

**Status of Implementation of the Forest Rights Act  
In  
Rajasthan**

**Status Paper  
Written for the Project  
Operationalisation of the Forest Rights Act, 2006**

**by**

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## 1. HISTORY OF NATURAL RESOURCE MANAGEMENT IN RAJASTHAN - A BRIEF BACKGROUND<sup>1</sup>

**1.1 Primarily Livestock Based Livelihoods** - A dominant feature of the livelihoods in Rajasthan has been that these have been primarily livestock based livelihoods. The arid landscape of Rajasthan has been dominated by extremely low rates of precipitation, which result in the combination of subsistence agricultural and livestock rearing practices. The natural vegetation of the region, especially of the northwestern part, encouraged sheep and goat rearing that can survive on low productivity of the common lands as well as forestlands.

**1.2 State Regulated Use of Natural Resources** - Contrary to claims and demands by many social organizations against increasing government regulation since independence. Mayank Kumar argues that the history of regulation and prudent use of natural resources can be traced back to the medieval times when the paucity of natural resources necessitated greater ties of inter-dependence between, and among, the ruling class and the peasantry at large. The semi-arid and arid nature of the region imposed several limitations on the vegetation as well as on production possibilities, and attempts by the state to punish illegal usages should be seen in this perspective. (Kumar, Mayank 2005). This was manifested in the distribution of resources and the stratification of the society. The emergence of Rajput-dominated polities in pre-colonial Rajasthan was partially a product of this (Sharma 1977)<sup>2</sup>. Most of the privileges and concessions were practiced as part of tradition and honored both by the rulers and the subjects as customary rights. These concessions comprised acceptance of several kinds of claims made by the peasantry. However, the ruling elite had to keep on reinforcing control over the subjects and its primacy of claims over natural resources. Rulers also imposed fines on different kinds of illegal usage of natural resources. For instance, the felling of green trees was subject to penalty (*Arhsatta, qasba* Malpura, *pargana* Malpura, 1791 vs./A.D. 1734). Recognizing the value of animal husbandry to the economy of the kingdoms, the rulers even intervened to regulate the usage of grass. Moreover, there is considerable evidence of administrative regulation of grazing grounds. One plausible explanation is that the economy was primarily sustained on animal husbandry.

## 2. STATUS OF THE FOREST LANDS

### 2.1 Forests of Rajasthan (Source: Rajasthan Forest Department)<sup>3</sup>

After 1951 the forests have been brought under regular scientific management and as per the state forest department the demarcation and settlement of Forest boundaries has been almost completed. All forest divisions have regular working plans to carry out the scientific management of the forests. The extent of Natural forests in Rajasthan is not only one of the lowest in the country but also in terms of productivity of forest, it is the lowest. The forests of Rajasthan cover an area of 32,638.74 sq km, which is 9.54% of the total geographical area of the state. They are spread unequally in northern, southern, eastern and south-eastern parts.

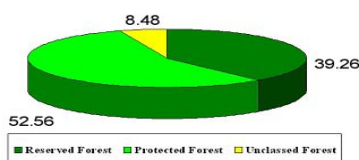
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<sup>1</sup> Kumar, Mayank, Claims on Natural Resources, pp 144: Exploring the Role of Political Power in Pre-Colonial Rajasthan, India, Department of History, Satyawati College (Eve.), University of Delhi, *Conservation and Society*, Pages 134 - 149 Volume 3, No. 1, June 2005.

<sup>2</sup> Sharma, G.D. 1977. Rajput Polity: A Study of Politics and Administration of the Sate of Marwar, 1638-1749. Manohar, Delhi.

<sup>3</sup> [www.rajforest.nic.in](http://www.rajforest.nic.in)

Rajasthan can be divided into four major physiographic regions, i.e. the western desert with barren hills, level rocky plains and sandy plains; the Aravallis hills running south-west to north-east starting from Gujarat and ending in Delhi; the eastern plains with rich alluvial soils and the south-eastern plateau. Forests are mostly confined in eastern and southern parts of the state. According to the legal status the forests of the State can be classified as under. By legal status Reserved Forest constitutes 39.26 %, Protected Forest 53% and Unclassed forest 8.48 %.



The floral wealth of Rajasthan is rich and varied. Most of the area under forests is restricted to eastern and southern parts of the state. The western part of the state is desert terrain and devoid of forests because of prevailing hot arid condition and associated human population pressure. However, the entire region is dotted with vegetation because of the strong local tradition of agro forestry and traditional tree growing by people. The forests are unevenly distributed in the various districts Most of the forests are over the hilly areas i.e. in Udaipur, Rajasamand, Kota, Baran Sawai Madhopur, Chittorgarh, Sirohi, Bundi, Alwar, Jhalawar and Banswara districts, which make up for about 50 per cent of the forests of the state. Dense natural forests are in protected patches, mostly confined to various national parks and wild-life sanctuaries. Most of the remaining forests of state are in various stages of plant growth. The forests of state can be divided into five broad forest types<sup>4</sup>

**Table one: Area by Forest Type in Rajasthan<sup>5</sup>**

S.No	Type Forest Area	(ha)	% of Total Forest Area
I	Dry teak forests	224,787	7.05
II	Subsidiary edaphic type of dry tropical Anogeissus pendula forests	1,902,775	59.65
III	Northern tropical dry deciduous mixed forests	864,322	27.09
IV	Tropical thorn forests	185,452	5.81
V	Sub-tropical evergreen forests	12,664	0.40
	<b>Total</b>	<b>3,190,000</b>	<b>100.00</b>

Source: GOR (1996)<sup>6</sup>

**2.2 Forests as Land use category** - There are 7,114 villages having forests as a land use. In these villages, about 2.11 million ha is classified as forest. As shown in the table below according to

<sup>4</sup> Pandey, Neha, Monitoring the Impact of Joint Forest Management on Rural Livelihoods, Winrock-International and Aravali Institute of Management. Jodhpur.

<sup>5</sup> GOR. 1996. *State Forestry Action Plan (1996-2016)*. Forest Department, Govt. of Rajasthan. Jaipur, p. 158.

this, while 14% villages have average 500 ha forests, 39% have 100-500 ha, and 47% villages have less than 100 ha forests.

**Table two: Forests as land use in villages, Rajasthan** Source: FSI (1999)<sup>7</sup>

Forest area	No. of Villages	Total Forest Area ('000 ha)	Population (in million)
Less than 100 ha	3,389	147.44	2.616
100 - 500 ha	2,721	676.98	2.786
More than 500 ha	1,004	1285.55	1.379
<b>Total</b>	<b>7,114</b>	<b>2109.98</b>	<b>6.781</b>

### 3. THEIR PROFILE (TRIBALS/ NON-TRIBALS), LIVELIHOOD DEPENDENCY

In the tribal well-forested regions of South Rajasthan, local economy and livelihood of the tribal community is agriculture based with the people involved in livestock rearing, horticulture, and occasional (seasonal) migration to urban areas for unskilled labor work. Fodder for livestock mainly comes from forestland and *gauchar* (Pandey, 1999<sup>8</sup>) Revenue wasteland and partially from crop residue. The *gauchar* land is traditionally managed by the village communities. Non-timber forest products provide supplementary income to their livelihood, and often act as a safety net during drought. Forest resources act as coping mechanisms for poor communities providing non-timber forest products, especially during years of poor harvest (Angelsen and Wunder, 2003<sup>9</sup>). With large number of poor people living in and around forest and traditionally managing the resources suggest strong interdependency between forests and people.

