

Forest rights and wrongs

In 2014, the Delhi-based think-tank TERI cautioned that the wrong recognition of rights under the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006 (FRA) would leave forest-dependent people vulnerable to adverse impacts of greenhouse gas (GHG) emissions. Indeed, the wrong recognition of individual forest rights (IFR) under the FRA has made a large chunk of the country's tribal population participants in a climate change disaster. Forests conserve and provide water for humans, cattle, agriculture and industry. The loss of forest cover to encroachment is also a lost opportunity for carbon sequestration.

TERI's report provided satellite images of land patches where forest cover existed before 2005 but was flattened later — the report covered claims made up to 2011 on 14,668 hectares (ha). The analysis was based on a scrutiny of 66,300 FRA rights on 10,7897 ha spread across 19 Maharashtra districts.

The report is in the public domain now. It shows that till 2012, Maharashtra has emitted 5,70881.6 tonnes of GHG due to deforestation as a result of recognition of rights under the FRA. An opportunity for carbon sequestration has been lost in 14,668.96 ha of forests. Can we afford this in times of the climate change crisis?

An article in this paper, ('A path through the forest', IE, March 19) creates the wrong impression that forest departments (FDs) have conspired to reject claims of forest dwellers. Most such claims have been rejected by committees that comprise villagers and revenue/tribal department officers — not the FD. The department has no say in the implementation of the FRA — the nodal ministry is the Ministry of Tribal Affairs (MoTA).

A large number of encroachments happened after December 13, 2005 —the cut-off date for filing claims under FDA. They continue even now. It is, therefore, not surprising that claims have been rejected by the various committees constituted under the FRA. Such rejection has happened despite several advisories issued by the MoTA from 2006 onwards asking for effective and lenient (pro-tribal) implementation of the FRA. However, three-tier scrutiny committees at the state-level — gram sabha (GSLC), sub-divisional level (SDLC) and district level committee (DLC) — continue to reconsider the rejected cases despite the lack of any credible evidence from the claimant to fulfill the pre-2005 criterion.

The TERI report reveals an increasing tendency at the village-level to claim as much forestland as possible. The maximum limit of the forest area to be recognised as IFR is 4 ha. The report identifies 1,466 cases where the area recognised was more than this limit. The SDLCs and DLCs failed to scrutinise ineligible cases despite the availability of a system created, and made available, by the Tribal Research and Training Institute, Pune.

The situation is no different in other states. According to a Gujarat government document, the Bhaskaracharya Institute for Space Application and Geo-Informatics in Gandhinagar, came out with data based on high resolution time series satellite imagery (which provides accurate images of forestland on December 13, 2005 – the cut-off date — and subsequently opened up/occupied to claim forest rights) in 2012 that revealed that 80 per cent of IFR claims in the state were bogus. Strangely, while stressing on the use of technological evidence such as geographical information system and satellite imagery, MoTA, in a letter dated July 27, 2015, to the chief secretaries of all states, said that such evidence should not be used to replace other evidence. Even authentic time series satellite imagery of forestlands in the possession of the FD was rejected.

The FRA 2006 was ostensibly designed to undo "historical injustice" by offering a one-time

settlement of individual and community claims over forest land. But 11 years later, forests and wildlife sanctuaries face severe encroachment threats. The FRA is not an open-ended act. But since there is no cut off date for the receipt of new claims and gram sabhas are empowered to extend the 90-day window for such pleas, this process has become a never ending one. The result: Those indulging in fresh encroachments can get away because as per the Act, no action can be taken against them while their claims are being assessed. Encroachers are not being evicted even after their claims have been rejected. On March 7, the Supreme Court passed an interim order asking the states to file an affidavit on the action taken on rejected claims.

The Forest Survey of India's (FSI) State of the Forest Report has documented that 67,900 ha of forest cover has been lost in 188 tribal districts between 2009 and 2011, mainly due to encroachments. As per the MoTA website, till November 30, 2017, 17,60,869 IFR claims were granted covering 41,22,590 acres (16,68,352 ha) of forestland — equivalent to several times the area of the Tadoba National Park in Maharashtra. If this rate of forest destruction continues, we can safely say that there will be no forests left in India after 20 years.

IFR claims are being made and approved without the wildlife claims being decided – in contravention of the FRA. In fact, IFRs have been granted even in the core of Melghat Tiger Reserve in Maharashtra.

Statistics on the MoTA website show that forest dwellers are more interested in claiming IFR than CFR. If the entire community gets the rights over forest lands around the village, where is the need to grant any IFR? Even granting a single IFR claim reduces the share of every family in a village. IFR ultimately reduces the interests of villagers in forest conservation.

Is there any alternative? No new claims should be entertained. Gram Sabhas should be told to end the practice of indefinitely extending the 90 day window. CFRs should be settled before settling IFRs.

Thousands of farmers are committing suicide every year because they cannot make ends meet on agricultural land that is irrigated and despite the fact that they have access to fertilisers and markets. How does the government expect tribals and other forest dwellers to survive on forestlands that are non-fertile, un-irrigated and subject to animal depredation and the vagaries of the monsoons?

The FRA was intended only for tribal communities, but the rights provided in the act were later extended to all forest "dwellers". There are about four non-tribals for every tribal. This means that IFRs have trumped CFRs. Once individual claims are settled, it becomes difficult to settle community rights since these overlap lands that have already been allotted to individual encroachers.

The TERI report recommended that the Maharashtra government write to the MoTA to revisit the process for the recognition of FRA in 1,4668 hectares. The report had recommended that mitigation activities be implemented to combat the GHG emission due to the recognition of FRA, 2006. There has been no progress in this respect.

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