

LOK SABHA

**JOINT COMMITTEE ON THE SCHEDULED TRIBES
(RECOGNITION OF FOREST RIGHTS) BILL, 2005**

REPORT OF THE JOINT COMMITTEE

(Presented to Lok Sabha on 23 May,2006)
(Laid in Rajya Sabha on 23 May,2006)

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**LOK SABHA SECRETARIAT
NEW DELHI**

May, 2006/Jyaistha, 1928 (Saka)

C O N T E N T S

	PAGE
1. COMPOSITION OF THE JOINT COMMITTEE	(iii)
2. REPORT OF THE JOINT COMMITTEE	(v) – (xxvi)
3. BILL AS REPORTED BY THE JOINT COMMITTEE	1

APPENDICES

Appendix-I : Motion in Lok Sabha for reference of the Bill to the Joint Committee	15
Appendix-II: Motion in Rajya Sabha	16
*Appendix-III: Bill as introduced in the House	17
Appendix-IV: List of Associations/Organizations/NGOs/ Individuals etc. from whom memoranda were received by the Joint Committee	28
Appendix-V: List of witnesses who tendered oral evidence before the Joint Committee	40
Appendix-VI: Minutes of the sittings of the Joint Committee	44

* May be retrieved for the Parliament of India Website www.parliamentofindia.nic.in under the heading “Bill with the Committee”.

**JOINT COMMITTEE ON THE SCHEDULED TRIBES
(RECOGNITION OF FOREST RIGHTS) BILL, 2005**

COMPOSITION OF THE COMMITTEE

SHRI V. KISHORE CHANDRA S. DEO

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CHAIRMAN

MEMBERS

Lok Sabha

2. Shri Shingada Damodar Barku
3. Shri Mahavir Bhagora
4. Shri C.K. Chandrappan
5. Shri Giridhar Gamang
6. Dr. P.P. Koya
7. Shri A. Krishnaswamy
8. Shri Shailendra Kumar
9. Shri Rajesh Kumar Manjhi
10. Shri Babu Lal Marandi
11. Shri Madhusudan Mistry
12. Shri Hemlal Murmu
13. Shri Jual Oram
14. Shri Baju Ban Riyan
15. Shri Nand Kumar Sai
- @16. Dr. Babu Rao Mediyam,
17. Shri Sugrib Singh
18. Shri Rajesh Verma
19. Shri Ravi Prakash Verma
20. Shri P.R. Kyndiah

Rajya Sabha

21. Shri Rishang Keishing
22. Dr. Radhakant Nayak
23. Smt. Brinda Karat
24. Shri Devdas Apte
25. Shri Ravula Chandra Sekar Reddy
26. Shri N. Jothi
27. Shri Mangani Lal Mandal
28. Shri Nand Kishore Yadav
29. **
30. **

@ appointed w.e.f. 21.2.2006 vice Adv P. Satheedevi resigned

** Vacant vice Sarvashri Moolchand Meena and Birbhadra Singh ceased to be members of the Committee on retirement from Rajya Sabha w.e.f. 3 April, 2006

SECRETARIAT

1. Shri R.C. Ahuja	-	Joint Secretary
2. Shri R.K. Bajaj	-	Deputy Secretary
3. Shri J.K.Jena	-	Under Secretary
4. Shri J.V.G. Reddy	-	Under Secretary
5 Shri K.R. Narendra Babu	-	Executive Officer
6. Shri D.K. Arora	-	Senior Executive Assistant

REPRESENTATIVES OF MINISTRY OF TRIBAL AFFAIRS

Ms. Meena Gupta	-	Secretary
Shri Rajeev Kumar	-	Joint Secretary

REPRESENTATIVES OF THE MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)

Shri N.K. Nampoothiry	-	Joint Secretary & Legislative Counsel
Shri S. Sreenivas	-	Assistant Legislative Counsel

REPORT OF THE JOINT COMMITTEE ON THE SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005

