

India is the seventh largest country in the world with an area of 328.72 million hectares (mha). The forest and tree cover of the country -- as per the biennial assessment report, 2011 prepared by the Forest Survey of India -- is 78.29 mha, which is 23.81 per cent of the total geographical area.

Forestry is the second-largest land use in India after agriculture. Roughly, 275 million rural people in India -- 27 per cent of the total population -- depend on forests for at least part of their subsistence and livelihoods, earned from trade in fuelwood, fodder, bamboo, and a range of non-timber forest products. Seventy per cent of India's rural population depends on fuelwood to meet its domestic energy needs.

Before and immediately after independence, forest management in India focused on deriving commercial benefits from forests, with little regard for the development needs of forest communities or for natural forest conservation. However, a strong shift towards conservation came with the Forest Conservation Act (FCA) in 1981.

FCA, forest clearances and forestland diversion

The Forest Conservation Act was enacted to provide priority to conservation of forests over extracting economic resources from them -- by regulating the diversion of forest land for non-forest activities. The Act stipulated that prior approval of the Centre was required for de-reservation of forest land and/or diversion of forest land for non-forestry purposes.

However, despite the coming of the FCA, diversion of forest land has remained a consistent thorn in the side of all efforts to save forests. A quick look at the forest clearances granted for non-forest activities between 1981 and mid-2011 provides a grim picture:

- 23,404 projects granted forest clearance (FC), diverting 11.99 lakh hectare (ha) forestland (see Table: Forestland diverted post-FCA)

Forestland diverted post Forest Conservation Act*

Purpose/sector	Forest land diverted	
	Area (in ha)	Percentage (%)
Defence	46570	3.9
Regularisation of encroachment	368432	30.7
Social services	65089	5.4
Transport (Road, Railways)	63292	5.3
Power projects (Hydel, Thermal, Wind & Transmission lines)	164128	13.7
Mining	148860	12.4
Irrigation	167237	14.0
Others (including industries)	175067	14.6
Total forestland diverted	1198676	

*From 1981 to August 2011

- Largest chunk of forestland, about 3.7 lakh ha, diverted for regularisation of 'encroachments'. This is about 31 per cent of the total forestland diverted. Majority of the regularisation of encroachments happened in 1990 and 2001.
- Only about 5.3 per cent of the total forestland diverted has been for social services which include dispensary/hospital, disputed settlement claims, drinking water projects, forest village conversion, rehabilitation, village schools, etc.



- About 12.4 per cent of the forestland diverted (1.4 lakh ha) so far, has been for mining; diversion for power projects accounts for 13.7 per cent (1.64 lakh ha).
- Madhya Pradesh alone accounts for more than one-third of the forestland diverted since 1981 (see Table: Forestland diversion in states). Chhattisgarh with 8.8 per cent and Maharashtra with 8.5 per cent have the second and third largest forest diversions.
- Irrigation the top purpose for which forestland diversion happened – 20 per cent of the total forestland diverted for development projects (see Figure: Purpose-wise forestland diversion). Mining and power projects together accounts for 41 per cent. Mining alone accounts for 18 per cent.
- Since the inception of forest clearance process in 1981, it was in the year 2009 that the maximum amount of forestland was diverted for development projects, 87,884 ha in all

Forestland diversion in states

States	Percentage of total forestland diverted (%)
Madhya Pradesh	33.6
Chhattisgarh	8.8
Maharashtra	8.5
Gujarat	6.2
Punjab	5.6
Odisha	4.6
Andhra Pradesh	4.5
Karnataka	4.0
Uttarakhand	3.9
Kerala	3.6
Others	16.7

Forestland diverted between 2007-2011

- During this period (the 11th Five Year Plan period), 8,284 projects were granted forest clearance and 2.04 lakh hectare (ha) of forestland was diverted. This is about 25 per cent of all forestland diverted for development projects since 1981. The pace of forestland diversion, therefore, doubled in these five years.
- In one single year – 2009 – as much as 87,883.67 ha of forestland was granted clearance.
- The area of forestland diverted in these five years is equal to the average area of two tiger reserves. It is about four times the area of Panna or Sahyadari or Tadoba tiger reserve.

