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# Executive Summary

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## Why this study?

State Forest Departments have taken steps in the past to overcome the issue of encroachment on forests. During the past they had sought to legalize encroachments prior to 1980. Comprehensive surveys have been conducted to map pre and post 1980 encroachments by the forest department as well as by civil society agencies like *Jangal Jameen Andolan*. These surveys report the extent of encroachments to the policy makers. However, discrepancies exist between the government and NGO figures. The various attempts to mark pre-1980 encroachments and regularize them have failed miserably. The government has proposed a **Forest (Tribal) Rights Bill 2005**, which has laid down a framework to deal with this issue. It has provisions to empower the *Gram Sabhas* to determine the encroachments eligible for regularization and forward such cases for approval. Whether the village level committee can take up this responsibility has not been tested as yet.

This study attempts to do a pilot test of the bill in a micro village context. Most importantly this study is a means to gauge the ground realities associated with this issue and to highlight the complexities that can surface during implementation.

## Objectives:

- ▶ To take stock of the pre and post 1980 encroachments with the village FPC and to compare the same with the forest department records.
- ▶ To document the assessment of the FPC regarding the age of encroachments (pre or post 1980), whether they should be regularized, and whether further encroachments should take place.

## **Methodology:**

Village selection involved three stages (a) Planning with key stakeholders (b) Building rapport with the people considering the sensitive nature of the topic of research (c) Setting up a 10-member committee of village elders to guide the study. Data Sources included primary data collection through participatory qualitative techniques like PRA etc and secondary sources like the forest department and Patwari records which provided the quantitative data. PRA Mapping exercises, transects along with F.D. records and focus group discussions helped to identify the encroachment sites and then select the hamlet to be the unit of study.

## **Unit of study:**

The study was done in Ambamata *phala* in revenue village Som, which falls under the forest block Som Part II. Som is a predominantly tribal village, located 90 km south west of Udaipur, Rajasthan. Located in the Aravallis, the land is undulating in nature and the forest is dry Tropical Deciduous type. Out of the total village area of 1472.65 ha., nearly 66% (974.86 ha) is owned by the forest department. The village population is 1900 distributed over nearly 400 households.

## **Limitations:**

Considering the sensitive nature of the topic of research, the study is limited by peoples' apprehension about sharing their thoughts and feelings on this issue. This was further complicated by the presence of Seva Mandir in the area and its existing perception about encroachment of common land. This most likely created bias within the researchers also. Finally, a lot of confusion prevailed due to the lack of transparency regarding the status of commons and the exact boundaries of forestlands.

## **Research Findings:**

- ❑ Establishing the period of encroachment

- ▶ It was extremely difficult to determine the period of encroachment based on the site condition and assets created .
- ▶ Age assessment According to the FPC - According to the FPC, the initial number of encroachers was 12, which have gone up to 18 counting their descendants also who now live on these encroached forestlands. In addition new encroachments happened 5-20 years back. The total number of encroachments when the study was conducted stands at 48 covering an area of 27 ha. approximately.
- ▶ Age assessment according to the F.D record - Per the Forest Department records only four cases comprising 7 encroachers and covering an area of 3.19 ha. are pre-1980 encroachers.

#### □ Profile of Encroachers

- ▶ The pre-1980 encroachers are quite old and except a few most of them reside in the village and have *khatedari* agricultural land holding in the village. The land ownership varies from 2-5 ha.
- ▶ The descendants of encroachers have rights of inheritance to the agricultural land owned by their fathers. However, in most cases the distribution of land has not been made yet.

#### □ Effects of Encroachment:

- ▶ Forest Area adversely affected by the encroachment due to fragmentation of encroachments. Although the total encroached area is about 27 ha., it has affected almost 100 ha. of forest area. The forest area has been degraded and made unfit for development
- ▶ Further encroachments - There is a distinct possibility of more area being encroached.

- ▶ Privatization of the forest produce like Mahua - Most of the encroachers as well as others in the village have distributed the Mahua trees amongst themselves thereby restricting access for others.

□ **Reasons for encroachment in the area**

- ▶ **Reasons pertaining to livelihood** - With the increase in population, most of the encroachments have taken place due to the need for additional agricultural and grazing land. Availability of NTFP is also a substantial reason.
- ▶ **Settlement pattern** - Most of these encroachments are actually satellites of some phala in the village. It is not necessary that people residing closest to the forests are the encroachers, but encroachments happen due to the need for grazing land.
- ▶ **Apathy and uncertainty of the Forest Department and improper legal action**
- ▶ **Uncertainty regarding the land tenure rights and rights of multiple revenue villages on a Forest Block.** The multiplicity of rights and lack of clear-cut demarcation of boundaries leads to encroachments and subsequent disputes.
- ▶ **Political Interference** - Political instigation is also one of the factors for illegal encroachments.