I, the Chairman of the Joint Committee to which the Bill* *viz* the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 was referred, having been authorised to submit the Report on their behalf, present this Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on 13 December, 2005. The motion for reference of the Bill to a Joint Committee of both the Houses of Parliament was moved in Lok Sabha on 21 December, 2005 by Shri P.R. Kyndiah, the Minister of Tribal Affairs, and was adopted by the House (**Appendix-I**)

3. The Rajya Sabha concurred in the said motion on 23 December, 2005 (**Appendix-II**)

4. The message from Rajya Sabha was published in Lok Sabha Bulletin Part-II dated 26 December, 2005.

5. The Committee held 14 sittings in all.

***Published in the Gazette of India, Extraordinary Part-II, Section 2 dated 13.12.2005**

6. At their first sitting held on 16.1.2006, the Committee held general discussion on the various provisions of the Bill and noted the importance and urgency of the task before the Committee. The Committee also had a briefing of the representatives of the Ministry of Tribal Affairs on the Bill under reference and the need to enact it. Considering the sensitive issue which required thorough and comprehensive study, the Committee decided that a press communiqué might be issued in all national dailies and other leading newspapers inviting memoranda from experts, organizations, associations, NGOs and general public on the various provisions of the Bill. The Committee also decided that the contents of the press communicate be given wide publicity through All India Radio and Doordarshan. The Chairman also requested the members to give their written opinions/suggestions besides suggesting the names of organizations/individuals from whom memoranda might be invited.

7. A press communiqué inviting memoranda and requests for oral evidence before the Committee was issued accordingly in national dailies and regional newspapers and the matter was given wide publicity through All India Radio and Doordarshan.

8. As per the decision taken by the Committee, letters inviting memoranda containing suggestions/comments on the provisions of the Bill were also issued to all the State Governments/Union Territory Administrations.

9. At their second sitting held on 27 January, 2006, the Committee heard the views of the representatives of the Ministry of Environment and Forests on the various provisions of the Bill. The Committee also desired that the Ministry of Environment and Forests furnish to them copies of various guidelines/circulars/directives, etc., issued by them under the Forest (Conservation) Act, 1980.

10. At their third sitting held on 7 February, 2006, the Committee heard the views of the representatives of the Ministries of (i) Social Justice and Empowerment; (ii) Rural Development (Department of Land Resources); and (iii) Panchayati Raj, on various provisions of the Bill.

11. The Report of the Committee was to be presented by the last day of the Second week of Budget Session, 2006. As the Committee had to complete the work of taking evidence and clause by clause consideration, the Committee decided to seek extension of time for presentation of the report. The Committee was granted extension of time to present the Report by the last day of the Budget Session, 2006. The Committee also desired that they might undertake an on the spot study visit to various parts of the country to elicit the views of the representatives of various organizations, associations and general public on the various clauses of the Bill. However due to time constraints the Committee could not undertake on- the- spot study visits.

12. The Bill as introduced in the House on 13 December, 2005 is enclosed (**Appendix III**)

13. In all 109 memoranda containing comments/suggestions on the various provisions of the Bill were received by the Committee from various associations/organizations/NGOs/experts and individuals etc. (**Appendix IV**)

14. At their sittings held on 3 .3.2006, 9.3.2006, 10.3.2006, 23.3.2006 24.03.2006, 17.4.2006, 18.4.2006 and 19.4.2006, the Committee took oral evidence of the representatives of various organizations/associations/NGOs/experts/individuals, etc. A list of organizations/associations/NGOs etc. who tendered their oral evidence before the Committee is enclosed. (**Appendix V**)

15. The Committee undertook clause-by-clause consideration of the provisions of the Bill on the basis of amendments suggested by the Members of the Committee, at their sittings held on 8 and 9 May, 2006.

16. At their sitting held on 19 May, 2006 the Committee considered and adopted their draft Report and authorised the Chairman to present the report on their behalf. The Committee also decided that (i) the evidence tendered before the Committee might be laid on the Table of both the Houses of Parliament; (ii) two copies each of the memoranda received by the Committee from various quarters might be placed in the Parliament Library after the Report has been presented to Parliament, for reference by the Members of Parliament.