The scale of environment clearances – 2007-11

- **Coal:** 181 coal mines given environment clearance (EC); the combined production capacity of these 181 coal mines is at least 583 million tonnes per annum (MTPA). In 2010, India produced about 537 million tonnes coal. So, during the five years, the MoEF has granted EC to double the coal production capacity in the country.
- **Thermal power plants:** 267 thermal power plants adding up to 2.1 lakh megawatt (MW) capacity granted EC. Current thermal power capacity is 1.2 lakh MW. 200 coal-based thermal power plants adding up to 1.76 lakh MW installed capacity have been granted EC. Current coal-based power plant capacity is 99,503 MW. Clearances will nearly double this capacity.
- **Steel:** 188 steel plants were granted EC, adding 29 MTPA of sponge iron capacity and 89 MTPA of steel capacity. In 2010, India produced about 65 million tonnes of steel and 21 million tonnes of sponge iron. An additional 24 million tonnes of steel can be produced from these clearances.
- **Cement:** 106 cement plants with a production capacity of 190 MTPA granted environment clearance. At the end of the 10th FYP, the installed capacity was 179 MTPA. The clearances will double this capacity, taking it to 369 million tonnes per annum, which is also double the target set for the 11th FYP.

The five years -- 2007-2011 -- have clearly been 'great' for forest and environment clearances: the pace and scale has been enormous. In almost all cases, capacity has been doubled and is currently unutilised.



In 2002-03, the Supreme Court of India had directed that a net present value (NPV) shall be realised in respect of forest land diverted for non-forestry purposes from all "user agencies". In 2003, the MoEF issued guidelines for realisation of NPV @ Rs 5.80 lakh/ha (minimum) and Rs 9.20 lakh/ha (maximum), depending upon the quality and density of the forest land diverted. However, no impact assessment reports are prepared, nor is the ecological and economic value of forests evaluated. In fact, there is no system in place to check the veracity of information based on which forest clearances are granted.

Are green clearances an impediment to growth?

The projected target for additional thermal power capacity during the 11th Five Year Plan is 50,000 MW; the target for the 12th plan is 100,000 MW.

- In the years from 2007 till August 2011, MoEF had granted environment clearance to 210,000 MW of thermal power capacity. In other words, 60,000 MW of capacity additional to what has been proposed till 2017. Therefore, environment clearances had been given to all projects, which were needed to meet targets till the end of the 12th FYP. Why are more clearances even being sought? Why are more clearances being given?
- Worse, while MoEF had granted clearance to 210,000 MW of additional capacity in the 11th FYP, the capacity actually added is 32,394 MW.
- Why are projects that are cleared not being implemented first before more clearances are asked for? Is this a land and water scam? Is this a new age license scam in the non-license raj of liberalisation?

The Forest Policy 1952 (amended 1988)

The National Forest Policy 1988 saw the beginning of the focus on conservation of floral and faunal diversity. More importantly, it clearly recognised that "the life of tribals and other communities living within and near forests, revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest products".

The policy paved the way for Joint Forest Management. The basic objectives governing the Policy are:

- Maintenance of environmental stability through preservation
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuelwood, fodder, minor forest produce and small timber of the rural and tribal population. Increasing the productivity of forests to meet essential national needs.

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

The enactment of this Act was the result of the struggle by the marginal and tribal communities of our country to assert their rights over the forestland on which they have been traditionally dependent. The Act provides for

- recognition and vesting of such forest rights which could not be recorded
- a framework for recording of rights, including the nature of evidence
- rights with responsibilities and authority for sustainable use, conservation of biodiversity -- conservation regime to be strengthened while ensuring livelihood security
- an adequate settlement process
- security of tenure and access to forest resources

Types of rights to be recognised

- Secure individual or community tenure or both, on all forest lands
- Right to hold and live in the forest land under individual or common occupation for habitation or self-cultivation for livelihood
- Community rights, such as *nistar*, including those in erstwhile princely states
- Right of ownership, access to collect, use or dispose of minor forest produce which have been traditionally collected within or outside village boundaries
- Other community rights of uses or entitlements such as fish and other products of water bodies, grazing and traditional seasonal resource access of nomadic or pastoralist communities



- Rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.
- Rights, in or over, disputed lands
- Rights for conversion of *pattas* or leases or grants on forest land to titles
- Rights of settlement of all forest villages, old habitations, unsurveyed villages and other villages in forests, whether recorded, notified, or not, into revenue villages
- Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use
- Rights which are recognized under any state law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any state
- Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity
- Any other traditional right customarily enjoyed which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal
- Right to *in situ* rehabilitation including alternative land in cases where FDSTs and OTFDs have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005 FCA exempted on certain diversions
- The Central Government shall provide for diversion of forest land for the following facilities managed by the government which involve felling of trees not exceeding 75 trees per project

Status report on implementation of the Forest Rights Act, 2006 [for the period ending July 31, 2012]

As per the information collected by the Union ministry of tribal affairs (MoTA), 32,28,887 claims have been filed and 12,68,766 titles have been distributed. Further, 14,726 titles were ready for distribution. Goa has not distributed any titles so far.

Bamboo still a distant dream

No village in Maharashtra other than Mendha Lekha has been able to access bamboo

The success story of Mendha Lekha achieving record earnings on the sale of bamboo ends just there.

News reports went to the extent of calling this village in Maharashtra's Gadchiroli district crorepati. But six months after the then environment minister Jairam Ramesh announced the liberation of bamboo, villages which have received community forest rights (CFR) are still unable to access bamboo that is theirs by right.

The forest department has not yet given gram sabhas the transit pass books that give owners the power to sell and transport bamboo. Hopes were raised when the gram sabha in Mendha Lekha was given the pass book. People in other villages believed the passes would become freely available to them as well. But this did not happen.

Marda, which had received its CFR documents along with Mendha Lekha, applied for transit pass book about two months ago but the department did not respond.

"Marda had applied for it last year as well but the request was ignored," says Subodh Kulkarni, an independent researcher. "This year, the gram sabha followed up the request and met the divisional forest officer. But the department still did not act," he says.

"The gram sabha has already entered into a contract with a private contractor to sell its bamboo at Rs 33 per long bamboo pole for an estimated 150,000 to 200,000 bamboo poles. This is the rate that Mendha Lekha gets," says Nitin Barsinge of the non-profit Vedha, which is helping Marda claim its rights over bamboo. "Bamboo felling season begins in November.

Preparatory work will start soon. Villagers are now getting edgy over the department's silence," he adds.

When contacted, M Karunakaran, chief conservator of forests of Gadchiroli, pleaded ignorance about the application for the book of transit passes by Marda village, but assured that it would be issued soon.

The gram sabha, on its part, has decided that if the passes are not issued in time, it will protest by felling 10,000 to 15,000 bamboos just the way people of Mendha Lekha did last year. "Villages that have got CFR rights want to market their bamboo just like Mendha Lekha does. There is large-scale discontent over the bottlenecks imposed by the department," says Kulkarni (see 'Forest department's cheat act', Down To Earth, August 1-15, 2011).

People are also apprehensive about the way transit passes will be issued. "Mendha Lekha was given passes that the department issues to contractors. They were made to pay what was paid by contractors," says Vishu Sainuji Potawi, president of the forest rights committee (FRC) in Marda. "We do not want to be treated like contractors. We want the passes that the department uses for its own felling. We want them as our right, free of cost," he says.

People have also expressed discontent over dependence on the department for transit passes. "It will be a constant hassle to ask the forest department for the pass each time we need it," says Roopchand Dakhne, president of the forest rights committee in Ghati village. "The department will do everything it can to slow us down," he alleges.

"Paying for the passes every year will compromise the autonomy of the gram sabha and be against the spirit of the Forest Rights Act (FRA)," says Mohan Hirabai Hiralal of the non-profit Vrikshamitra.

"Gram sabhas need a village-led system where the forest department acts as a supportive agency. It is time the government, the forest department and the gram sabhas got together to evolve this system," he says.

As an alternative way of marketing forest produce, Mendha Lekha gram sabha is considering printing its own transit passes. The department's first reaction to this is negative. "It is illegal," says Karunakaran. But gram sabhas and non-profits disagree.

"The FRA grants management and ownership rights over minor forest produce to gram sabhas," says Hiralal. "This automatically gives them the right to work out the procedures. If the department does not want this to happen, it should suggest an alternative that works for gram sabhas," he adds.