### **People's Perception on Encroachment & Regularization Process**

The villagers of Som supported regularization of original encroachers and the rights of their descendants to these lands. But to prevent further encroachment they wanted enclosure of forestlands to be undertaken through programmes like JFM.

### **Issues for policy consideration:**

- ▶ **Assessing the Period of encroachment (Pre and post 1980?)**  
- Only the community (especially the older generation) can verify the period and extent of encroachment. Otherwise this can be verified only through the F.D. records or any such records kept by the encroachers.
- ▶ **Right of descendants over the encroached land (Original or the present?)** - The community feels that descendants have right to land encroached by their ancestors.
- ▶ **Actual release of forest area** - The area of forestland that would be adversely affected due to regularization, would be at least 4-5 times of actual area released.
- ▶ **Regularization of forest lands - Is it a lasting solution?** - Alternative livelihoods for the people living around forest areas have to be worked out by the government, civil society agencies working in these areas in consultation with the people.





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## Background

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**L**and has always been of paramount importance for the rural economy but more so for the tribal people/ forest dwelling communities. Tribals depend directly as well as indirectly for their livelihood on the forests/ commons. They directly derive a part of their livelihood through NTFP (Non-Timber Forest Produce) and fodder collection from the forests. For many of them lopping of branches and selling of the same has been a consistent coping mechanism over the drought ridden decades.

For their other livelihood practices like Agriculture and Animal Husbandry they are dependant upon other Common Property Resources like pasturelands etc. Indirectly the health of these commons is of great significance in determining the productivity and production from agriculture and animal husbandry (because of the ecological cycle). The tenure rights on the commons also serve as the determining factor towards the strength of the institutions that determine the use of commons in general and forests in particular. One of the major hurdles that have been faced with regard to working for the commons has been encroachment. It has been realized while working with village institutions that if the forests have any trace of private ownership (in the form of encroachment) the stakes/interests of the other villagers tend to get diluted. Secondly this becomes a forum where old animosities surface leading to possible breakdown of the collective action/institution. More often than not these rivalries have their roots in a fight over encroachment over a resource. According to study conducted by Seva Mandir in 10 of its programme villages, 26.7 % of the forestlands were encroached upon while 54.13 % of the pasturelands were encroached upon. (*Source: Agarwal, A, 2003*)<sup>1</sup>

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. The forest conservation act (1980) was specially enacted to prohibit non-forestry

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<sup>1</sup> Agarwal, A. 2003, Ethnography of an Action Research Project on Common Lands, Seva Mandir NRD Unit.

activities in forest areas like agriculture, mining etc. Therefore encroachments become illegal according to this provision. 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. 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. No rights were vested with Gram Sabha. 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.

Off late the government has come out with the Draft Forest (Tribal) Rights Bill 2005, which has laid down some framework to deal with this issue. "The draft bill aims to compensate the "historical injustice" done to forest-dwelling tribes that were denied their traditional rights to forest lands and resources in the last couple of hundred years. In this period, the lands they had been dwelling on were declared "forest land" or "protected areas" for wildlife. The rights proposed to be accorded to Adivasis include *pattas* to forestlands occupied before 1980 or any other date the government decides. A number of other rights are also to be granted: *nistar* (usufruct) or ownership rights to forest resources, grazing rights including seasonal ones for nomadic communities, habitation rights (for those classified as Primitive Tribal Groups), conversion of forest villages into revenue villages, and so on. No tribal person is to be evicted from currently occupied land until the process of determining rights is completed, according to the Bill.

The Bill places considerable authority in the hands of *Gram Sabhas* (which was absent in the earlier legislations). This includes the primary function of recognizing forest rights, regulating access to forest resources, and punishing those who violate the provisions of the Act. But *Gram Sabha* decisions are subject to approval by higher authorities. Sub Divisional Committees are to hear appeals against them and also resolve inter-village

conflicts. District Committees are to act as appellate authorities and give the final approval of the record of forest rights. All rights are accompanied by responsibilities for forest protection. In no case would forestland beyond 2.5 Hectares be allotted (only land under occupation prior to 1980 can be considered, no new forest lands would be allotted). Also it states that the rights vested under the proposed legislation will remain notwithstanding anything contained in any other law, but it also states that the operations of other laws would continue if they do not contradict the provisions of this bill." (Source: Kothari Ashish, Pathak Neema, 2005)<sup>2</sup> However, whether the village level committee is capable of taking up this responsibility has not been tested as yet.

In case of Rajasthan efforts were made in the past to regularize encroachments till 1970 and some 1500 cases were regularized. After the issuance of the forest conservation act 1980, a decision was taken that encroachments till 1980 can be regularized. The Jungle Jameen Andolan<sup>3</sup> has submitted a list of 17608 claims. Under this a list of 5395 (Source: Endangered Symbiosis, 2003) persons has been sent to the central government for regularization of encroachments but still awaits sanctions.