**3.1 Forest Health**<sup>10</sup> - The forests are mostly edapho-climatic climax forests. Forests have a biotic and climatic potential for dry deciduous forest production, The forests of the state not only partially meet fuel wood and fodder demand of the rural people but also contribute Rs.7160 million to the state domestic product (SDP). Regeneration and Afforestation is difficult given the adverse Edapho-climatic conditions coupled with serious biotic pressures and existing socio-cultural constraints. The factors responsible for imbalances in demand and supply of various forest products are attributed mainly to unbridled growth of human and livestock population, shrinkage of resource base on account of expansion of agriculture and increasing industrialization and urbanization.

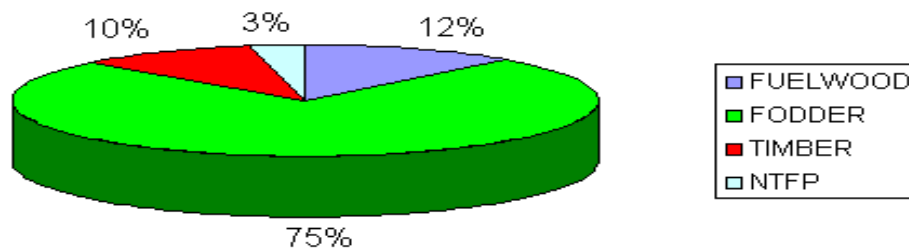
**3.2 Dependency on Forests for Livelihoods** - The total contribution of forestry sector in the state, in the form of recorded and unrecorded withdrawals works out to Rs. 7160 million (RS. 716 crores). Empirical analysis shows that nearly 60 million mandays are generated in the primary sector for harvesting these forest products.

<sup>7</sup> FSI. 1999. *State of Forest Report, 1999*. Forest Survey of India (Ministry of Environment and Forests, Govt of India), Dehra Dun., p.114.

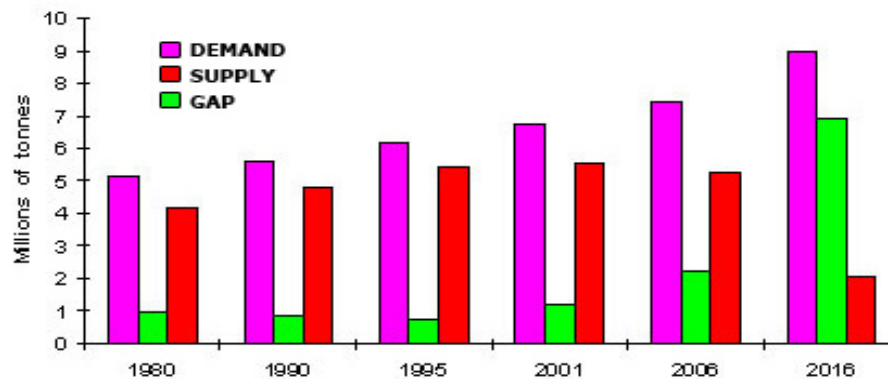
<sup>8</sup> Pandey, Neha Aravali Institute of Rural Management, Jodhpur

<sup>9</sup> Angelsen, A. and Wunder, S. (2003) 'Exploring the Forestry-Poverty Link: Key Concepts, Issues and Research Implications', *CIFOR Occasional Paper 40*. Centre for International Forestry Research, Bogor, Indonesia.

<sup>10</sup> www.rajforest.nic.in

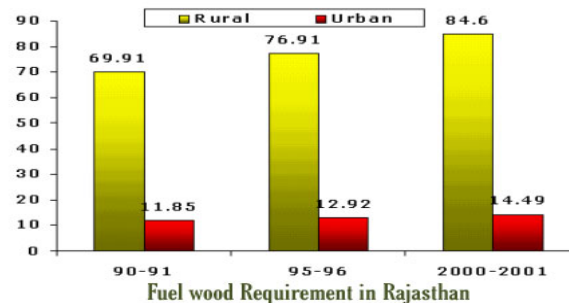


**3.2.1 Fuel wood:** The current and projected demand and supply of fuel wood from recorded and unrecorded sources are given in following graph.

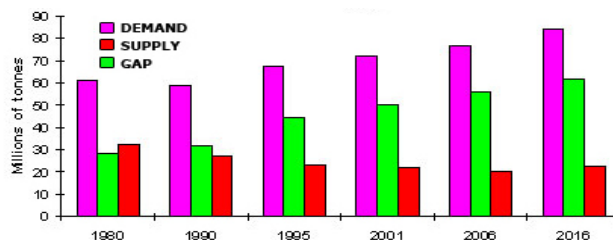


(Source: Sector Review Report of Rajasthan, NFAP)

Considering a stumpage value of fuelwood as Rs. 1000/- per tonne, the contribution of fuelwood from forest amounts to Rs. 2000 Million.



**3.2.2 Fodder:** The estimated current and projected requirement and availability/supply of fodder from forest and non-forest areas are given in following table. The animal population growth rate is very high in the state and the availability of fodder that is already in short supply by nearly 50 % is likely to get more aggravated.



(Source: Animal Husbandry Department, Rajasthan)

The above table and chart clearly show that there is a wide gap of supply of fodder in the state, which may gradually increase by 2016. The Central Arid Zone Research Institute (CAZRI) Jodhpur, has estimated that the production varies from 2.5 tonnes to over 10 tonnes per ha. of green fodder under different production systems. Considering the fact that most of the forest areas are badly degraded, the conservative estimation of average withdrawal of fodder biomass from forest is about 4 tonnes per ha. Excluding the core areas a net area where animals graze or fodder is harvested by fringe communities comes to 2.8 million hectares. Thus green fodder produced from the forests comes to 11.20 million tonnes or 3.70 million tonnes of dry fodder. The computation of livestock in terms of cow units has been arrived at by adopting the following conversion factors (based on fodder consumption):-

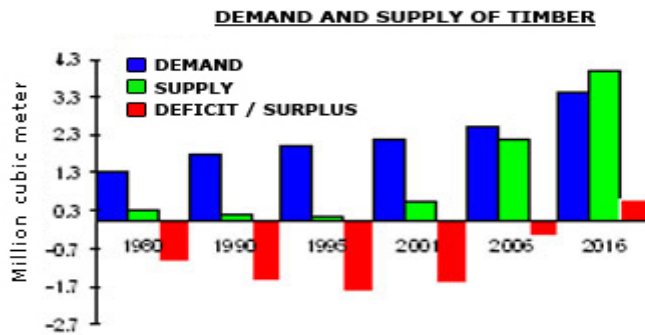
#### Computation Factors

S.NO.	ANIMAL	COW UNITS
I.	1 Camel	4
II.	1 Buffalo	2
III.	1 Horse / Pony / Donkey / Mule	1
IV.	1 Sheep / Goat	0.25