– Down To Earth, October 31, 2011



Jamguda residents have harvested bamboo worth Rs 1,00,000, but are not being allowed to sell it to outsiders though they have community rights over their forest

Kalahandi MP denied bamboo passage

He is not allowed to cart away bamboo poles purchased from village conferred community rights under Forest Rights Act

Used to many parliamentary privileges, Bhakta Charan Das, the Lok Sabha member from Kalahandi in Odisha, was baffled when the local forest department didn't allow him to carry away a few pieces of bamboo bought from Jamguda village which has been conferred community rights over its forest. The village comes under his parliamentary constituency and is the first village in the state to exercise rights over bamboo under the Forest Rights Act (FRA) of 2006.

In 2010, the village got community rights over 123.50 ha of local forest under FRA, which defines bamboo as a minor forest produce and gives community the right to manage, harvest and sell bamboo. The village residents have been voluntarily protecting this patch of forest for the past three decades.

On June 16, the village council decided to harvest bamboo from the forest as it had flowered extensively. To celebrate the first assertion of their right, the village invited Das as the first buyer on June 23. He bought 300 poles of bamboo and paid Rs 3,000 to the village council.

But he was not allowed to take the bamboo out of the village without a transit pass from the forest department. "There is no standing order on issuing transit order to the gram sabha; also, we have not received clear instructions on sale of bamboo from community forest to outsiders," says a forest official from the district. Das has not been issued the transit pass till now. "The Forest department told me the state government treats bamboo as a restricted commodity. How can they bypass an Act (FRA) passed by Parliament?" he asks.

Down To Earth couldn't contact the area's divisional forest officer (DFO) despite repeated efforts. The forest department, however, has allowed the village to harvest and use the bamboo within the village.

"I spoke to the local DFO as well as the chief conservator of forest in charge of non-timber forest produce to process my transit pass. They have to; the law is very clear. It is a symbolic fight for a right given under law," says Das.

Right over bamboo under FRA has been a contentious issue. Forest departments across the country have been opposing FRA's definition of bamboo as a minor forest produce and are not granting sales right to villages given community rights over local forests.

In April 2011, the then environment minister Jairam Ramesh bought bamboo from the village council of Mendha-Lekha village in Maharashtra, the first village in the country to exercise the right under the FRA. It was after a long battle between forest and tribal affairs bureaucracy over the Act's provisions that community's right over forest and bamboo as a minor forest produce was recognised.

"Minor forest produce (MFP) is a ownership right vested by Parliament under Forest Rights Act and all state authorities are obliged to respect this provision," he had said in response to the forest officials' opposition to this provision. Ramesh also wrote to all states, clearing the doubts over the Act's definition of MFP that includes bamboo and tendu and ordering them to adhere to this law.

Interestingly, Odisha government agreed to deregulate the bamboo trade in sync with the FRA. During a meeting of forest secretaries in Delhi two months ago, the state government agreed to the FRA definition of MFP, sources say. The prime minister's office along with the Planning Commission have been working on a package to deregulate trade in MFPs and to declare minimum support price for a few of them.

In this context, the current controversy indicates confusion between the state tribal affairs department—the nodal ministry for implementing FRA—and the forest department. "As far as we know, there is agreement within government to allow bamboo harvesting and selling in community forests under FRA. The experience of the member of Parliament may further clarify things," says a senior official of the state's tribal development directorate.

Jamguda has harvested bamboo worth Rs 1,00,000. The latest hurdle created by the forest department will dash the village's hope of using the money from bamboo sale for local development. "Monsoon is already at our door step. If we don't dispose of the bamboo well in time, we may not be able to earn," says Trinath Patra, secretary of Kalahandi District Forest Federation, an association of forest protecting communities like that of Jamguda. In the district, 155 villages have been granted community forest rights under the FRA. "Many of them have large bamboo forests and, thus, have huge earning potential for local development. But the new hurdle will keep people hoping," says Patra.

"This is a fight longer and bigger than the enactment of the Act," says Kalahandi's member of Parliament.

