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Forests Rights Act: Fundamental flaws

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The manner and form in which the STFR Act sets out to address the issue is a cause for serious concern.



Burgeoning human population, lack of political will to enforce land reforms and collective failure to equitably settle the rights of people inside Wildlife Reserves have ultimately triggered the passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in short the STFR Act.

There have been raging debates on the issue. While one extreme view is that all forests must be handed over to communities, the other suggests that no rights must be recognised in forests and people must summarily be moved out. The fact is that this highly polarised debate is the result of ideological posturing and arguments that are not rooted in reality and bereft of hard scientific evidence on the impact of people on large wildlife.

First, the fundamental premise of the STFR Act that forest dwellers are integral to the survival and sustainability of forests may have prevailed broadly around 60,000 years ago when the first prehistoric humans came to India.

It certainly does not hold true today in the face of development demands of the urban rich as well as the livelihood needs of the rural poor.

Since the advent of agriculture more than 10,000 years ago, huge tracts of forests have come under the plough.

Around 50 lakh hectares have been cleared in an ad-hoc manner over the last five decades. As a result we are today left with just about 10 per cent land area under natural forests. For endangered wildlife we have reserved fewer than 4 per cent. With human densities exceeding 10 persons/sq km even in these landscapes and market driven extraction of forest produce for livelihood, any talk of sustainability and harmonious co-existence would be futile.

Second, the underlying goal of "correcting historical injustice" is indeed laudable. But the manner and form in which the STFR Act sets out to address the issue is a cause for serious concern.

The Act is anchored on the inalienable land grant scheme, an approach that has repeatedly failed in delivering social justice. It is bound to fail again but this time at a huge cost not only to forests but also to marginalised communities whose isolation in the forest interiors is based on some Amazonian notions of harmony. Such utopian ideas have already precluded them from accessing the fruits of economic and social progress that other communities are reaping. Instead of bridging this divide the STFR Act, tragically, will aggravate it.

Third, the STFR Act provides for in-situ grants of land to the extent of their present holding but not exceeding four hectares. Herein lies the major problem with this legislation. Cutting edge scientific research carried out over the last three decades has identified habitat fragmentation as the single largest threat to biodiversity. With fragmentation, forest edges come into increased contact with human activity resulting in degradation.

Ignoring such scientific findings, the STFR Act has set the stage for yet another round of massive fragmentation.

Post independence, huge tracts of community forests and wooded areas provided under similar inalienable land grants have since been converted into farm land. In many cases, the rights of the disenfranchised communities have been usurped by upper class people and other vested interests.

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Notwithstanding the assumptions in the statute, granting such in-situ rights in Wildlife Reserves, which are already down to 3-4 per cent of land area, will cause serious human-wildlife conflict. The myth of harmonious coexistence will be exposed. Hitherto well protected areas will become vulnerable to illegal hunting and commercial forest product exploitation. More forests will be cleared and converted to farmland, mines and pastures. Roads and markets will penetrate deeper into our biodiversity treasure troves. India's ecological security will surely be in peril.

There are other serious concerns. The last minute addition of a nebulous category of people termed as "Other traditional forest dweller" will seriously affect the bona fide claims of tribal people. If indeed the objective was to correct "historical injustice" why then was the cut off date to identify beneficiaries shifted from October 1980 to December 2005?

These clauses will surely unleash a fresh tsunami of encroachments considering that rights will be provided only to those people who are in actual occupation of forest land. Furthermore, the weak procedures prescribed for identifying beneficiaries will be exploited to the hilt by powerful land grabbers.

All these arguments in no way negate the need to address the genuine needs of people marooned inside Wildlife Reserves. They must be provided a generous resettlement package of land, compensation and livelihood opportunities outside Wildlife Reserves and important corridors. There's no dearth of resources and the huge corpus of 5000 crore rupees collected from compulsory levies imposed on mining and developmental projects must be devolved to States specifically for voluntary resettlement projects. This will help in evolving a win-win solution to the vexed issue.

Thankfully, there's a silver lining – the STFR Act provides for notifying critical wildlife habitats as inviolate areas.

For this clause to serve any meaningful purpose, scientific identification of critical wildlife habitat must precede the process of recognition and vesting of rights. If the Rules which are being finalised provide for this logical sequence and prescribe additional safeguards to weed out ineligible claims there is still hope.

(The writer is a trustee of Wildlife First and a member of the National Board for Wildlife.)