**3.2.3 Grazing** - "Out of 40 million cow units approximately one-fifth, i.e., 8.0 million units graze in forest areas for nearly 240 days in a year and one-tenth, i.e., 4 million units graze for the whole year. Assuming average daily consumption of 5 Kg/cow unit of dry fodder, the total fodder utilization from forest areas amounts to 16.9 million tonnes per annum. Computing in monetary terms @ Rs. 750 per metric tonne as the in-situ consumption cost, dry fodder worth Rs. 12,675 million is utilised annually from forest areas. Correlating the livestock population with the extent of forest area the grazing pressure in terms of cow units works out to 4 units per ha. In some areas the pressure is as high as 12 units. Thus the enormous grazing pressure adversely affects the regenerative capacity of the forests as well as agriculture." (crop residue)

**3.3. Timber** - The current and projected demand and supply of timber is given in the following graph

#### Demand And Supply Of Timber (in million cum)



The total demand of timber in the state is about 2.0 million cum., out of which only 0.56 million cum. (28%), mostly in the form of small timber, comes from forest areas. The rest comes either from agricultural fields or is imported. The value of timber coming from forests amounts to approximately Rs. 1680 million per year, presuming stumpage value of timber @ Rs. 3000/- per cum or about Rs. 60 per cft.

*3.2.4 Non-Timber Forest Produce (NTFP)* - Average annual recorded revenue from tendu leaves is Rs. 60 millions. In addition to the revenue, on account of collection charges @ Rs. 320/- per standard bag, (about Rs.100 million worth of wages are paid to the labourers during the collection season.) On a cumulative basis, Tendu Patta alone contributes to the tune of Rs. 160 million. Approximately 5 million standard bamboo are also extracted directly and indirectly from forests, this amounts to Rs. 100 million.

Annual revenue realised through various sources comes to about Rs. 30 million. On a conservative estimate, contribution of about Rs. 200 million from unrecorded off take of various types of forest products in the form of leaves, fruits, flowers, bark, roots, tubers, medicinal plants which are locally collected by the right holders. The total contribution of NTFP works out to approximately Rs. 520 millions annually.

#### **4. HISTORICAL ASPECTS OF FOREST RIGHTS ACT**

**(Efforts done till date for dealing with encroachments by the forest department and state government.)**

Forests have been part of the concurrent list and therefore the efforts towards dealing with the issue of conversion of forest lands for non-forestry purposes has been directed from the centre wherein the state governments have taken action through circulars issued from time to time. Following is an year wise description of the guidelines issued from the central government.

##### **4.1 Year-wise description of the various developments and their impacts on forest rights**

**1864** - Creation of the forest department and scientific management of the forests starts

**1865** - Indian Forest act to consolidate government forest areas.

**1878** - First Indian Forest act

**1884** - National Forest Policy

**1927 Indian Forest Act:** Vesting the government with authority to "constitute any forest land or waste land which is the property of Government or over which the Government has proprietary

rights, a reserved forest, by issuing a notification of this effect". The forest act (1927) prohibits encroachments in the reserved and protected area and calls it an illicit activity and cases in encroachments were to be dealt as per the provisions of the forest act.

**1952 - National Forest Policy-** Talks about action against encroachments.

**1972 - Wildlife Protection Act:** Creation of Protected Areas and Wildlife habitats.

**1976 - Social forestry**

**1980 Forests Conservation Act (FCA):** (simultaneously, the 42<sup>nd</sup> Constitutional Amendment shifts forests from the "State List" to the "Concurrent List"). The FCA prohibits non-forest use of forestland without central government approval. Also advocates "sustainable forest management through participatory approach", with "due regard to the traditional rights of the tribal people on forest land". This also paved way for legal solutions to long pending settlement of rights of the tribals. The forest conservation act (1980) was specially enacted to prohibit non-forestry activities in forest areas like agriculture, mining etc. Therefore encroachments become illegal according to this provision.

**1988 National Forest Policy:** Recognizes the need for participatory governance of natural resources and forests. The 1988 Forest Policy talks about symbiotic relationship between the tribals and the forests while meeting the needs of the people but as regards encroachments it clearly mentions that there should be no regularization of encroachments. In para 4.8.1 the policy does not support regularization of encroachments.

**1990, May 28 -** Dr B D Sharma, Commissioner for SCs and STs, submits the 29th Report on the conditions of SCs and STs and forest related disputes. The report highlights major issues including

1. "Unsettled claims" particularly those dealing with defective settlements of forest lands as per the IFA 1927.
2. The second issue deals with the Settlement of Disputes Regarding Leases/*Pattas*/Grants under which the private forests were transferred to the cultivators but somehow got left out during declaration.
3. Encroachments.

**1990, Sep 18 - Guildelines of MOEF -**

MoEF issues six sets of guidelines (the 1990 Guidelines) in pursuance of the National Forest Policy and Dr B D Sharma's letter. These guidelines provide a framework for conflict resolution as envisaged in 1988 forest policy.

FP (1) Deals with 'Regularisation Of Encroachment On Forest Land', (clearly highlighting the need to settle encroachments pre 1980 and to take a stand against those post 1980.

FP (2) Review of 'Disputed Claims Over Forest Land Arising Out Of Forest Settlement',

FP (3) Settlement of Disputes Regarding Leases/*Pattas*/Grants Involving Forest Land,

FP (4) Involvement of Village communities in Regeneration of Degraded Forest Lands

FP (5) Conversion of forest villages into revenue villages and settlements of other old habitations on forestland.

FP (6) Centrally sponsored scheme for afforestation of Degraded Forests.

The central government requested the state governments/UT administrations to follow these guidelines to settle disputed claims, patta leases. Some people accuse the state governments of having mixed up the two separate issues of regularization of encroachments and settlement of disputed claims of tribals over forestlands.

Not much was done by the MoEF to ensure the implementation of these circulars, which more or less went into oblivion, as admitted by the MoEF itself in its affidavit filed in the Supreme court. The only states that undertook any significant action under these circulars were



Maharashtra and Madhya Pradesh. Further, only one of the six circulars relating to 'encroachment' was implemented, while the others were not implemented at all.

#### **1991 - JFM Order/Circulars**

**1991, Oct 28:** Committee constituted by Supreme Court to investigate claims of adivasis for regularisation of encroachments files its report concerning evidence to be examined and criteria for regularisation. This committee only concerned one district of Maharashtra.

**1991, Oct 28:** Supreme Court order directing the competent authorities to enquire into cases where claims are not accompanied by documentary evidence.

**1995** Writ petition filed by T N Godavarman Case filed.

#### **1996 December 24: PESA Act**

**1996 December 12:** Definition of Forest Lands in TN Godavarman Thirumalpad Vs Union of India. The term 'forest lands' in the Act was expanded by the court to include both areas corresponding to dictionary meaning and any area in government records (whether or not it is actually forests). Non Forestry activities could only be carried out with the permission of the central government.

