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Tribals and tigers can live in peace

When the Forest Rights Bill was conceived and a debate raged, the neo-conservationists asked the nation to choose between tigers and tribals. For the first time in India, a law was opposed through a TV ad campaign which argued that the remaining forests would be eaten away by the indigenous people if it was pushed through.

The law was challenged in several high courts — most of the petitioners, incidentally, were former IFS officers. Rights champions hailed it as epoch-making. But nearly three years down the line, as the prime minister lamented at the chief ministers' conference recently, the historical injustice has not been corrected as yet.

The tribals, many argue, have survived not because of the state but in spite of it. For years, they lived in the legal twilight zone. It just needed a word from the forest guard to deprive them of the land they had cultivated for generations. They were treated as encroachers in their own forests and thrown in jail on charges as flimsy as catching fish in protected areas or collecting non-timber produce. Last month the Jharkhand government withdrew more than one lakh such cases against tribals.

Every time their right to livelihood is debated, policy-makers take shelter behind the exploitative colonial system based on state interest and monopoly, which, they argue, cannot be corrected overnight.

For the first time through this law, the state has recognised the right of tribals to live with dignity and that they are indeed conservationists, not destroyers of forests. This climbdown from eminent domain is itself path-breaking. True, the Act has not achieved much as yet, but it has impelled a change in official mindset.

The opposition has not died down and the vested interests have not disappeared. The conflict between state and conservationist groups is being watched with interest by the corporate world, ever ready to enter the space. But this law has given tribals new hope. They can at last have a record of rights and legally own a small patch of land that they depended upon for decades.

Opponents of the Bill have called it the most dangerous Act since 1947. Its champions say it has awakened a sleeping giant in the 80-million Indian tribals.

Till the Nineties there was no law to help them enjoy their basic rights. Between 1957 and 1980, the forest ministry enlarged national forest estate by another 26 million hectares to 67 million. A large chunk of the area came from redrawing maps and declaring new areas as forest. Overnight, millions of tribals living in the forest became encroachers. To compound their misery the Forest Conservation Act (1980) froze legal use for land officially notified or recorded as forest.

During the Raj, the state monopolised its rights for commercial use for better timber yields. Post-Independence, non-private lands of zamindars and ex-princely states were declared as forests and the tribals lost resource rights. The forest department earned the sobriquet of neo-zamindar, and tribals lived at the mercy of the forest guard.

Today 60 per cent of state forests are in 187 tribal districts where more than 10 million forest-dwellers struggle daily for survival.

In 1990 the ministry of environment and forests asked the states to begin regularising lands. But many state governments continued with forced evictions. Based on a PIL, the Supreme Court then banned removal of any item, dead or dying, from the forest. This, as the government admitted later, was wrongly interpreted by the Central Empowered Committee, which banned collection of non-timber forest produce from reserve areas. Those who survived on the forest lost their livelihood.

Finally in 2002, the Centre ordered the eviction of all tribal encroachers on forest areas within five months. Forest officials burnt village after village in Madhya Pradesh. In the North-East the administration even used elephants to destroy villages and crops. Eventually, the Vajpayee government stopped the eviction. Soon, tribals mobilised by the neo-Gandhians and communists plunged into a now-or-never battle. Finally, the government reconsidered. The right to land movement had arrived and the new forest law was the result of that fight.

While some conservationists took strong exception to the new law, the disinformation campaign continued. People said it would give away large chunks of forest lands to the tribals, that it would give legitimate rights to the locals to shrink the forest further and that wildlife habitats and sanctuaries would remain under constant threat.

The facts are otherwise. First, the government decided to distribute 2.5 hectares of forest to those who had been cultivating it, with the cut-off year being 1980. A joint parliamentary committee revised the cut-off year to December 2005, increased the allotment to four hectares and brought non-ST forest-dwellers under the purview so that they were not left out. In the whole process, no extra land would be lost. In fact, just two per cent of forestland is officially encroached.

To allay the fears of tiger conservationists over the future of protected areas, the law ensures that it will be properly identified and the tribals, if need be, shifted but only with their consent. And once relocated, the vacant patch cannot be re-allotted for any other purpose like mining or industries.

The legislation was considered a big step in the right direction. But as the prime minister noted at the conference, the abuse of tribals has not stopped. Nor has the systemic failure been corrected and this has triggered tribal anger, adding fuel to growing Maoist activities.

If all the states work in earnest, a substantial gain can be achieved sooner than later. More obviously, the nation does not have to choose between tigers and tribals.

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