– www.downtoearth.org.in, June 26, 2012

Amended Forest Rights Act rules notified; more powers to gram sabha

Forest department's role in managing forest resources curtailed

The Union ministry of tribal affairs has notified the amended rules for the implementation of the Forest Rights Act (FRA) of 2006. The new rules, notified on September 6, bring more clarity to provisions relating to recognition of forest dwellers' rights to conserve and manage community forest resources, the procedure for which was ambiguous even in the draft amendment rules issued by the ministry in July this year. The fresh rules also give more powers to gram sabha to ensure sustainable use of these resources.

What the amended rules state

- Forest dwellers can transport minor forest produce by any appropriate means of transport
- Transit passes for transporting minor forest produce will be issued by a committee constituted by the gram sabha
- The committee constituted under the gram sabha will prepare conservation and management plan for community forest resources after forest dwellers' rights on such resources are recognized
- The gram sabha committee can integrate its management plans with the forest department's working plans if it considers this necessary
- The gram sabha will approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of forest produce or modification of management plans
- Forest rights related to protection, regeneration and management of community forest resources by forest dwellers for sustainable use should be recognised in all the villages; in case this is not done in a village the reason should be recorded by the district-level committee formed to look into the FRA claims
- To ensure that right claims are not rejected illegitimately by the authorities, the new rules put additional conditions for rejection than those which were there in the draft rules. The authorities will now not be able to reject the claims for being absent from the field verification process
- No committee or individual official at the panchayat, block or forest range level except the forest rights committee shall be eligible to receive, decide or reject the forest rights claims
- State level monitoring committee to report on the progress of the implementation of the Act in the prescribed format, which requires it to furnish detailed information on community forest rights claims

FRA recognises the rights of forest dwellers over forestland and forest resources such as minor forest produce they have traditionally been extracting and using. The implementation of the Act started in 2008, but its benefits did not reach most tribals. The ineffective rules formulated under the Act were blamed for the tardy implementation. To correct this, the tribal affairs ministry had made draft amendments to the rules on July 19 and invited public comments on the draft. In the next one month several suggestions and objections were sent to the ministry on the draft rules by various stakeholders.

Gram sabha to issue transit passes

Sources in the ministry revealed while many tribal rights groups recommended more clarity on provisions of community forest rights in the draft, forest departments across the country had objected to the rules as they gave more authority to the gram sabha and curtailed the role of the departments. The new rules say that forest dwellers can transport minor forest produce (MFP) by "any appropriate means of transport" and mandate that transit passes for the same will be issued by a committee constituted by the gram sabha.

The draft rules issued in July were silent on transit passes. "This would have led to a threat of opening up of forest for unsustainable use. But allowing the forest department to issue transit passes, as has been done so far, would have defeated the purpose. The ministry has done the right thing by empowering gram sabha to issue transit passes," said Madhu Sarin of non-profit Campaign for Survival and Dignity.



According to the new rule, the committee constituted under the gram sabha will prepare conservation and management plan for community forest resources after forest dwellers' rights on such resources are recognised. The draft rules were silent on post rights-recognition scenario on how these forest resources will be managed. So far, the forests are managed by the forest departments according to their working plans. The rules say that the gram sabha's committee can integrate its management plans with the forest department's working plans if it considers this necessary. The gram sabha will approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of forest produce or modification of management plans, say the rules.

Forest claims cannot be rejected arbitrarily

Mandating that forest rights related to protection, regeneration and management of community forest resources by forest dwellers for sustainable use should be recognised in all the villages with forest dwellers, the rules say that in case this is not done in a village the reason should be recorded by the district-level committee formed to look into the FRA claims. To ensure that right claims are not rejected illegitimately by the authorities, the new rules put additional conditions for rejection than those which were there in the draft rules. The authorities will now not be able to reject the claims for being absent from the field verification process.

Besides, no committee or individual official at the panchayat, block or forest range level except the forest rights committee shall be eligible to receive, decide or reject the forest rights claims. The rules say that satellite imagery and technological tools cannot be treated as the replacement of evidence prescribed in the Act for verifying the claims, but can only be used as supplements. The new rules also prescribe a format for the state level monitoring committee to report on the progress of the implementation of the Act which requires detailed information on community forest rights claims.

– www.downtoearth.org.in, September 8, 2012

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