#### **Godhavarman case and MoEF orders for eviction<sup>11</sup>**

Since 1996, the Supreme Court of India has assumed the role of the principal decision maker so far as issues relating to forests and wildlife are concerned. This has been due to Supreme Court's intervention through the following cases:

1. The T. N. Godavarman Thirumulkpad vs Union of India (WP No 202 of 1995) concerning the implementation of the Forest Conservation Act, 1980.
2. The Centre for Environmental Law (CEL), WWF vs Union of India (WP No 337 of 1995) concerning the issue of settlement of Rights in National Parks and Sanctuaries and other issues under the Wildlife (Protection) Act, 1972.

These cases are being heard for the last nine years and are a part of what is termed as "continuing mandamus", whereby the Courts, rather than passing final judgments, keeps on passing orders and directions with a view to monitor the functioning of the executive. They have led to fundamental changes in the pattern of forest governance and decision-making.

Some examples include:

- a) By virtue of the Supreme Court's order dated 13.11.2000 in the CEL WWF case (W.P. No. 337 of 1995), no forest, National Park or Sanctuary can be dereserved without the approval of the Supreme Court.
- b) No non-forest activity is permitted in any National Park or Sanctuary even if prior approval under the Forest (Conservation) Act, 1980 has been obtained.

In order to advise the Supreme Court on the various issues concerning forest and wildlife conservation, the Central Empowered Committee (CEC) was set up as an authority under Section 3 (3) of the Environment (Protection) Act, 1986 to adjudicate on forest and wildlife related issues.

**2000 Nov 13:** Pending further orders, no dereservation of forests/sanctuaries/national parks shall be affected.

**2000 Feb 14:** Supreme court order to prohibit removal of forest produce from national parks/sanctuaries etc.

**2001, Nov 23** *Amicus curiae* files IA 703 in the Godhavarman case (Writ Petition © No.202 of 1995), which seeks to restrain "regularisation of any encroachments" as well as "further

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<sup>11</sup> [www.forestcases.org](http://www.forestcases.org)

encroachments", and "steps to clear the encroachments in forests which have taken place after 1980".

**2001, Nov 23** SC registers IA 703 and states that "there will be an interim order in terms of the above prayer". However, there is no SC order directing the states/Government of India to evict "encroachers" from forestland.

**2002, Feb 18:** SC directs chief secretaries to file a reply to IA 703. ( The order reads: "the Chief Secretaries of Orissa, west Bengal, Karnataka, Tamil Nadu, Assam, Maharashtra, Madhya Pradesh, Chhattisgarh and Kerala are directed to file a reply to this I.A., in so far as it concerns the said states in relation to the steps required to be taken by them to prevent further encroachment of forest land and in particular land in the hilly terrains, national parks and sanctuaries, etc. It should also be indicated as to what steps have been taken to clear encroachments from the forest, which have taken place at an earlier point of time. Affidavits be filed by the said States and the Union of India within four weeks.")

**2002, Feb 18:** Order prohibiting cutting of trees does not apply to bamboos including cane.

**2002, May 3:** Letter of Inspector General of Forests (IGF) instructs state governments "to evict the ineligible encroachers and all post-1980 encroachers from forest lands in a time bound manner". It set a deadline of September 30, 2002, to remove all encroachments from forests, mentioning that the Supreme Court had expressed concern over the issue.

**2002, June 8:** Formation of the Centrally Empowered Committee for dealing with the applications

**2002, August 5:** Recommendations of the centrally empowered committee clearly highlighting major concerns related to this issue. The major ones being (Please refer annexure A for the details)

The main reasons identified by the States and others for continuing encroachments on forest land and extremely slow pace of their removals, are as under:

- |   |  |
|---|--|
| (i) Lack of political will                    | (xiv) Public Prosecutor  |
| (ii) Victimisation of officials               | (xv) Lack of communication, transport facility etc.              |
| (iii) Expectation of regularizations          | (xvi) Diversion for miscellaneous activities.                    |
| (iv) Totally inadequate punishments           | (xvii) Law and order problem linked with encroachment removal    |
| (v) Inadequate Provisions of Law              | (xviii) Immunity under Section 197 of Cr.PC.                     |
| (vi) No punishment for abettors               | (xix) Misuse of the SC/ST Atrocities Act                         |
| (vii) Poor boundary demarcations              | (xx) No administrative control over notified, deemed forest etc. |
| (viii) Mutation in revenue records            | (xxi) Socio-economic causes                                      |
| (ix) No compensation for environmental losses | (xxii) Alienation of regularised lands                           |
| (x) Poor infrastructure facilities            |  |
| (xi) Inadequate staff                         |  |
| (xii) Vacancies                               |  |
| (xiii) Old age of the front lines staff       |  |

**2002, Oct 10:** Maharashtra government issues an order laying down a Comprehensive Procedure for verifying claims for regularization by a village level committee that must take the Gram Sabha's views into account.

**2002, Oct 30 -** "It was clarified that there is no change in the policy of the ministry with regard to regularization of pre-1980 eligible encroachments and the commitment with reference to forest tribal interface on the disputed settlement claims". Guidelines from Central government to consider the settlement of disputed claims of tribals over forest land and were requested to set up commission /committees at district level involving revenue, forest and tribal welfare department for the settlement of disputed claims of tribals. The state governments were also requested to submit proposals in this regard so that final decisions can be taken by central government in a time bound manner. Also the states were asked to show progress on the eviction of ineligible encroachments. They may consider in situ rehabilitation involving these ineligible encroachments in forestry activities like Joint Forest Management.

#### **2004 - National Environment Policy**

**2004, Feb 3:** MoEF issues supplementary guidelines aimed at "stepping up of process for conversion of forest villages into revenue villages".

**2004, Feb 5:** MoEF issues supplementary guidelines "to encourage the state governments/Union Territories administrations to take up the matter of settlement of rights of tribals and forest dwellers in the right earnest and perspective for regularization of rights of tribals on forest lands so as to at least prevent further degradation of the forests as common lands.

**2004, Feb 6:** The central government orders clearly say that no encroachers shall be rehabilitated. It is also mentioned that the state government shall make serious attempts to evict all non-tribals ineligible encroachments. Also it mentions about relocation of people so as to prevent honeycombing due to shifting cultivation.

**2004, February 23:** These guidelines (and the February 3 guidelines) are stayed by the Supreme Court on February 23, 2004 in response to the writ petition © no. 202 of 1995.

A regional empowered committee is proposed at the regional Office level which shall involve regional principal chief conservator of forests (central) as chairperson, conservator of forests or the deputy conservator of forests in the regional office as member secretary and 3 non-official members who shall be delegated the powers to decide the cases upto 40 cases other than for proposals relating to mining and encroachments.