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.

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<sup>2</sup> Kothari, Ashish & Pathak, Neema, Frontline, 3 June 2005  
(Excerpts have been reproduced from the article about the provisions in the tribal rights bill)

<sup>3</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.

## II.

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## The Study

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**S**eva Mandir, an Udaipur based non-profit organization has been actively working with the marginalized tribals through various Natural Resource Management efforts like Agriculture, Watershed Development, Afforestation on Private and Common-lands, and Joint Forest Management on Forest lands. Seva Mandir's work in the field of Natural Resource Development is based on the premise that improvement in the natural resource base leads to improvement in the land-based livelihood of the tribal communities. Majority of the interventions have been routed through formal and non-formal village institutions like *Gram Vikas Kosh*, Village Forest Protection and Management Committees (VFPMCs) whose focus has been on promoting collective action for bringing about development of common property resources (CPRs) like forests, pasturelands etc. These CPRs especially forests have been afflicted with problems of encroachments. Seva Mandir, in the past, has been associated with local village institutions to deal with encroachment cases on the common panchayat and forestland. Negotiations are mainly routed through the village institutions regarding vacation of encroachments.

With this background and in perspective of the Tribal Rights Bill, it was considered appropriate to take up a study on encroachments in forestlands. This study, therefore, also served as a pilot test of the bill in a Micro (village)-context. Most importantly this study is a means to gauge the ground realities associated with this issue and to highlight the various complexities that shall surface when the decision-makers finally take up implementation. Possible issue that are proposed to be studied (statement of hypothesis) are:

- Firstly whether the *gram sabha* would be able to take a rational stand on pre and post 1980 encroachments on their own given the parameters for decision making like extent, age of the encroachment,

conditions and developments on the land encroached and finally who should be eligible for the ownership of the allotted encroached land.

- ❑ Secondly whether regularization of encroachments is the ultimate solution to deal with the problem.

### III.

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## Objectives of the study

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Looking at the above factors following are the project objectives

- ❑ To take stock of the pre and post 1980 encroachments in a particular forest area with the help of the village forest protection committee and to match the same with the forest department records or surveys.
- ❑ To document the assessment of the FPC regarding
  - ▶ The age of the Pre and Post 1980 encroachments.
  - ▶ Whether they feel such encroachments should be regularized.
  - ▶ Their feelings towards further such encroachments.

The geographical area selected for the study was Som Forest Block II and revenue village Som in Udaipur district, Rajasthan because of the following reasons:-

- ❑ Seva Mandir's presence in this area for 15 years helped establish some accountability for the author. It was relatively easier to seek cooperation of the villagers of Som. One of the favorable factors was the positive attitude and receptivity of the villagers towards this issue. Since the subject matter of the research is quite sensitive, it was extremely useful to have some history of an NGO like Seva Mandir in this area.
- ❑ Previous data available regarding Livelihood Mapping. Other exercises like PRAs, Resource Mapping, Surveys had already been undertaken in the past while undertaking the Study of Forest Protection Initiatives, Preparation of Village Development Plan etc.
- ❑ As a part of its JFM programme, Seva Mandir staff had scoped the forests near Som village as potential JFM site. For this purpose, a site survey had been conducted and Micro planning was in progress. Therefore, this study could be conducted parallel to the on-going preparation for undertaking JFM at the site.



The study has primarily used the case study methodology. Only one village was selected for a detailed analysis of the encroachment issue. Considerable amount of time was spent in discussions with various stakeholders like Seva Mandir, Forest Department, and the Van Utthan Sansthan<sup>4</sup> for planning the study, selecting the village to be studied as well as the methodology. A lot of time, in the early weeks, was spent in the selected area in order to build rapport with the villagers and to gain first-hand knowledge about their opinions about CPRs.

### Identification of the encroachments

□ *Mapping exercises*

The villagers of Som were first asked to make maps of the forest where they had claims. During the exercise it was clear that people had confusion regarding this and there was no consensus. The confusion was due to the encroachments and belief of a few that the encroachments have been regularized. As such forest settlement maps were procured and with their help boundaries were marked on the ground. Once the forest boundaries were made clear people were asked to show encroachments within the boundary demarcated without any consideration whether the encroachments were legal or illegal, regularized or not.

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<sup>4</sup> Van Utthan Sansthan (VUS), Jhadol is an association of 66 forest protection committees falling in the Jhadol Taluka (Udaipur (Central)). It was formed with the active support of Seva Mandir Udaipur to represent the issues facing the various village forest protection committees in Jhadol. VUS has been active since 1998 in the field of spreading awareness in the region regarding forest protection, prevention of encroachments and conservation through people's participation.