17. The observations of the Committee with regard to principal changes proposed in the Bill are detailed in the succeeding paragraphs.

Clause 2(a) [Definitions]

18. While considering Clause 2(a), the Committee felt that the authority determining the forest rights and for deciding any disputes in relation to any forest right recognized and vested under this Act shall be the Gram Sabha and not any other authority. The Committee accordingly redefined the powers and functions of the Gram Sabha under Chapter IV and also decided to omit Clause 4(7). Consequently, the Committee felt that there is no need for a definition of ‘competent authority’ after omission of Clause 4(7). The Committee, therefore, recommend omission of Clause 2(a).

Clause 2(a) [a new provision regarding definition of community forest resource]

19. The Committee note that the term “community forest resource” used in 3 (j) has not been defined anywhere in the Bill, or in any other Act of Parliament. The Committee feel it necessary to define the criteria for the entire spectrum of resource that will come within the definition of community forest resource to avoid any ambiguity regarding such rights. The

Committee have, therefore, decided that a new definition regarding ‘community forest resource’ be added. Accordingly a new definition has been added under Clause 2(a).

Clause 2 (b) [a new definition of ‘critical wildlife habitat’ in place of ‘core area’

20. The Committee feel that the words “Core Areas” are presently being used by the Ministry of Environment and Forests as a management concept without any statutory backing. The Committee feel that the declaration of an area as a “Core Area” requires a site specific open process, with involvement of all stakeholders and multi-disciplinary experts (particularly scientists and traditional knowledge holders) and should take place through democratic mechanisms, prominently including local community representatives. The Committee also feel that instead of providing for automatic relocation from “Core Areas”, there should be clear, effective and fair process for deciding on when such relocation is absolutely necessary and for providing suitable safeguard and how it is to be done. The present definition in the Bill regarding “core area” does not take care of these concerns. The Committee, therefore, decided that the definition of “Core Area” under Clause 2(b) be omitted and a new definition regarding ‘critical wildlife habitat’ be provided under Clause 2(b). Accordingly, definition of “critical wildlife habitat” has been added under Clause 2(b).

Clause 2 (c)

21. During evidence before the Committee, the representatives of many organizations informed that a large number of forest dwelling Scheduled Tribes not only reside in forest but also in the close proximity of the forest land who mainly depend on forest for their *bona fide* livelihood needs. However, the present definition of forest dwelling Scheduled Tribes does not include the community of Scheduled Tribes who reside in the close proximity of forest land. As such their claims for recognition and vesting of rights would not be accepted causing a threat to their livelihood. The Committee feel that there is a need to expand the definition of ‘forest dwelling Scheduled Tribes’ to include such Scheduled Tribes who reside in or in the

close proximity of the forest land to protect their rights to livelihoods and other rights. Accordingly, the definition of Clause 2 (c) has been amended.

Clause 2(d)

22. The Committee felt that the term “forest area” is ambiguous and should not be part of the definition. The Committee, therefore, felt that the words “falling within any forest area and includes unclassified forests” may be substituted with the words “recorded or notified as forests and includes unclassified forests”. Accordingly, the clause has been amended.

Clause 2(g)

23. While considering Clause 2(g), the Committee have felt that the words “*padas, tolas or other* traditional village institutions and elected village committees, with full and unrestricted participation of women” be added in the definition to make it more clear. The Committee have also felt the need for further clarifying by adding explanation regarding the term village assembly as it applies to areas covered by the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996, should apply to other panchayats as well. Accordingly clause 2(g) has been amended with an Explanation.

Clause 2(i)

24. While considering the definition of minor forest produce the Committee have felt it necessary to include stones, slates and boulders, the products from water bodies including fish, weed and the like and also fuel wood within the definition to make it more inclusive. Accordingly, Clause 2(i) has been amended.