**2004 August 16:** Ban on conversion of forest villages in to revenue villages

**Nov 2005, Dec 13, 2005:** Bill tabled in the Parliament.

**Dec 18, 2006:** The law is passed in Rajya Sabha after being passed in Lok Sabha on December 15.

**January 2008:** Rules of the Act Notified.

## **5. CASE OF RAJASTHAN**

### **5.1 Government's Orders**

Formal institutions like the respective state Forest Departments have taken steps in the past to overcome the issue of encroachment on Forests. Earlier they had sought to legalize encroachments prior to 1980. The basis for deciding the date of encroachment was based on registration of the offence. Comprehensive surveys have been conducted by the forest department to map Pre and Post 1980 encroachments to report the extent of the encroachments to the policy makers (based on issuance of forest offence report). Other civil society agencies like Jangal Jameen Andolan have also tried to take a stock of the whole situation. However, discrepancies exist between the figures reported by the government and the NGOs.

Based on the circulars as mentioned in point 4, the government of Rajasthan also issued circulars from time to time to deal with this issue. A time line of the same has been enlisted as follows.

**1952** - Rajasthan Land Reforms and Resumption of Jagir Act

**1953 - Rajasthan Forest Act** - The Act required the Forest Department to undertake settlement procedures and confer Rights and Concessions on them.

**1975** - Till 1975 there was a district level committee comprising of the local MLA, DFO and the collector and was responsible for regularization efforts. Most of the cases were settled at the district level only and were only reported further. Under the Land Revenue Act 1991, the tehsildar were vested with Magisterial powers and he used to decide upon such cases after the cases were referred to him from the forest officers. Later on the ACFs were vested with magisterial powers for LRA 1991.

**15th April 1977** - This order clearly stated "in most of the cases land which originally were with the revenue department were declared/notified as forest land after forest settlement. In some such cases lands were also trespassed upon." It has been decided to regularize, allotment/trespass upon such land according to the guidelines as follows -

- The regularization of the above land would be done by a district committee, the membership of which is Collector - Chairman, Divisional Forest Officer and Pramukh, Zila Parishad Members.
- In regularization the cases referred to above care has to be taken to see that such lands which are in the midst of the forest lands, as far as possible, not regularized as that would jeopardize the conservation of the neighboring forest area also. In such cases, therefore it would be advisable to allot alternative forestland, which may be in the proximity of the agricultural land or abadi land. In some more cases where the trespasser/allottees are in the midst of the forest land has made some improvements, government could even consider the possibility of payment of some compensation for these improvements.
- If forestland is not available or even if the forestland is available but there is some other unoccupied government land available for allotment to such persons, preference has to be given to such persons. If there is surplus land allotted in place of the forestland, which has been occupied earlier, the government could even consider the possibility of paying the cost of that land through the forest department so that the allottee is not saddled with this additional financial burden.
- After this work has been done or as and when this work is done, care should be taken to make necessary entries in the revenue records as well as in the forest record so that an up-to-date list of lands available both to the revenue and forest authorities can be made.
- The problem of allotment/trespass on forest lands (both protected and reserved) has been engaging the attention of the government for the last couple of months. In some of the districts particularly in south and south-west of Rajasthan this problem has assumed considerable proportions for the forest land, necessary mutation exercises (*amaldaramad*) to give effect to such declaration was not done by revenue officers in time. The result was that they (revenue officers) allotted such lands, even though a notification declaring such lands as forest lands had been issued, government have decided to regularize the use of the forest land as per the guidelines given below.
- **The guidelines** have been discussed in detail with some of the collectors as also with the chief conservator of Forests.

- Allottees of Forest land since before 1st January, 1971 should not be disturbed even if the conditions mentioned below are not fulfilled and the land in their possession would be recorded as revenue lands, land revenue would be recovered from them from the time the land was allotted but, no penalty or fine would be recovered. If any such penalty, fine or revenue has been recovered by the revenue department before regularization it would be adjusted, continue to stay on land they have in their possession now, only if they come within the framework of the guidelines as given in Para 2 below.

Such of the persons who have trespassed on forest land 1971 their possession would be regularized in case they satisfy any one or more of the following conditions.

- Growth of vegetation is not dense on the allotted land.
- Such land is not surrounded by dense forest or closer plantation
- It is in the proximity of cultivated land or village *abadi*.
- Improvements like wells or houses have been constructed.

Land revenue would be recovered from the time the land was illegally occupied but, no penalty or fine would be recovered by the revenue/forest department, before regularization it would be adjusted.

- The trespassers of Forestland after 1st January 1971 would be summarily dispossessed for the land they have trespassed in accordance with the provisions of section 91 of the Rajasthan Land Revenue Act.

Further instructions were given that the details of the encroachment cases before 1st January, 1971 and after this date should be sent to the office of the Principal Chief Conservator of Forests.

**1979 January 9** - In 1978, a government notification ordered that all tribal possessions before 1971 be regularized.

Regarding encroachments before 1/1/1971<sup>12</sup> following cases of encroachments can be regularized who fulfill the conditions as stated below.

- Those cases against whom proceedings were started before 1/1/1971 under LRA section 91 and if such cases were presented before such date
- Even if he does not have proof for the same but the collector will have the powers to regularize if he had done some development works on the encroachment like Well, House, *Medbundi*, land development activity or through the proof of loan taken from the cooperative society before 1971. Any other document pertaining to pre 1971 encroachments can also be considered.
- Such regularization efforts would be based on conditions of penalty, area etc that are on the same basis as is applicable on other cases.
- In case of Honeycombing encroachments and scattered encroachments they shall be resettled to the fringes so that they do not endanger the ecological security. But such resettlement decisions shall be followed by compensation in case the person has undertaken some land development activity and such compensation would be based on decision taken by the collector based on examination of the site.

**1979 February 17** - The orders for regularization of encroachments pre 1971 should be strictly followed.

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<sup>12</sup> As per the Rajasthan Government Order S No. 18/4/1977 and the letter dated 6/5/1978



**1991 January 24** - A committee was formed at the state level. After 1991, the government notification on the lines of the 1978 order, ordering regularization of all tribal possessions where cultivation had begun prior to 1980.

**1991 18 July** - As per the clarification in previous orders due to incomplete surveys and settlements further guidelines were issued for mutation entries

1. Landless tribal and residing in tribal area
2. Allotment of the land had been done by the allotment committee before 25/10/1980 and the entry is in the form of revenue wastelands.
3. There would be a district level committee which shall comprise of the
  - Elected Representative
  - Tribal Commissioner
  - SDO
  - DFO
4. In case the allotment is done in the final notification areas as per the Rajasthan Forest Act 1953 then the proposal has to be forwarded to the DFO as per the provision of the Forest Conservation Act 1980 to be forwarded to collector and the PCCF. but such farmers shall not be evicted. Final Decision is to be taken by the MoEF.
5. If the allotment is done for those areas other than those mentioned above which have not been notified under the Rajasthan Forest Act 1953, then such allotment as done by the revenue officials would be accepted and subsequent changes shall be made in the forest department record.
6. In case of Honeycombing encroachments and scattered encroachments they shall be resettled to the fringes so that they do not endanger the ecological security.
7. Such proceedings need to be finished by 31/10/1991
8. In future no such allotment shall be done on the forestlands and before any allotment the concerned ACF/RFO should be intimated should they consider it as forestlands.