Thus at the end of the exhaustive exercises, the following sites were identified as having significant number of encroachments in Forest Block Som Part II which comes under the revenue village Som :-

- ▶ Area near the JFM site in the Holi phala
- ▶ Ambamata Phala's settlement
- ▶ *Gohalli* (Aravalli plantation site)
- ▶ *Jher* Phala (Village Bhamti)
- ▶ Boundary disputes with the neighboring Karel and Bhamti villages

□ *Selection Of Sample*

From the above sites the Amba Mata phala settlement was selected for the study as it satisfied the following criteria.

- ▶ One part of the forest block with well-defined boundaries (which could be located in the field as well as on the Survey of India Toposheet) was selected so that the number of the encroachers could be ascertained and matched with the official records as envisaged in the objectives. This forest area selected was encroached by inhabitants from Amba Mata phala of the same village.
- ▶ The selected area for the study is enclosed on one side by the Som-Kotra road while on the other side is the boundary of the village Karel's development works. (Please refer the map in Annexure two). Seva Mandir was in touch with the people of Amba Mata phala for a long time. Just adjacent to the encroachment site, people of Som had proposed a JFM site for which proposals had already been sent to the forest department. People were of the view that JFM activity would prevent further encroachments.
- ▶ Finally, the study plan was introduced in February 2005 to the FPC Committee and Gram Vikas Committee and a 10-member committee of volunteers was formed for conducting the survey and documentation of encroachments.

## ❑ Data Sources

*Primary Data* was collected from the village using Participatory Rural Appraisal (PRA) exercises by Seva Mandir's staff members with the help of the committee members.

The qualitative techniques used were

- ▶ **Resource Mapping** - An exercise in which the villagers sketched the village map, marked the different resources available within the village (like pasturelands, forest lands, revenue land, agricultural land, homesteads, wells, tube wells, schools, community centers, etc.).
- ▶ **Seasonal Calendar** - An exercise depicting the various seasons in a year when NTFPs are collected, and the different agricultural activities like field preparation, sowing, transplanting, weeding, etc. are performed.
- ▶ **Forest Cover Mapping** - Resource Maps were made by various groups so as to identify locations of forest protection initiatives as well as encroachments.
- ▶ **Focus Group Discussions** - In focus group discussion, the villagers' personal opinions, suggestions and requests for forest related needs and requirements were asked on every aspect of their needs (forest products, water sources, etc.). Discussions were conducted in small groups of 10-15 people at a time. These people were mostly members from the FPC, ethnic leaders of the village, Gram Vikas Committee and sometimes the encroachers themselves.
- ▶ Interviews with the various stakeholders like
  - Encroachers
  - The forest department staff
  - Forest protection committee members

- Village Para workers of the various NGOs like Seva Mandir, Children's Christian Fund, Swachh Pariyojana working in the area.
- ▶ Multiple Village Transects have been conducted.
  - Across the village area to find out phalawise spread of encroachments as shown in the mapping exercises
  - Forest areas adjoining Villages and Phulwari Ki Nal Sanctuary to find out the distribution of these encroachments
  - Encroached upon areas to find out the assets/ development being made by the encroachers and land-use of these areas.
- ▶ A household survey of all the encroacher households was conducted to profile the encroachers and interview them regarding the developments that they have done on the land. Please refer annexure two for the developments done on the land.

Secondary Data was compiled from the records maintained by the forest and revenue departments.

- List of the Encroachers - from the forest department to compare with the data collected.
- Land Records - The village Patwari records were consulted for obtaining land holdings of the encroachers in the village.

#### Documentation Of The Findings

Finally, the findings of the study were documented to highlight the land ownership and encroachment patterns in the region. Relevant case studies were also documented in order to provide practical examples about the context in which encroachments took place.

### VI.

#### **Peoples' apprehensions**

Various villagers and key respondents were apprehensive about providing information related to land ownership whether legal or illegal, primarily because they were uncertain as to how the information will be used and what its impact may be on them. Admittedly most of the people have a latent fear of backlash both from the society as well as the system and the state. This leads to their sabotaging all kinds of forest related institutions like the FPC etc.

#### **Confusion regarding boundaries**

Due to the lack of transparency prevailing at the village level regarding the status of commons and the exact boundaries it is very difficult to establish the tenure rights in the areas adjoining the forests and *bilanaam* (Revenue Wasteland) areas. Maps from the forest department have been assumed to be true.

#### **Seva Mandir's perception on encroachment in forest areas**

Seva Mandir looks upon common land including forestlands as the mainstay of poor people for meeting their livelihoods and as such has not been in favor of encroachments on such land. As Seva Mandir's workers have done the study there is likelihood of some bias creeping into the study.

### Location

**S**om village is located 90 km South West of Udaipur, in the Jhadol Tehsil of Udaipur district, Rajasthan. To the South East of Som, lie the villages of Bhamti and Garanwas, leading on to Kherwara Tehsil and to the Udaipur-Ahmedabad highway. To the South West of Som are the villages of Panerwa and Kotra (Kotra Tehsil) leading on to Abu Road. To the North is the village Karel, Phalasia, Bichiwara and Kolyari, leading on to the Jhadol (37 km from Som) and Udaipur.