A new sub clause 2(o) [a new definition regarding other traditional forest dwellers]

25. The Committee note that the provisions of the Bill seek to recognize and vest rights only in respect of forest dwelling Scheduled Tribes. However, the Committee have been informed during evidence that a large number of traditional forest dwellers other than

Scheduled Tribes have also been residing in the forest or in close proximity of the forest or forest land for generations and primarily depend on forest land or forest resources for their *bona fide* livelihood. These people have also been victims of historical injustice as they have lived on forest land from ancient times. Non-recognition of their rights would not only pose a threat to their livelihood but also could lead to their eviction from the forests. The Committee also note that these people have lived in forest in close harmony with the Scheduled Tribes community residing in the forest. The Committee also note that in many cases the non-Scheduled Tribes category of forest dwellers have been settled on forest land by Government to promote policy like Grow More Food or by way of rehabilitation due to displacement caused by development projects. The Committee also feel that classification of people into Scheduled Tribes and Non-Scheduled Tribes has come into being after Independence. Since the Bill seeks to undo historical injustice, the Non Scheduled Tribes category people residing in forest should also be entitled for recognition and vesting of forest rights. The Committee have, therefore, decided to include a new definition in the Bill to cover “other traditional forest dwellers” with specific conditions to become eligible for recognition and vesting of rights.. Accordingly, a new definition under sub clause 2(o) has been inserted after the original clause 2(n) and consequential changes have been incorporated in all relevant clauses in the Bill.

Original clause 2(o)(i)(ii)(iii)and (iv) renumbered as 2(p)(i)(ii) and (iii)

26. While considering this clause, the Committee have felt the need to add the words “regardless of whether the area involved is a Scheduled Area or not” to make it clear that “village” as referred to in clause (b) of Section 4 of the Panchayats (Extension to the Scheduled Areas) Act, 1996 shall for the purpose of this Act, apply to non-scheduled areas also and also the need for omission of the original clause 2(o)(ii). Accordingly, clause 2(p), as renumbered, has been amended .

Original clause 2(p) renumbered as Clause 2(q)

Clause 3(1) [original clause 3]

27. While considering Clause 3 , the Committee have felt that the forest rights being provided under Chapter II shall include such rights on all forest lands to avoid any ambiguity in this regard and such rights should also be applicable to other traditional forest dwellers. Accordingly, original clause 3 has been amended and renumbered as clause 3(1).

Clause 3(a)

28. The words “or other traditional forest dwellers” have been added at the end of clause 3(a), re-numbered as Clause 3 (1) (a), as consequential changes.

Clause 3(b)

29. The Committee note that clause 3 (b) restricts community rights such as *nistar* rights only to those that prevailed in erstwhile princely States, *Zamindari* or such intermediary regimes. However, the Committee note that the nature and extent of *nistar* rights have changed substantially over the period of *Zamindari* or such intermediary regimes. The Committee, therefore, have felt the need to enlarge the meaning of community rights such as *nistar* to include all such community rights which fulfill *bona fide* livelihood needs even when they are not traced back to princely States, *Zamindari*, or such intermediary regimes that occur in forest land. Accordingly, Clause 3 (b) renumbered as Clause 3 (1) (b) has been amended.

Clause 3(c)

30. The Committee note that the right of ownership access presently does not include the right to collect, transport and dispose of minor forest produce. Further, the provisions do not specify that the minor forest produce could also include those, which have been traditionally collected within or outside village boundaries. The Committee have felt that these should be

included within the right of ownership access to minor forest produce. Accordingly, clause 3 (c), renumbered as clause 3 (1) (c), has been amended.

Clause 3(d)

31. While considering Clause 3(d), the Committee have felt that the other community rights of uses or entitlements should also include fish and other products of water bodies. To avoid ambiguity between the words settled and transhumant used in the provision, the Committee have felt that the word 'and' be substituted with 'or'. Accordingly, the Clause 3(d) as renumbered as clause 3 (1) (d) has been amended.