Regarding Cases related to allotments for forest by revenue officials

All cases filed under section 19 of the Rajasthan LRA and Indian Penal Code 447 prior to 25/10/1980 against the allottees should be taken back. Such proposals to take back the cases should be submitted by 31/10/1991 to the district collector.

## **5.2 Regarding Mutation of Forest Lands**

Mutation entries of forestlands in the revenue records should be given top priority so that there are no doubts left over the jurisdiction of forest lands. For the same the district collector and DFO shall present a time-bound programme to be completed before 30/11/1991 so that in future no accidental allotment of forest lands is done.

**1991 27<sup>th</sup> April** Subsequent to the 1990, Sep 18 - Guidelines of MOEF, the government of Rajasthan came up with the order to form a committee which gave the following suggestions<sup>13</sup> :-

- If the members of the scheduled tribes fulfill the following conditions, the encroachments can be regularized as per the Forest Conservation Act 1980.
  - a. Landless tribal and residing in tribal area
  - b. Encroachment dates back to before 1/7/1980
  - c. The encroacher is living on encroached upon land till the date of the order.

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<sup>13</sup> Order no 6/9/ S No. 3/91 dated 24<sup>th</sup> January 1991

- d. The actions on the encroachment as per the Rajasthan Forest Act had been initiated before 1/7/1980
- That the encroachment dates back before 1/7/1980 is substantiated by FIR or other documents
  - The regularization can also be done on the basis of oral evidence substantiated by development work done on encroachment like Well, House, *Medbundi*, land development activity or through the proof of loan taken from the cooperative society.
  - A tehsil level committee was also formed consisting of *Pradhan*, ACF (convenor), *Tehsildar*, Range Forest Officer, *Sarpanch* of the respective *panchayat*.
  - The quorum of the above committee shall be three. But at least one person from the forest department and elected representative should be present.
  - A List of such cases shall be submitted to the DFO who will forward it to the CF and collector for further action.
  - Honeycombing encroachments and scattered encroachments shall be resettled to the fringes so that they do not endanger the ecological security. But such resettlement decisions shall be taken by a committee comprising of the DFO and ACF based on examination of the site.
  - Regularizing the encroachment and denotification after demarcation of the area with permanent boundary marks.
  - These proceedings should be completed before 31/7/1991.
  - Under no condition shall those encroachments after 1/7/1980 should be regularized and such encroachments shall be evicted as per LRA section 91.

## 6. PROGRESS ON SUCH FRONTS IN RAJASTHAN <sup>14</sup>

The various attempts to mark Pre 1980 encroachments and to regularize them have failed miserably either because the committees formed for the purpose could not finish their task or their recommendations did not go well with the people. Whatever cases were sent were also left undecided. In the meantime a lot of agitation by the people as well as the activists who were supporting the regularization have taken place. The main contention for the opposition was the list prepared of Pre 1980 encroachers based on forest department records. A lot of public interest litigations were also filed in the courts opposing regularization of encroachments, which also delayed the settlement of encroachment issues.

All in all there have been substantial disparities between the forest department/government figures and those being claimed by the civil society.

### 6.1 Pre-FRA Claims

#### 6.1.1 As per Jangal Jameen Andolan

One of the major organizations working in this regard in the area has been the Jangal Jameen Andolan which has been campaigning about the historical injustice meted out to the people by the government. They have taken a data collection initiative on their own wherein just in South Rajasthan, about 114819 people belonging to 17778 Encroacher families and 892 villages have been squatting on government lands and therefore is grossly mismatching the figures as quoted by the government at various junctures.

According to them such people have done substantial amount of investments on such lands and therefore such should be regularized.

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<sup>14</sup> Bhise S N, Vyas Vivek, Forest Land Entitlement Study, Seva Mandir, Udaipur 2006

Against such claims after the 1978, government notification - (possessions before 1971 regularisation) 1,506 tribal possessions were regularised. After the issuance of the forest conservation act 1980, a decision was taken that encroachments till 1980 can be regularized. They claim that the 1991 notification (notifying the above order) was not made public by the Forest Department till the end of its implementation period, in 1995. In the meanwhile, 11 persons were recommended for regularisation. The JJJJA submitted detailed information of these 17000 possessions to the tribal commissioner of Rajasthan. The tribal commissioner was pressurised to order the Forest Department to conduct a survey of the claimants. The Forest Department organised camps at the forest check posts and asked people to submit details there. At the end of the survey, 9000 people were identified through these camps, of which 4000 applications were rejected. After the year 2003 Jan Sunwais were held and the JJJJA filed legal claims with the Collector. In Udaipur, 9000 claims were filed in a single day. The collector ordered block-wise benches to accept the claims. These claims were then submitted by the Collector to the Forest Department. Thus till 2003, the JJJJA had submitted 17,608 claims to the state government. Under this a list of 5395 persons has been sent to the central government.

### 6.2 As per Government figures

According to the records of the Ministry of Environment and Forests<sup>15</sup> the Statistics on Encroachments for Rajasthan say that 3171 (In Hectares) have been Rejected/pending till the year 2002. According to officially quoted figures<sup>16</sup>, the area for encroached upon forest lands till May 2002 as on 31/3/2004 was 15073.14 Hectares for Rajasthan. Existing encroachments (pre-1980 & post 1980 both) - on forest lands (area in hectare) is about 6712.742 Hectares while 8360.412 had been evicted from forest lands<sup>17</sup>.

6.3 Case of Udaipur District - This is in sharp contrast to the area figures quoted of 2,16,152.25 *bighas* or 46,786 Hectares Just for Udaipur District. A total of 10119 pre-1980 cases as claimed by JJJJA in Udaipur District whereas only 1924 cases were registered and 1251 were forwarded for regularization by Udaipur Forest Department while 673 cases were rejected (Source : Udaipur Forest Department )<sup>18</sup>. Similarly a total of 7775 cases (pre-2005) so far have been registered for an area of 11570.14 ha under LRA 1991 which is again far lesser than what is estimated for this region by the various activist organizations. A somewhat similar figure was also quoted in the Vidhan Sabha<sup>19</sup> where in the district of Udaipur had 10914.73 hectares under encroachment<sup>20</sup> that is one fourth of the estimate of claims by JJJJA.

6.4 Repercussions - Such cases imply that there is a serious mismatch between what people consider as land under their cultivation and homestead and what the forest department considers as under their control. Such situations have arisen primarily because of non-registration of the forest offences or under reporting of such cases. This has also led to

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<sup>15</sup> V K Bahuguna, *Presentation on Problems of Encroachments on Forestlands*, RUPFOR Series No. 3, presented at Van Vigyan Bhavan, New Delhi, November 15, 2002.

<sup>16</sup> In an Answer to Lok Sabha Question posed (question no. 284) by Shri Tathagata Satpathy and Shri Mahavir Bhagora regarding `regularisation of encroachments on forest land` 16-08-2004,

<sup>17</sup> FC Division MoEF, GOI - Forests & Wildlife Statistics, India, 2004

<sup>18</sup> Udaipur Forest Department

<sup>19</sup> Answer to the questions raised in Vidhan Sabha on Encroachments on Forest Lands

<sup>20</sup> The Circle was reorganized in the year 2002-03 and hence data on Rajasamand is not available for the following years while Udaipur © and North have been added.



insecurity of the tenures and also increased motivation to other encroachers to add to this confusion and squat on forest lands in the hope of getting regularization sometime or the other.