The village Som is located in the lap of the Aravali hill ranges who have the unique distinction of being one of the oldest mountain ranges in the world. The land therefore is mostly of undulating nature. The village is divided into six hamlets (called *phala* in the local language): Kharadiya *phala*, Chauhan *phala*, Asari *phala*, Sagiya *phala*, Holi *phala* and Jher *phala*. Jher *phala* and parts of Chauhan *phala* and Holi *phala* (called *Ambamata phala*) are situated in the hills. This is the *phala* where the present study on the encroachments was conducted. The majority of the residents of this hamlet belong to Asari *phala*.

### Demographic data

Som is a middle size tribal village in terms of population. The population

No	Land Distribution (As per Patwari Record)	
1	Forest land	974.86 ha
2	Common revenue land	111.33 ha
3	Private land	345.89 ha
4	Revenue Wasteland	40.51 ha
	Total area	1472.65 ha

consists of the illiterate and semi-literate older generation (people above the age of 55) and the nearly literate present generation (people below the age of 55). The literacy rate is higher than the average for the Tehsil Jhadol. This is mainly because of the initiatives of Seva Mandir like Non Formal Education Centers, Literacy Camps etc. The Government school in Som has also played a significant role.

*Table 2: Demography*

S. No.	Population	1900
1	No of households	400
2	Castes	Meena sub-tribe of the <i>bhil</i> tribes
3	Sub-castes	<i>Kharadiya, Kasauta, Khokhariya, Lakhambra, Parmar, Ganwar, Asari, Drangi, Pargi, Bhagora, Dama, Damor, Sagiya, Chauhan, Pander, And Vadera</i>
4	Literacy rates	Male - 36% Female - 24% (Source: school records)

### Status of Forests and Biodiversity

Out of the total area of the village (1472.65 Hec) nearly 66% of area (974.86) is under forest department's ownership. Majority of the forestland falls under Forest Block Som Part II and only 31.89 Hec is included in Forest Block Son Kala, which has been totally encroached upon. The forests correspond to Dry Tropical Deciduous forests with over wood consisting mainly of *Salar* (*Boswelia serrata*) and *Godal* (*Lannea corromandelica* trees). The forests are degraded and open but in patches, good vegetation with density up to 0.5 can be seen. Som shares its forests with four other neighboring villages i.e. Som, Bhamti, Garanwas and Sarwan. This forest area is one of the most richly endowed ones in the Tehsil and is commonly known as *Sarwan ka Jungle*. A part of this forest adjoining the villages of Lathuni and Nalwa have been included under the game sanctuary called *Phulwari Ki Naal*, created in the 1980s.

## VIII.

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## Research Findings

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### **E**stablishing the period of encroachment (whether pre 1980 or post 1980?)

To a new person it is very difficult to differentiate between pre or post 1980 encroachments on the basis of site condition, agriculture or assets created. A list of individual encroachers, area encroached upon, period of encroachment and assets created on encroached land is enclosed as Annexure one.

The annexure tries to draw a lineage of the encroachers starting from the original occupier of the forestland leading to the present encroacher. It also tries to draw a three-fold comparison between the three viewpoints i.e. according to the forest department, FPC as well as per the site condition (assets built on the encroachment).

#### **□ Age assessment based on Site condition and Assets created (Status of the Encroached Land)**

In general, it becomes difficult to assess the period of encroachment based on site condition. The following are some examples.

- ▶ Hurji is standing at S. No 1 in the annexure one, encroached upon forestland before 1980, as per the committee members. But on the ground there are now three hutments standing in this area. Some of them are newly constructed (at least one) and the other two 4-5 years back.
- ▶ Similarly in case of Ashok s/o Rajuji and his brothers standing at serial no 30, the house appears to be 10

years old but abandoned. There is no trace of agriculture but the encroachment is for showing ownership on *mahuas* trees, which according to the committee members are 15 years old. To show their rights the encroachers just plough the area. They are not living in the hutment.

- ▶ Bhura Bada Vahiya at serial no 23 who had encroached on the land 15 years ago constructed a hutment only recently (2004). As such on the basis of site condition it is difficult to assess the period of encroachment.

Generally when an encroachment is quite old (25 years) the assumption is that it must be devoid of vegetation but in the present cases lot of vegetation is still standing on the encroachment site. In addition, *Mahua* trees can be found on almost all the encroached areas, and the hills in between also have vegetation though sparse.