Clauses 3(1) (h) [original clause 3(h) and (i) clubbed as 3(h)]

32. While considering Clause 3(h), the Committee have felt the need to expand the meaning of these rights to include all forest villages, old habitations and unsurveyed villages and other villages in forest, whether recorded, notified or not into revenue villages to make it more comprehensive and clear. Accordingly, clause 3(h) has been amended. In view of the amendment made to clause 3(h), the Committee have decided that clause 3(i) is redundant and be omitted. Accordingly, the clause 3(i) has been omitted.

Clause 3(1) (i)- [original clause 3(j) renumber as 3(i)]

33. The Committee note that the right regarding community forest resource does not include the right and authority for the community to use in the present provision. The Committee have also felt that to prevent exploitation of forest dwellers their rights shall *inter alia* include right to all produce and benefits such as timber, minerals, environmental and cultural services. The Committee, therefore, decided to amend the clause accordingly. The original clause 3(j) has been amended and renumbered as clause 3 (1) (i)

Clause 3(1) (j)- [original clause 3(k)]

34. The Committee have felt that for the words “law of any State” the words “law of the concerned tribes of any State” may be substituted to avoid any ambiguity in interpretation of the customary law. Accordingly, the original clause 3(k) has been amended and renumbered as 3(j).

New clause 3 (1) (k)

35. The Committee also feel that forest dwelling community should be protected against the forces of exploitation as well as restrictions related to the use of genetic material by entities such as pharmaceutical companies. The Committee are of the opinion that such protection has not been adequately given under the Biological Diversity Act, 2002. The Committee, therefore, feel that it is necessary to ensure such protection through the provisions of this Act also. The Committee have, therefore, decided to incorporate suitable provisions in this regard. Accordingly a new clause 3 (1) (k) has been provided.

New Clause 3(1) (m)

36. The Committee have felt that displacement is one of the most severe threats to the livelihood and dignity of forest dwelling communities. Displacement and eviction have been taking place across the country without the settlement of rights and mostly without the provisions of rehabilitation. The Committee have felt that there should be provisions in the Bill to recognize the rights of such displaced people. The Committee feel that the people so displaced should have the right to *in situ* rehabilitation and alternative land. The Committee have, therefore, decided to incorporate suitable provisions in this regard. Accordingly, a new clause 3(1) (m) has been provided.

New Clause 3(2)

37. The Committee have felt that any other traditional right should also include the right to the lands occupied by the families of forest dwelling Scheduled Tribes and other traditional forest dwellers earlier or leased to them by the Forest Departments and taken away subsequently by the Forest Department or other agencies for plantation or any other like

purposes. The Committee decided to incorporate suitable provisions. Accordingly, a new clause 3(2) has been provided.

New clauses 3(3), 3(4) and 3(5)

38. The Committee have also felt that there should be provisions for developmental requirements of food, fibre, education, health, communication and facilities like schools, hospital, roads etc. by way of diversion of forest land which may involve felling of trees not exceeding seventy five trees per project. The Committee have felt that the diversion of forest land for the developmental projects should be allowed only when the requirement of land for such purposes is less than one hectare in each case and the clearance of the development project is recommended by the Gram Sabha. The Committee have also felt that in the case of traditional right, the female members of the Scheduled Tribes shall have equal rights vested with special provision for female headed households and widows. The Committee decided to incorporate suitable provisions in the Bill. Accordingly, new clauses 3(3), 3(4) and 3(5) have been provided.

Clause 4 (1) and (2) [original clause 4(1)]

39. While considering this Clause, the Committee noted that granting of right on provisional basis with provision of relocation with due compensation were not backed by any safeguards. The Committee note that the process of relocation in the context of Project Tiger during the last 30 years has been unsatisfactory. The Committee also note that State Governments have also expressed their difficulty to undertake proper relocation and rehabilitation due to lack of funds. The definition of “Core Areas” being an administrative matter, the Committee decided earlier that it might be replaced with a more comprehensive definition of ‘Critical Wildlife Habitat’ with adequate safeguards. The Committee have felt that for the purpose of creating inviolate areas for wildlife conservation, the rights recognized under this Act in ‘critical wildlife habitat’ may be modified and settled without any prejudice