While pre-1980 such cases were less in number and therefore were being dealt at the district level, their number and magnitude grew with time as illustrated above leading to serious threats to both forest development and conservation. Uncertainty about the exact extent of such encroachments and their dating has led to failure of all such efforts directed towards settling these issues once and for all.

Also because of the improper documentation of such cases, it has led to inequity amongst the holders regarding their eligibility of regularization. The forest offence registration thus soon became a license for regularization as prescribed in the above mentioned guidelines in point 5.1 in the year 1977, 79 and 1991 which require evidences for regularization in the form of FIRs, Compounding etc.

Thus we can conclude that the apart from the greed for more land, it is also the slow response to the various directives from the central and state government which has led to the swelling up of the issues beyond control. Had these issues been resolved by religiously following the orders, it would have been a precedent for the present generation of forest administrators and also would have prevented more dangerous legislations like the FRA 2006 that are increasingly perceived locally as schemes that shall undo all the previous legislations and shall also allow for entries of all the previously unregistered forest offences into the revenue records as land titles.

*Mutation entries* - During other times the confusion regarding surveys and settlements (in the form of mutation entries) have resulted in encouragement to people to take benefit out of such incongruence and usurp forest lands for agriculture purposes. Many of the forest lands declared have yet to be entered into the revenue department records. As per the forest department<sup>21</sup> the western circle of Udaipur, Banswara, Dungarpur, Sirohi, out of the total lands of 644726.03, about 75 % of area i.e 489915.04 ha has been mutated while about 154810.99 ha of land which is still unmutated and includes Khatadari, Pasture, Allotted, Interior Line Lands which have not been entered into the revenue records as forest lands and therefore are prone to misappropriation and improper land use.

## **6.2 Post FRA Situation**

### 6.2.1 As per Government Website on FRA

#### **Individual and Community Claim Details**

Please Refer Annexure One

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<sup>21</sup> Cases registered under Orders of LRA 91 (pre 2005) (Mutation) Amal Daramad Progress Report till Oct 08, Udaipur Forest Department.

*6.2.2 Campaign for Survival and Dignity (Source : Endangered Symbiosis, 2003)<sup>22</sup>*

Jangal Jameen Andolan has been part of the bigger right based network called the Campaign for Survival and Dignity that works in many states. Post the notification of the rules of the FRA 2006, this network has cried foul for the faulty implementation of the Act. According to them there have been discrepancies in the formation of the FRCs especially in non-Scheduled Areas. In scheduled areas, Gram Sabhas of revenue villages are being called, whereas in non-scheduled areas, gram sabhas of the panchayats are being called. In Girva and Vallabhnagar blocks of Udaipur District and parts of Dungarpur District, no Forest Rights Committees have been formed till August. Also as per them post formation of the Committees there has been little action from the government side.<sup>23</sup> Also they have been in strong opposition to the Tribal Welfare Department's circulars for regularization of the Pre-1980 on a priority basis.

Elsewhere in the protected areas they have opposed the efforts to relocate villagers from Tiger Reserves like Sariska and Ranthambore.

*6.2.3 Progress under FRA – Operationalisation of the rules*

Progress Chart for 8 Districts							
Districts	Proposals forwarded by Gram Sabhas	SDLCs to DLCs			Approved by DLCs		
Banswara	11977	1562			252		
Pratapgarh	8088	293			176		
Dungarpur	5978	1250			571		
Udaipur	4690	3228			181		
Sirohi	174	152			141		
Rajasamand	908	186			18		
Baran	2013	2073			468		
Pali	463	203			135		
<b>Total</b>	<b>34525</b>	<b>8947</b>			<b>2704</b>		
	<b>Approved</b>	Approved	Rejected	Returned	Approved	Rejected	Returned
	<b>8947</b>	<b>2704</b>	226	4733	<b>2043</b>	4	657

<sup>22</sup> 2003. Endangered Symbiosis, Evictions and India's Forest Communities. Report of the Jan Sunwai (Public Hearing) July 19-20, 2003. Campaign for survival and dignity.

<sup>23</sup> JJJJA

The rules of the act have been notified in January 2007. After that the government had given the responsibility of the implementation of the same to the tribal affairs department. The progress for the western circle has been shown in the table above.

The *Gram Sabhas* had been asked to elect forest rights committees who in turn had to receive and acknowledge claims. The deadline was set at 6 months initially but the same had been extended.

As shown above, about 34525 claims had been received, of which 8947 have been forwarded to the SDLCs while the SDLCs have forwarded 2704 claims. Out of such claims, 2043 claims have been approved for *adhikar patras*. While earlier the process was supposed to be completed within 6 months but still there is lack of clarity regarding what would happen to the pending applications and also till when will such applications would be accepted.

### **6.3 Conclusions regarding Pre and Post FRA Enactment**

The Act perhaps came into force because the earlier government efforts to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other Forest dwellers (Including those who were forced to relocate their dwelling due to state development interventions) did not meet the expected results.

The major difference between the earlier efforts and those suggested in the Act are: -

1. In the previous government efforts the field level committee which was to decide the regularization of cases consisted of government officials whereas in the present Act the responsibility is given to Gram Panchayat to decide and recommend cases for regularization.
2. The evidence on which previous attempts were based were on the basis of forest offence cases registered whereas in the present Act there are number of other options. So much so that oral evidence of people of the village is also acceptable.
3. In the earlier efforts cases of encroachments were to be decided upto 1980 whereas in the act the date has been extended to 13/12/2005.
4. In the previous attempts there was a provision that scattered encroachers would be given land at the fringes of forest land so that forest do not get destroyed.
5. In the previous attempts the land was to be finally released to Revenue Department for allotment whereas in this case *Adhikar Patra* is to be given by the collector. It is not clear whether rights of cultivation or release of land for cultivation and residence in the forest would be entered in the revenue record or not.
6. The positive points in the previous attempts if considered would have benefited in the implementation of the provisions of the Act.

## **7. VARIOUS PERSPECTIVES FOR LOOKING AT THE TRIBAL RIGHTS BILL AND ISSUE OF ENCROACHMENTS**

### **7.1 Rights Based Perspective<sup>24</sup>**

This perspective says that the history of forest dwelling communities in India, who are mostly *Adivasis*, is rife with exploitation that has undermined their livelihoods and dignity, and this has been going on since pre-colonial times. Some of the major claims made by such a position is

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<sup>24</sup> Asher Mansi, Agarwal, Nidhi, Recognizing The Historic Injustice, Campaign for the Forest Rights Act 2006, national centre for advocacy studies, Pune

that tribals in many regions of the country have been oppressed by the dominant clans and such dominant communities have led to their marginalization.

