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States using law meant for tribals to gift forest land to the landless

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In a bid to win the hearts of forest-based communities, the government will decriminalise the collection of traditional 'livelihood items' from the forests.

The move comes even as a joint committee set up by the environment and tribal affairs ministries found several state governments guilty of using the three-year-old Forest Rights Act to distribute forest land to individuals.

The committee, headed by Naresh Saxena, development expert and former secretary to the government of India, said that instead of conserving forests and tribal rights, many states have used the act as an opportunity to gift forest land to landless people.

"The intention of legislation to undo a historical injustice has,

unfortunately, been often understood and publicised as an act passed to distribute forest land to tribal and other traditional forest dwellers who encroached on forest land on or before [the cut-off date of] 13-12-2005," the committee said in its final report submitted on Monday.

The committee found that a whopping 1.5 million hectares out of India's 70 million hectares of forest land have been allotted to

individuals by various state governments.

Individual allotments, while allowing poor tribal and non-tribal families to own plots, are more likely to reduce the forest cover instead of conserving it — one of the aims of the act.

On the other hand, allocation of forest land to whole communities — which would help in the preservation of forests — was a measly 20,254 hectares.

The large number of private allotments has led to new problems such as the creation of a land mafia that uses the tribals as fronts and foot soldiers to acquire forest land for commercial purposes, Saxena said.

The 20-member committee, comprising mostly civil society activists, was formed eight months ago to study the implementation of the landmark Forest Rights Act notified in January 2008.

The act was conceived in response to widespread tribal unrest in the aftermath of a crackdown on 'forest encroachers' by state governments in 2002. It was designed to correct the "historical wrongs" represented by the Indian Forest Act of 1927 "which provided backing for massive commercial extraction and conversion, and resulted in the alienation of forest-dwelling people".

Minister for environment and forests Jairam Ramesh said an urgent review of the act is being carried out immediately — aimed at reducing harassment of tribals by forest officers.

"The change will ensure that they get treated in a humane manner," he said.

Several thousands of cases are registered by state forest officers against tribals every year for minor reasons, said Union tribal affairs minister Kantilal Bhuria. "In some cases, we have seen that tribals trying to drive away honey-bees by smoke have been booked for trying to set fire to the forest and put in jail for 3-4 months," he said.

He also quoted a recent incident in which tribal women were harassed and their homes raided for recovering palm leaves to make brooms.

Ramesh said legalising the collection of "livelihood items" by tribals — currently pending with the law ministry — will help to curb disaffection and recruitment into armed insurrectionists such as the Maoists.

A larger review of the forest laws, including amending the

Forest Rights Act along the lines of the Saxena committee's recommendations, will be done later, Ramesh said.

Saxena said that according to a rough calculation, instead of the 20,000 hectares achieved currently, 55-60% of India's forest area of 70 million hectares deserves to be under the legal protection and custody of tribal and local communities.

He suggested amendments to the Forest Rights Act to force state governments to implement the community conservation provisions, instead of using the law to distribute large tracts of forest land to landless families for private use.

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