

A BRIEF REVIEW OF THE SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL,
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by

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1. We acknowledge that recognizing the rights of tribals over forest land is a justified goal. At the same time, we believe that the need for inviolate spaces where the rights of wildlife are sacrosanct is equally justified. For a sane discussion, it is extremely important to agree that granting one should not negate the other. It is also necessary to recognize that these are two important but *separate* goals. While they certainly have important implications for each other, it is unwise to assume that both goals can both be fully achieved using the same legal means, be it by legislating the Tribal Rights Bill or by better implementing the IF/FC/WLP Acts.
2. At the outset, it is incorrect and dangerous to presume that tribal cultures do not compromise, but invariably aid conservation goals. Serious research in many tribal societies and ecosystems across India and elsewhere has established that tribal land and resource use practices can be significantly damaging to wildlife conservation. This is not to underplay the important role tribal communities could potentially play in assisting/cooperating with wildlife conservation efforts. But to push the Tribal Bill through on a rather naïve belief that tribal lifestyles are low-impact and wildlife-friendly is to ignore accumulating data to the contrary. If the rights of tribals over forest land are to be recognized, it must be done with the explicit understanding that they too, like other communities, can adversely impact wildlife.
3. Having said that, the widespread disenchantment among local communities for wildlife conservation is explained to a significant extent by the way the dominant preservationist way of conservation has treated people-land relations that pre-dated the creation of protected areas. This disenchantment has provoked reactions to conservation from local communities, ranging from benign disinterest to active animosity. We think that disaffection and animosity of local communities is at the root of every other conservation problem, be it tiger poaching, overgrazing or unsustainable harvest of resources.
4. We recognize that the need for this bill has been conceptually reasoned. At the same time, we think it important to discuss the reach and impacts of the bill based on actual facts and figures. Advocates of the proposed bill have pointed out that most of the land allocation that the bill speaks of pertains to RFAs where, in reality, there is no forest cover, but cultivation. The FSI's State of Forest report of 2003 itself reports a stunning discrepancy of over 90,000 sq. km between the RFA reported by the MoEF and the MoA. The estimates on the numbers of families to be affected by this legislation vary vastly. There is no census of families resident within state forests, or estimates of the forest land already under occupation. Very little of the data needed exist; what exists is highly unreliable and hence of little practical value. Therefore, it must be made an important concern to gather reliable field data on these aspects before proceeding with the legislation.
5. Through a complex series of historical episodes, we are today in a situation where most of our large wildlife species are increasingly restricted to protected areas. These land parcels do represent the most important hope for the continued survival of our wildlife. If we are serious about conserving our wildlife, these landscapes need to be made inviolate. However, to state this is certainly not to recommend or justify forcible evictions from protected areas, or preclude efforts towards participatory conservation in non-PAs, which

may be more tolerant of human use. The compensation packages on offer to PA residents must also adequately reflect the human costs of displacement, and the benefits of rendering settled areas inviolate. Therefore, we believe that there is need to treat PAs differently when it comes to the proposed bill. We suggest that in their instance, rights are recognized but the provisions of the WLP Act in respect of acquiring these rights be implemented in a transparent and time bound manner.

6. Given that no clear procedure has been laid down by the WLP Act on the recognition and settlement of rights, the Bill, while not applying directly to PAs, may still guide procedures that the states must use to record and settle rights of PA dwellers, tribal or otherwise.
7. Based on its state's inaction over the last three decades with respect to implementation of the requirements of the WLP Act, we are unconvinced that the state, by itself, has the motivation, skills, sensitivity and urgency to propose, negotiate and implement schemes of voluntary relocation from protected areas. We believe that there is need to build in a larger and more constructive role for civil society groups representing the interests of both humans and wildlife in this important process.
8. As the recent extinction of tigers from Sariska and Kaila Devi have highlighted, the state as the sole custodian of our wildlife does not come with assurances of conservation success. There is urgent need to generate public accountability and broaden the political constituency for the state's wildlife conservation efforts. To a large extent, this may be possible if the bill (re)defines a constructive role for the state in the process of recognizing and vesting rights to tribals. Between the Gram Sabha and the Centre, state governments seem to have been left out from much of the action. This could render the bill much like the WPA, a central act, whose implementation by states has been extremely variable, yet impossible to regulate centrally.
9. Giving the state governments a constructive mainstream role in the bill will also allow for contextualization of the provisions of the bill at the state-level. The patterns of historical injustice as well as the diversity of ST communities vary tremendously between different states of India, particularly between peninsular India and the NE hill states. Not allowing for this flexibility to account for regional differences could significantly affect both the rights-recognition and conservation outcomes of the bill.
10. The bill imposes responsibilities of attaining and monitoring complex technical goals (ensuring sustainable offtakes, maintaining 'ecological balance', etc.) to local communities without paying any attention to their capacities in accomplishing these goals. While being unfair, it is also simplistic to assume that the mere threat of losing rights would enable tribals to monitor complex parameters such as resource sustainability and impacts on wildlife.
11. The bill is arbitrary in the way it identifies various resource-uses for sanction. Hunting of all wildlife is prohibited, whereas other forms of human resource use (NTFP and fuelwood collection) that are perhaps just as damaging to wildlife are sanctioned. The identification of forms of resource use for sanction and prohibition need to be done on a more reasonable basis that takes into account the local culture, ecological impact and existing laws.
12. The use rights that the bill tries to recognize among forest dwelling STs pose a definite and serious conservation problem. The bill does not spatially define and bound areas over which a tribal family may enjoy their rights of harvesting forest produce. Together with the Bill's inability to define key terms like legitimate livelihood needs, such use rights

could easily precipitate intense harvest of forest biomass without technically violating any of the basic tenets of the bill.

13. The bill does not pay much attention to the consequences of market penetration into remote forest areas, and market integration of rural forest societies that were hitherto subsistence-based. This integration has totally blurred lines between livelihood and business, and holds tremendous potential for marginalization of right-holders while also precipitating serious impacts on forests and wildlife.