#### □ Age assessment According to the FPC

At a meeting with the committee members, heated discussions were held to assess the period of encroachment. In the meeting it was pointed out that Hurji, Dhanraj, s/o Thavra Ahari and Rupa s/o Dita Bhagora of Amba Mata Phala (Som) were the ORIGINAL encroachers who had encroached forest area 25-30 years back. They had built up a *bada (cattle enclosure)* where kept their cattle and later on started cultivating the land in small patches. The present generation of encroachers are their DESCENDANTS, who have now built houses, are cultivating and are in possession of land. When asked about the period of encroachment, they mentioned the time when they started living on their father's land and built hutments. Later on some other inhabitants of Amba Phala also encroached on forestland. The number of original encroachers on forestland is 11 but at present, counting their descendants, this number comes to 18. Some of the original encroachers have died or are living in the village. In addition, some other people have also encroached whose encroachments are between 5-20 years back. The total number of encroachments when the study was conducted comes to 48.



Types of encroachments	Pre 1980		Post 1980		Total encroachments	
	Number	Area in Hectares	Number	Area in Hectares	Number	Area in Hectares
Original Encroachers	12	20.12	18#	7.14	30	27.27
Descendant Encroachers	18 *		-		18	
Total encroachers	30		18		48	

\* It has been assumed that the descendants are occupying their father's encroached land and have not moved onto to add more encroachments.

# Since most of the post 1980 encroachments are recent, the original encroacher is the present encroacher.

#### ❑ Age assessment according to the Forest Department record

As per the Forest Department record out of the total number of encroachments only four cases, comprising of 7 encroachers, standing at serial no 9, 16-17, 20-22, 38 and covering an area of 3.19 Hectares are Pre 1980 encroachers. This can be compared to the estimate of the village FPC where the number comes to 30 (12 + 18 descendants), covering an area of 20.12 hectares.

#### Profile of Encroachers

- ❑ Almost all the encroachers are from Som village - Ambamata Phala. They are tribals with the majority belonging to Ahari Clan.
- ❑ There is not much difference in the socio-economic condition of the encroachers but some of the encroachers have politically backing and as such stand to gain more.
- ❑ The original encroachers whose possession is shown as Pre 1980 are quite old and except a few most them reside in the village.

**Table 3: No. of encroachments & areas encroached upon as per the FPC members**

Types of encroachments	Pre 1980					Post 1980				
	No.	House	Field	Bada <sup>5</sup>	Well	No.	House	Field	Bada	Well
Original Encroachers	12	18	12	5	3	18	8	6	6	0
Descendant Encroachers	18									

They have agricultural land holding in the village, which is entered in revenue record as *Khatedari* (Private revenue) Land. Land ownership varies from 2-5 hectare.

- ❑ The descendants of encroachers who are occupying land in the forest have rights of inheritance in the *khatedari* (Private Revenueland) agricultural land owned by their father. But in most cases the distribution of land has not been made although these descendants are major. Only in 4-5 cases these entries have been made.

**Table 4: Land area owned in the village by the encroachers**

Profile of the Encroachers	No of encroachers with Land in the village (Agriculture and Wasteland)	
	Pre 1980 (12 including the 18 descendants)	Post 1980 (18)
Original Encroachers	> 2 ha. - 7 < 2 ha. - 4 Landless - 1	> 2 Ha - 4 < 2 Ha - 14

<sup>5</sup> Bada – Cattle enclosure

## Effects of Encroachment

### ❑ Fragmentation of Forest Area

Though the total area encroached adds up to 25 Hectares approximately, yet this has resulted in about 100 Hectares of forest area getting degraded and unsuitable for development activities like afforestation and protection, land improvement (because of the fragmented nature of encroachments.) The encroachments have been made in depressions, *nullahs*, and on the gentle slopes for agriculture production, but in between a lot of the hilly land has been left out which is not fit for cultivation and which has forest growth. Every encroacher has not occupied the area contiguous to the earlier encroachment. Each one selects site suitable for his needs and in this process a large area is covered by encroachers where one can see small patches of encroachments. .

### ❑ Further encroachments

There is a distinct possibility of more area being encroached in case some stringent decision is not taken. Even today people are constructing homesteads in the forest areas.

### ❑ Privatization of the forest produce like Mahua

Though traditionally the villagers have rights over the forest produce, it still appears that most of the encroachers as well as others in the village have distributed the *Mahua* trees amongst themselves and thereby restricting access for others.

## Reasons For Encroachment In The Area

After comparison of what the people say and what we obtained from the data we can derive a few general findings as follows.

### ❑ Reasons pertaining to livelihood

**Need for agricultural and grazing land:** The villagers who have encroached forestland use the space for grazing and keeping their animals but gradually the cattle enclosures got perpetuated into permanent settlements and agriculture was also started there. Also each encroacher has acquired ownership rights of *mahua* trees in the portion of forest where he has encroached.

The space required for the cattle seems to be a factor, which encourages people to prepare enclosures in the forest clearings. This is proven from the fact that the animals stay in the forests for major part of the year except the summers when scarcity of water forces them to retreat back to the village. Moreover when a person thinks of encroaching on forestland the easiest way he adopts is to keep his cattle in a small forest area, which is not generally challenged by the forest staff. After few years he gets emboldened and starts clearing the growth and doing agriculture and starts settling in pastures.

