

Campaign for Survival & Dignity

Public Hearing on Threats to Habitat and Livelihood New Delhi - 19th & 20th July 2003

1947 was a watershed in the life of the nation. Having freed itself from the yoke of British colonial rule, its people embarked on the task of nation building. Together with laying the foundations for a future as a sovereign democratic republic, its leaders planned a course of rapid development. 1947 was also a watershed in the lives of tribal communities. Having fought the British right from 1779 until 1947, they looked forward to the recognition of their command over natural resources, in their habitat and their home.

- 55 years of independent India however reveal a different history.
 - ✓ Considered backward, tribal communities were put through the paces of mainstreaming as the path to their assimilation.
 - ✓ Since their resource rich habitats were considered the engine for industrial growth, they were subjected to extensive displacement and eviction.
 - ✓ The forest habitats were merged into state forests without even considering their rights and claims which long preceded state monopoly over these resources.
 - ✓ The history of the tribal people in independent India has unfortunately been five and a half decades of dis-empowerment, dis-enfranchisement, displacement and eviction.
- The issue of forest conservation became critical in the late seventies.
 - ✓ State acquiesced deforestation by the princely kingdoms before the merger of the forests.
 - ✓ State programmed forest felling followed by failure of plantations in the guise of scientific forestry.
 - ✓ State acquiesced encroachment for plantations of tea, coffee, rubber and industrial hardwood.
- Preserving forests became the National agenda with the passage of the Forest Conservation Act in 1980.
 - ✓ The national law initiated important changes in forest management. The central government became the arbiter of all forest rights
 - ✓ State functionaries, hitherto involved exclusively in commercial exploitation of forests were now charged with its conservation.
 - ✓ The act set into motion the character of forest itself. Forests became key in the environment preservation strategy.
 - ✓ A subtle redefinition of forests was underway. As central to environment preservation, forests were being redefined as 'wilderness areas' devoid of any human life or intervention.
 - ✓ Legitimate traditional rights of forests dwellers began to be de-legitimized.
- The de-legitimization of traditional rights had major repercussions in tribal areas.

- ✓ Increasing threats of eviction insecurity in tribal communities
- ✓ Increased malnutrition and starvation deaths
- ✓ Growing discontent and alarm
- The XXIXth Report of the Commissioner for Scheduled Castes and Scheduled Tribes submitted to Parliament.
 - ✓ The Commissioner has dealt extensively with disturbances in the tribal areas following the de-legitimization of tribal rights.
 - ✓ The Commissioner in his Letter to the President of India called upon the executive to find lasting solutions to long-standing issues of tribal communities across the country.
- The National Forest Policy 1988 for the first time recognizes the relationship of forest dwellers and their forest habitat.
 - ✓ The Forest Policy states: “having regard to the symbiotic relationship between the tribal people and the forests, the primary task of all agencies responsible for forest management, including the forest development corporations, should be to associate the tribal people closely in the protection, regeneration and development of forests.”
 - ✓ The Policy also states that “while safeguarding the customary rights and interests of such people, forestry programs should pay attention ...”
- As a response to the XXIXth Report of the Commissioner for Scheduled Castes and Scheduled Tribes and his letter to the President, an Inter-Ministerial Committee was formed to take effective measures to provide lasting solutions to the long standing problems of the tribals.
 - ✓ Based on the recommendations of the Inter-Ministerial Committee, which were accepted by the Cabinet, six Guidelines were issued by the Ministry of Environment and Forests on 18/9/1990 concerning the settlement of rights, regularization of encroachments and conversion of forest villages to revenue villages. The guidelines, however, remain to be implemented.
 - ✓ MoEF also issued directions on 1/6/1990 and 20/12/1990 to involve village communities and voluntary agencies for regeneration of degraded forest lands and a centrally sponsored scheme for association of scheduled tribes and rural poor in afforestation of degraded forests. These orders have also not been implemented.
- The President gives assent to the law of Parliament extending the 73rd. Amendment called (PESA): Panchayats (Extension to the Scheduled Areas) Act 1996.
 - ✓ PESA inter alia in Sec. 4(d) gives the tribal communities acting through the Gram Sabha the power to manage and monitor ‘common property resources.’
 - ✓ PESA in Sec. 4(m) legislates that tribal communities are conferred with ownership of Minor Forest Produce (Non Timber Forest Produce). The Central Law has yet to be effectively implemented in all the tribal areas.
- The Inspector General of Forests, quoting Supreme Court directions in Interlocutory Application 703 in Writ Petition 202/95 (Godharvan T. v/s UOI), issues directions to all Chief Secretaries which inter alia:
 - ✓ Directs the Chief Secretaries to formulate a co-ordinated plan to evict all encroachers on forest lands by 30/9/2002.
 - ✓ The Supreme Court however has issued no directions in IA 703 to evict encroachers.

- ✓ As none of the guidelines of MoEF dated 18/9/1990 have been implemented, tribal communities enjoying rights for generations prior to Independence under numerous legal arrangements entered into by the erstwhile rulers and the British face eviction as they are clubbed in the category of encroachers.
- Following the directions of the Inspector General of Forests to the Chief Secretaries, evictions begin in several states.
 - ✓ The letter creates unprecedented disturbances in tribal areas; tribal communities living in forest habitats for several centuries receive Eviction Orders. Some are physically evicted, and the forest authorities use elephants to destroy crops and demolish their mud huts.
 - ✓ Tribal rights holders in Tamilnadu, Maharashtra, Assam, Andhra Pradesh, and Gujarat are either evicted or face imminent eviction.
 - ✓ Following extensive resistance from tribal communities, Government of Maharashtra issues directions on 8/9/2002 staying evictions. Maharashtra Government also issues an Order on 10/10/2002 providing for a frame and procedure for verification of claims and criteria for deciding eligibility of claims.
 - ✓ Governments of Orissa and some other state governments issue directions to stop evictions but no procedure for verification of claims is put in place.
 - ✓ Several people's organizations file intervention applications before the Supreme Court and the Central Empowered Committee formed under SC directions citing non implementation of MoEF (GOI) guidelines of 18/9/1990 and eviction of tribals without following due process of law.
- Supreme Court to hear the intervention filed by the Kashtakari Sanghatna on Monday, 21st July 2003.

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