Some of the contentions of such perspectives include unfair demands for revenue and timber through the revenue oriented policies of the colonial administration. Some of their demands question the very process of 'Settlement and Surveys' of lands, many of which have been left incomplete and therefore being used as instruments of exclusion. According to them the declaration of 'forests' is an ad hoc process where, a single official (the Forest Settlement Officer) is supposed to enquire into and 'settle' the land and forest rights that people have in a particular area. This has led to many of the illiterate people being left out from land tenures endangering their land tilling rights.

Apart from this they also question the various development projects as a lot of forest dwelling communities have been displaced by the development projects like dams, industries and highways. E.g Between 1951 and 1981, 4.238 million hectares of forestland was diverted to non-forest use. This includes 1.618 million hectares that was diverted for large projects<sup>25</sup>.

One of the reasons for bringing the act according to them is to correct such historical injustices.

## **7.2 Conservationist perspective<sup>26</sup> -**

One of the major contentions of such perspectives is that India's forests need to preserve uninhabited "wildernesses" for posterity and that scientific management of forests should be ensured. Also they are of the opinion that harmonious coexistence of human beings and ecology is a myth and India's ecological security will be in peril through such acts as the Forest Rights Act 2006. Moreover Addition of "*Other traditional forest dwellers*" to the original bill, and shifting of the cut off date October 1980 to December 2005 will unleash a fresh tsunami of encroachments considering that rights will be provided to those people who are in actual occupation of forestland. They are also of the opinion that Landscape level fragmentation is likely to come by due to this bill and shall be a particularly serious threat to several endangered species, which may even affect the stability and functioning of entire ecosystems. This school of thought feels that "the *unsuccessful inalienable land grant* approach on which the Act is anchored will fail to deliver social justice." They feel that in the face of advancing human pressures- developmental demands of the urban rich as well as the livelihood needs of the rural poor, there is a severe threat to biodiversity (leading to habitat fragmentation).

## **7.3 Community conservation perspective (community management of forest<sup>27</sup>/Tenurial security)**

As NGOs like Kalpavriksh, Vasundhara and others have shown, there are thousands of Community-Conserved Areas (CCAs) in India, 10,000 Community forests in Orissa, forests protected under tribal self-rule in central India, catchment forests conserved in the Himalayas and the North-East and other undulating areas all-together covering lakhs of hectares. Most of these, other than those in the northeastern region, are government forests, but with hardly any

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<sup>25</sup> According to the Forest Survey of India,

<sup>26</sup> Bhargav, Praveen, South Asian Network for Development and Environmental Economics (SANDEE) Newsletter Spring 2007, Four Hectares of Forests: correcting history or destroying collective future?

<sup>27</sup> Kothari Ashish Frontline Volume 23 - Issue 26:: Dec. 30, 2006-Jan. 12, 2007 Vol:23 Iss:26 URL: <http://www.flonnet.com/fl2326/stories/20070112003501400.htm>

government staff present. Most of them also lack legal backing and recognition thereby rendering them open to damage and destruction by outsiders.

Most of these communities want rights and recognition that need to be given under this Act. The Forest Rights Bill's provision of the community forest rights provision provides the backing that these CCAs desperately need. There are provisions in the FRA that talk about the Community Forest Rights such as right to "protect, regenerate, or conserve or manage any community forest resource which they have been traditionally protecting or conserving for sustainable use" also indicate towards such . Quoting Mr Ashish Kothari from Kalpavriksh "Research worldwide shows that insecure tenure (rights and ownership) to land and resources is a major cause of unsustainable and destructive land use (the Bill's Statement of Objects and Reasons stresses this). It also shows that this situation is reversed when laws and policies assure a more secure tenure; this is clear also from many community conservation initiatives in India. From this perspective, the Bill could enhance the possibility of conservation".<sup>28</sup>

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## 8. POSSIBLE FALLOUTS FROM THE FOREST RIGHTS ACT

**Environmental Consequences** - Some people like the environmental activities group Vanshakti<sup>29</sup> contend that the legislation will lead to massive deforestation across all of India and subsequent climate impact would lead to the drying up of rivers and other water sources.

**Biodiversity and Eco-Tourism Fallout** - The Act very clearly includes and applies to reserve forests - including National Parks and Sanctuaries across the country - thus putting at threat wildlife that are already under pressure from human habitation. All this biodiversity value may be lost as well due to increased human activities in the hotspots. The provision of rights to developmental facilities could also spell trouble if they are employed in deep forests.

**Management of Forests** shall become extremely difficult due to honeycombing of forest areas as also the record keeping of the same would be extremely cumbersome. It has not been clarified whether the same shall be entered into the revenue records or the forest department would be the guardian of the cases who have been recognised. Roads, buildings and so on could further the fragmentation of such areas, resulting in an escalation of biodiversity loss. It is not clear whether there is any safeguard against this outside the PAs since the Bill overrides the Forest Conservation Act for this purpose.<sup>30</sup>

## 9. WAY OUT - WHAT NEXT?

The need of the hour is to strike a balance between the various perspectives. While the **Conservationists** need to shift their thinking from opposition and no support position into a more empathetic stance wherein they recognize the genuine claimants as also the necessity of recognizing forest tenurial rights for agriculture in cases like those of surveys and settlements which otherwise will deprive people from benefiting from cases where land ownership leads to economic development. As has been repeatedly asserted by groups like the Campaign For

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<sup>29</sup> [www.vanshkati.org](http://www.vanshkati.org)

<sup>30</sup> Kothari, Ashish.

Survival and Dignity, the Act only requires the government to give legal recognition to lands that people have already been farming.<sup>31</sup>

**Right based wings** should also understand that by harming the ecology no communities would be able to practice sustainable agriculture or livelihoods. The sooner the act is implemented in the right spirit the better it is for the rest of the forest areas as they would then be locked for the future land use.

One of the fairly balanced approaches as suggested by Kalpavriksh (Kothari,Ashish) that the prime functions of forests as a habitat for wildlife, as providers of ecological security, and as a source of basic survival and livelihood for millions of people, need to be protected. It also recognizes the need for ensuring social justice and welfare of forest-dependent communities, and their central role in forest governance.<sup>32</sup>

**On part of the Government**, they also need to collaborate on developing rules and guidelines for a number of the Bill's provisions for example, the identification of "critical wildlife habitats" (Kothari Ashish). Equally important is to keep a tab on the Bill's implementation so as to ensure that only the fair and legitimate cases get through.

Also it is high time that legal matters are dealt with in a steadfast manner without getting bound with prejudices. This should equally apply both to the offenders as well as law keepers. Delay in administration of justice and punishment have brought us to this situation, the only way out of which is to speedily implement this legislation before further havoc is wrought on our forest and biodiversity wealth.

Thus may be the need of the hour for both the lobbies must try and follow the **Land use approach** which should take into account the suitability of land before deciding its nature of use. (Forests, Agriculture, grazing or homestead). Health of local farming and ecosystems may be severely affected due to altering of the land ownership profile.

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<sup>31</sup> Open letter to Vanshakti

<sup>32</sup>Critical Amendments, Clear Rules, And Assessment Period Needed, Kalpavriksh Position and Recommendations March, 2007