The argument that the encroachment is being done by landless people does not seem to hold much water as most of the original encroachers had visualized that they will need some land for their expanding family in future and thus encroached on the available forest land.

**NTFP (*Mahua* Ownership):** As part of the forest settlements rights, collection of *mahua* flowers were given to the villagers but over a period of time, whichever family was collecting flowers from the tree started claiming ownership over them. The people have recognized this as well. Since traditionally these families have been collecting *mahua* from these trees people do not dispute the collection rights. The land in the forests lying near these *mahuas* is also therefore divided amongst the people where they move and stay during the collection season. In course of time some people have decided to clear the surroundings and also started bringing the cattle there. During other times it is actually the insecurity regarding the collection of produce, which prompts people to go to the forests and till it. (Fearing that somebody else might do it).

□ Settlement pattern (proximity to the village)

Most of these encroachments are actually satellites of some *phala* in the village depending upon the settlement pattern of the people there. (The cluster under study is a settlement of Asari *phala*). Incidentally most of the *Phalas* have such a settlement somewhere or the other. Therefore, it is not necessary that people who are residing closest to the forests are the encroachers. In fact people who have lesser access to forests and are therefore in the need of grazing land tend to encroach. But at the same time once a family goes and settles in the village, people from their clan are also encouraged to go and provide them company. Generally, encroachers from the same *phalla* are easily accepted.

#### □ Apathy and Uncertainty of the Forest Department

The boundaries and internal lines drawn by the department at various points of time are both complicated or outdated for the villagers to make sense out of it. Most of the times the internal lines, made 30-40 years ago, have been crossed over and spilt further into the forest land. Therefore, while the maps show only 20-30 settlements the actual reality might be something like 5 times the number.

#### □ Improper Legal Action

The implementation of the forest regulations has left much to be desired. If the encroachment is not with the tacit approval of the department it might have occurred due to their utter negligence. Till today, there is uncertainty about the offence under which the encroachers have been booked. Either they themselves do not know or have not been told. The receipts that they hold pertain either to minor offences like cutting trees instead of recording the actual offence. Many a times, money has been extorted from them without any rational reason. As referred to by one of the villagers, usually the people from forest department come in the monsoons when the seeds have been sown and there is proof that encroachment has been perpetuated. Even today the homesteads are under construction!!

#### □ Uncertainty regarding land tenure rights

Most instances of encroachment on forestland as well as on *bilanam* (Revenue wasteland) or *charnot* land (Pastureland) are prompted by factors of uncertainty with respect to the boundary lines etc. Many people make the first move just to prevent other people from encroaching. In fact some of the people on good terms with the *Patwari* get to know which land is still unclaimed and thus are able to add to their holding.

**Table 6: List of villages with rights over Som forest block part II**

S. No.	Name of the village	Area in <i>Bighas</i>	Area in Hectares
1	Garanwas	14179.16	2268.66
2	Som	5911.10	945.77
3	Bhamti	5173.14	827.70
4	Amlia	15.16	2.42
5	Karel	1398.04	223.68
6	Sigri	821.04	131.36
	<b>Total</b>	<b>27500.04</b>	<b>4518.4 Hectares</b>

□ **Rights of Multiple revenue villages on a Forest Block**

The area of Som falling under Som II Forest block was notified under the Section 4 of the Rajasthan Forest Act in the year 1954. (First gazetted notification F.34 (200) R.F/A/53/12188 dated 2/2/1954 published in the gazette dated 10/4/1954.) After hearings under the Forest Settlement Rules it was finally notified in the Rajasthan gazette vide F. 7 (59) R. F/A/67 Dated 25/4/1967. The total area of the Som Forest Block Part II is 4518.4 Ha. and it includes land of the six villages as mentioned in the table below. This is not demarcated on the ground except that entries have been made in the Revenue records for the complete area. This multiplicity of rights of many villages over a particular forest block without clear-cut demarcation of village land leads to inter-village encroachments and subsequent boundary disputes.

## □ Political Interference and influence

Political instigation is also one of the factors for illegal encroachments.

### Box 1: The sad plight of the Aravalli Afforestation Plantation in Som

The Aravalli Afforestation Project initiated JFM in Som in 1997. A forest protection committee was formed mostly on an ad hoc basis. Heeralal, a former wardpanch who oversaw the work of boundary wall construction was made its head. A women's sub-advisory committee too was constituted on the suggestion of the guard Inderlal (posted under the Aravalli project). This committee carried out plantation on 50 hectares in Chauhan *phala* (*Gohalli*) and 50 Hectares in Sagiya *Phala* and also guarded it for some time. The plantation in Sagiya *phala* was close to the village and therefore people from the neighborhood destroyed it by grazing their cattle. The plantation by forest department in *Gohalli* survived for two-three years some time. The FPC also tried to guard the plantation for some time along with the forest guard living in the region.