to the rights and settlement of forest right holders. Such modifications shall be subject to conditions like the completion of process of recognition and vesting of rights as specified in the Act, and consent of all right holders and in consultation with independent ecological and social scientists familiar with the area after considering and exhausting the option of co-existence, in preparation of advance resettlement or alternative package and consent of the Gram Sabha and concerned individual to such package. The Committee have also felt that no such settlement should take place until all facilities and land allocation at the resettlement location are complete as per promised package. They should have rights to return to original habitat if not satisfied with rehabilitation. The Committee have decided to incorporate suitable provision in this regard in the Act. The Committee have also felt the need of the amendment of the chapter heading and desired that it be read as “Recognition, restoration and vesting of forest rights and related matters”. Accordingly, the original clause 4(1) alongwith its two provisos have been substituted with new clauses 4(1)(a) and (b) and 4(2)(a) to (f) alongwith two provisos.

Clause 4(3) (original Clause 4 (2))

40. The Committee note that the cut off date i.e. 25 October, 1980 provided in the Bill for recognition of rights has no legal sanctity except that it is the date of the commencement of the Forest (Conservation) Act, 1980. Such a cut off date in the distant past will take away the right of many people who have migrated or been displaced or shifted from their original location during this period. Furthermore, it will make it very difficult for the forest dwellers to prove and establish their claims for rights. The Committee also note that during this period, 10 lakh hectares of forest land have been diverted for non-forest use for mines, industry and development projects. As such the present cut off date will lead to eviction and denial of right to millions of forest dwellers who depend on forest and forest land for their *bona fide* livelihood. The Committee have felt that such a cut off date will go against the very spirit and

object of the Bill as it seeks to undo historic injustice towards forest dwelling Scheduled Tribes and other traditional forest dwellers. To overcome the abovesaid problems, the Committee decided to change the cut off date to the 13 December, 2005 i.e. the date of introduction of the Bill in Lok Sabha. Accordingly, the original clause 4(2) has been amended and renumbered as clause 4(3).

Clause 4(4) [(original clause 4(3))]

41. The Committee have felt that the meaning of original Clause 4(3) may be expanded to include the provisions mentioned in original clause 4(5)(ii) and also to include that “in the absence of a direct heir, the heritable right shall pass on to the next of the kin” to make it amply clear and comprehensive. Accordingly, original Clause 4(3) renumbered as clause 4(4) has been amended. Clause 4(5)(ii) has been merged accordingly.

Clause 4(5) (original clause 4(4))

42. While considering this Clause, the Committee have taken the view that the procedure for eviction of ineligible forest dwellers from forest land shall not be left to the rules to be prescribed. The Committee have desired that such eviction shall not take place till recognition and verification process is completed. Accordingly, the words “in such manner as may be prescribed” have been deleted and the clause has been amended and renumbered as clause 4(5).

Clause 4(6) [(original clause 4(5)(i))]

43. While considering this Clause, the Committee have felt that there should not be any ceiling of 2.5 hectares as provided in the Clause. The Committee feel that the ceiling is not justified because ceiling assumes that everyone is engaged in individual settled cultivation whereas in tribal areas there is wide diversity of land use system. Further, the ceiling also does not take into account the quality and productivity of land. The Committee also note that the provisions of the Bill do not provide for distribution of the land but only provide for recognition of rights on as is where is basis. It may be pertinent to mention here that there are

no proper estimates with the Government to show exactly how much forest land will be involved in regularisation of rights of forest dwellers. According to the information made available by the Ministry of Environment and Forests, the total area under encroachment as per the information received from States/Union Territories, including pre 1980 eligible and post 1980 encroachment is 1.343 mha which is just 1.73% of the 77.47 mha of the recorded forest area of the country. In view of this, the Committee have felt that the ceiling of 2.5 hectares be removed and it be restricted to the area under actual occupation of an individual or family or community and delete the words 'per nuclear family of a forest dwelling Scheduled Tribe'. Accordingly, the original Clause 4(5)(i) has been amended and renumbered as 4(6).

