different from others. Forests as a resource base should primarily be managed as a repository of bio-diversity and a source of water. We have a bare minimum area under forests to met the needs of the society for water and agriculture stability for a population over one billion.

The solution of the problem lies in not only granting land rights but also having a concrete action plan for development of forested regions in order to reduce the dependency of people on forests. The 23% landmass under the legal definition of forests should be made productive enough to generate resources, goods and services for the people. Equally important is to identify inviolate areas as well from the point of view of bio-diversity so that the rest be made productive through public-private partnership. There is a great challenge as well as opportunity before the foresters, administrators and political masters to ponder over the future management regimes of our forests. The forest tribal conflict should be turned into an opportunity to venture into this.

There are certain myths that need to be set right in the eyes of public. The first is that all the Tribals living in forests have been denied their rights. The second myth is that forest department usurped the rights of the tribal people. Having said about the myths, it is also true that in many places, the forest settlement officers did not settle their rights while reservation process was going on in the past. It is also true that state governments have though allotted land to the tribal people, they were however, hoodwinked by the land mafia and their lands were taken away and they were pushed inside the forests once again. Many States have enacted laws to restore the alienated lands to tribal but they were never implemented due to obvious reasons.

The real problem in Tribal areas is lack of planned development, though several crores of rupees are spent on doling out unproductive Man Days in tribal areas every year. For example, shifting cultivation though abandoned by the forward looking tribal is still being promoted by the agriculture department as a last ditch attempt to ward off hunger, in the process more and more forests are getting destroyed. Though the tribal leaders have realized that the root cause of their poverty is lack of alternative to shifting cultivation but perforce they are continuing to eke out a living from it to avoid starvation.

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Almost all the poachers and timber mafias use local tribal youth to kill the wild animals and cut down valuable trees and pay them a pittance for the job done and in the process plundering the forests wealth and the wildlife heritage of the country. The net result is shrinking forests and increasing dependency on forests leading to a vicious circle.

Had it not been for the Joint Forest Management (JFM) programme, the condition of the forests and the tribal would have been much worse. The real solution of tribal problem is to have a planned vision for the all round development of tribal villages through land based settlement process and honing up their skills of indigenous knowledge, providing them better health and education facilities etc. The objective should be to assimilate them in the mainstream society yet preserving their culture.

This is a tall order to achieve yet it is a doable proposition if determined efforts are made and all resources are pooled up. This will require that the issue of tribal rights be settled once and for all in a time bound manner. It is necessary to find why the guidelines of central government could not be implemented by the states since 1990 though an institutional framework was proposed. The cause of tribal rights suffered because the States included the ineligible post 1980 encroachers in the lists. It is this suspicion that invited the judicial intervention.

The present Act has been proposed to overcome this hindrance and grant the forest rights. However, not much thought has been given to gauge the impact of the proposals on long term interests of the tribal and the country.

A lasting solution to overcome the piquant situation should be found and the impasse should end soon. This author having a first hand experience of the problem, has drafted an alternative Bill in his own personal capacity to generate professional discussion and had forwarded the same to some senior officers of the Ministry of Environment and Forest, the agency which should have drafted the Act in first instance. The new draft is an improvement on the previous draft. The salient features of the Bill are: a) The issue of tribal rights over forestlands should be linked to verifiable records on occupancy and should deal with the issue of allowing heritable but inalienable rights on the adjoining forest through JFM mechanism. b) The Bill draft should take into account the peculiar site-specific ground realities and criteria should be evolved based on this to determine the type of rights to be allowed on forestlands. c) The Bill could have the following parameters in its rules to start with:

1. The Ministry of Environment and Forests shall be the nodal agency and shall prepare the procedure of identification, categorizations of type of rights, verification and vesting the rights of tribal people. .
2. The problem is solved once and for all within a fixed time frame.
3. To ensure that forest conservation efforts are consolidated in the process and the tribal get their livelihood strengthened too.
4. The process should not encourage encroachments on forestlands
5. The rights on land as well as JFM process shall be heritable but inalienable. A short, medium and long term time bound all round development plans should be integral for each village. The type of conferment could be evolved as:
 - i) **For Forest Villages forming part of working plans:** For habitation 0.08 ha of land to be allotted per house hold plus the actual verifiable

areas under agriculture cultivation in the village and as per the records of forest department.

- ii) **For Disputed claims** etc: For habitation 0.08 ha plus the actual verifiable area under agriculture cultivation not exceeding one hectare. In case there is no verifiable area under agriculture with a family, they will be allowed up to 0.16 hectare for their homestead and heritable traditional rights over JFM. For those who possess agriculture land JFM rights though shall be available; but these rights shall not be heritable.
- iii) **For Shifting Cultivators:** For habitation up to 0.25 hectare plus heritable JFM rights over the forestland. For each village for common facilities up to one hectare of land shall be allowed. A permanent settlement plan must be part of the project so that the people settled are retained at their places of settlement.
- 6. **Heritable JFM Rights:** In all cases of heritable JFM rights the forest areas shall be demarcated and notified in the State gazette and recorded in working plans along with the names of the beneficiaries. Once a family leaves that particular area for availing better opportunities the right shall be terminated automatically signaling that the dependency of that family has been over on the forests. In nut shall, the JFM rights shall be based on “**care and share**” philosophy. The ultimate aim of forest management in the next 50 years shall be to reduce and gradually remove the dependency of tribal people on forests.
- 7. **Provided that no such rights shall be granted on National parks and Sanctuaries. An economically sound rehabilitation package should properly relocate those living in these forests and these people should be engaged in eco-tourism activities.**

These proposals are illustrative. It is estimated that around 5 to 6 lakh hectares of forestlands already occupied shall be allotted for the habitation and agriculture in the process but heritable and inalienable JFM rights over a large chunk of forests would be given to the tribal communities, which is their real demand.