But fate had something else in store for the plantation. Lakshmilal Chauhan, an influential person in the village had his *Mahua* trees and encroachment in the same area and therefore simply could not see it being taken away from his possession. The encroachment was there since 1980 and had even been penalized by the forest department. Some people say that in order to remove this encroachment, plantation was conducted. This did not go well with him and so he let His cattle into the planted area and destroyed it. The villagers took this issue very seriously. People from his own hamlets and other villagers took up the matter in their own hands and destroyed his hutment.

But he was not the one to accept defeat so easily. His son was a doctor and his son's father-in-law was member of legislative assembly. Using his influence he managed to "legalize" his encroachment (quoting him). Later on the forest officials refused to take any action under the influence of this minister and thereafter the villagers lost heart took little interest in protection of either the plantations or the forest in general. After the encroachment dispute whatever little protection was there subsided and the plantation is dying a slow death.

There is no denying the fact that his being the biggest landholder in the village had also helped him in becoming the biggest encroacher. This resulted in other encroachments getting strengthened. They have time and again been disputed in the village. Now these people allege that since the influential people cannot be vacated who are actually owners of substantial property in the village, the landless people should not be asked to vacate.

Thus the FPC's opinion is that though the village had not taken outright objection to the people who are landless, they have always opposed unlawful possession by the powerful.

□ **Opposition to Encroachments - (Who objects to encroachments?)**

At the village level generally the Panchayat or *Patwari* (Revenue Official) or police officials do not interfere in forest encroachments. The police department interferes only in case the forest department makes a complaint. Influential people, local politicians etc. doing encroachments are not opposed by people. But in the past as well as currently, people object to encroachments in their forest area by villagers of other villages that have no rights over that particular forest.

**Box 2: Som and Bhamti**

During August 2004, some of the people from the nearby village of Bhamti had encroached upon the forest land of Som. With the efforts and motivation of the leaders of Van Utthan Sangh, some 200 people from Som and same number from Bhamti tried to convince these people regarding the importance of forests. Ultimately these people were forced to vacate the encroachments by the FPC of Som.



## IX.

## People's perception of Encroachment & Regulation process

When the FPC members were asked about their reaction to encroachments and regularization there were diverse opinions. Quite a few said that not all encroachments should be regularized, but only a few. Old encroachments, 20-25 years old, may be regularized. They also felt that descendants of original encroachers might be provided land, which their forefathers have encroached. They also expressed that they do not want further encroachments to take place in the area. Therefore, they have proposed an area for JFM within their village boundary as they feel, otherwise, it will be encroached upon.

There was a general consensus on the need for forests and their protection. The villagers are protecting 200 Hectares of Forest area in Som part II on their own volition and have framed rules to protect it. According to them, only a few who are politically motivated favor such encroachments. There are also cases of some laxity as well favors from the forest department. In this particular case they all gave the examples of encroachment by Lakshmilal Chauhan and Kamal Lakka Ahari (Serial no 38) whose encroachment has been regularized/ignored because they had political backing. Such acts of the government encourage others to indulge in similar illegal activities.



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## Issues for Policy consideration

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### **A**ssessing the Period of encroachment (Pre and post 1980?)

It is very difficult for an outsider to assess the period and extent of encroachment based on the assets. Only the community (especially the older generation) can verify the period and extent of encroachment. During the focus group discussions we found that it was the older generation that generally keeps track of the happenings in the village therefore they knew about the encroachment dynamics. Though no formal records are there but these facts can be recalled through mutual discussions. Otherwise this can be verified only through the record of the forest department or any other record kept by the encroachers.

### **Inheritance rights over the encroached land (Original or the present?)**

The study amply proves that at present, in most of the cases, the descendants of original encroachers are in possession of encroached land. These descendants moved to the area not more than 10-12 years back. It will have to be decided whether the land can be regularized in the name of descendants who are presently occupying. The community has a feeling that descendants have right to land encroached by their ancestors.

### **Actual release of forest area**

The area of forestland, which would be adversely affected due to regularization, would be at least 4-5 times of actual area released. It is amply clear from annexure (map showing encroachments) that the spaces between encroachments cannot be used for any other purpose. During the transects, many instances of destructed forest wealth in between the fragmented encroached area could be seen.

## Regularization of forest lands - Is it a lasting solution?

Almost all the encroachers have land in the village inherited from their father but perhaps a stage will come soon when further fragmentation of land would not be possible. Government will have to think of some alternate source of providing relief to the coming generation, as there will be no land available for allotment in the village. Regularization of forestlands is not a lasting solution to the problem of livelihoods of people living around forest areas. If nothing is done in this regard there will be further new encroachments in the forest areas.