Clause 4(7) [(original clause 4(6) and 4(6))(i)]

44. The Committee have decided to club sub-clause 4(6)(i) with Clause 4(6) without any modification. Accordingly the Clause 4(6) has been amended and renumbered as clause 4(7).

Clause 4(6)(ii)(original clause)

45. The Committee have felt that the responsibility and authority cast upon forest dwelling Scheduled Tribes in regard to protection, conservation and regeneration of adjoining forests shall be omitted. Accordingly, the Clause 4(6)(ii) has been omitted.

Original Clause 4 (7)

46. The Committee feel that since the Gram Sabha has been decided to be vested with all the authority under clause 7 for deciding any dispute in relation to any forest right recognized and vested under this Act , the provisions of existing clause 4(7) are considered to be redundant . The Committee, therefore, decided to omit existing clause 4(7). Accordingly, original Clause 4(7) has been omitted.

New Clause 4(8)

47. In regard to the claims of rights under clause 3(e), the Committee have taken the view that communities that partially or fully practise shifting cultivation shall have full decision making powers over land use on any land within the jurisdiction of traditional boundaries or range of that community. Accordingly a new clause 4(8) has been provided.

Clause 4(9)[(Original 4 (8))]

48. While considering this Clause the Committee have felt that the forest rights conferred shall be free from encumbrances such as procedural requirements under the Forest (Conservation) Act, 1980 and the 'requirement of paying the net present value and compensatory afforestation for diversion of forest land' "except those specified in this Act". Accordingly, original Clause 4(8) has been amended and renumbered as clause 4(9).

New Clause 4(10)

49. The Committee have felt the need for insertion of a new clause 4(10) to provide that the forest rights shall include the right of land to the forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their place of dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within a period of five years. Accordingly, a new sub clause 4(10) has been inserted.

Clause 5

50. While considering this Clause, the Committee have noted that the provisions of the Clause had put certain duties on the holder of the forest rights to protect forest, wildlife, bio-diversity, etc. and also to prevent any activity in violation of the provisions of the Wildlife (Protection) Act, 1972 and the Forest (Conservation) Act, 1980, etc. The Committee have,

however, felt that this authority should be entrusted to the Gram Sabha and village level institution. The Government should also have the duties to protect the rights of the forest dwellers and prevent their exploitation, and compensate etc. adequately in the case of displacement.. The Committee have also decided that in areas where the Sixth Schedule of the Constitution is applicable, its provisions regarding land acquisition shall prevail over this Act. The Committee have also felt that the forest dwellers should not be denied any benefit arising out of any explorations, exploitations and use of natural resources and the Government should provide adequate compensation for any damages caused by such activities. In view of this, the Committee have decided that for the existing clause 5, suitable provisions in this regard be substituted. Accordingly, original clause 5(a) to (e) has been substituted with new clauses 5(1)(a) to (e) and 5(2),(3), (4)and (5) alongwith a proviso.

Clause 6

51. The Committee have felt that the Gram Sabha should be made the primary authority for determination and recognition of rights because it is completely public and open forum, where any decision has to be made openly and can be challenged. The scope of corruption in such forum is reduced. The Gram Sabha also brings together the persons who have the most direct knowledge of the ground situation. Any right holder aggrieved by the decision of Gram Sabha should make an application to Sub Divisional Level Committee within 60 days from the date of Gram Sabha resolution. Sub Divisional Level Committee shall make recommendation of advisory nature on such application within 60 days to the Gram Sabha. The Gram Sabha will consider and decide on the recommendation of the Sub Divisional Level Committee within 90 days. The potential rightholder aggrieved by the Gram Sabha decision based on the recommendation of Sub Divisional Level Committee may appeal to the District Level Committee within 60 days from the decision of the Gram Sabha. The District Level Committee shall consider and dispose of the petition with the safeguard for giving

opportunity of hearing the aggrieved person. The Sub Divisional Level Committee and District Level Committee and State Level Monitoring Committee shall have at least one half of its members from the Forest Dwelling Scheduled Tribes with the provision for inclusion of elected representatives and disadvantaged communities on the Committees. At least one-third of the non official members on these Committees shall be women. These Committees will be headed by the officials from the Revenue Department.

52. The Committee felt that the functions of and procedures to be followed by these committees should be laid down in the Act and not left to the rules alone to be prescribed. The Committee also felt that a provision should also be made for defining the boundaries of shared customary Forest area or to resolve disputes, if any, between two or more Gram Sabhas and the role of Sub Divisional Level Committee in resolution of such dispute within a specified time period. The detailed criteria which should be accepted as evidence in support of the claim to a right under this Act should also be laid down in the provisions to avoid any ambiguity and misinterpretation on this account. Accordingly original Clause 6 (1) to (9) has been substituted with new provision under Clause 6 (1) to (12).

Clause 7 (original)

53. The Committee note that object of the legislation is to recognize and vest traditional rights in forest dwellers to correct the historical injustice done to them. Hence, the penal provisions of fine and suspension of forest rights for violation of any provisions of this Act etc. were regarded by the Committee as too harsh and inappropriate. The Committee have felt that such penal provisions may enable the authorities to book the forest dwellers for alleged violation, causing them avoidable harassment. The Committee have, therefore, decided that these provisions be omitted. Accordingly, Clause 7 has been omitted.

New clause 7

54. The Committee have felt that the Gram Sabha may at any time constitute one or more committees or other institutions consisting solely of members of that Gram Sabha with representation of women to consider matters that fall within the purview of the Gram Sabha under this Act and recommend a course of action to the Gram Sabha provided that the powers of such committees or institutions shall be purely advisory in nature. Accordingly, a new clause 7 after existing clause 6 alongwith a proviso has been provided.

New Clause 8

55. The Committee have noted that as per the guidelines issued in 1990 by the Ministry of Environment and Forests the “State Governments/Union Territory Administrations may provide alternative economic base” to persons whose occupation was found to be ineligible for regularization. To ensure livelihood for poor, the objective of the Government is to ensure that the eviction of people is discontinued. However, due to the cut off date and process failure many non Scheduled Tribe forest dependent people might be declared ineligible under the law. The Committee have felt that all such people should be distinguished from those who have entered the forest for commercial purposes or by taking over tribal land and all such people should be considered for *in situ* rehabilitation in the proximity of forests and allowed access for livelihood by way of employment in afforestation or in other forest based activities. The Committee have, therefore, felt that a provision to this effect should be made in the Bill. Accordingly, a new clause 8, after new clause 7 has been inserted.

Original clauses 8,9,10,11 and 12 renumbered as 9,10,11,12 and 13

New Clause 14 (original clause 13)

56. The Committee have felt that the directions to be issued by the Central Government under this Act shall be consistent with the provisions of this law and shall not result in curtailing or abrogating any of the rights recognized under this Act. The Committee, therefore, decided to make suitable provision. Accordingly, proviso has been added under clause 14.

Clause 15 [original clause 14]

57. The Committee have felt that it is necessary that the provisions of this Act should have overriding effect if the provisions of any other law for the time being in force or any decree, judgement, award or order of any court are in contravention to the provisions of this Act, the provisions of this Act shall prevail. Accordingly, original clause 14 has been renumbered as clause 15 and has been amended.

Clause 16 [original clause 15]

58. While considering this Clause, the Committee have taken the view that the rules to be made under this Clause should be subject to previous publication to ascertain opinion of the interested and affected parties, before their final publication in the Gazette. The Committee are also of the opinion that the matters relating to prescription of rules to determine the manner in which forest rights may be exercised under sub-section (1) of section 4 and the procedure for and the manner of recognition and verification of forest rights under sub-section (4) of Section 4 may be deleted. Clause 16 has been redrafted on the lines of the enabling provisions in the Bill. Accordingly Clause 16 has been amended.

59. The Committee have also decided that consequential amendments in the Long Title of the Bill, Preamble and Short Title, Enacting Formula be made suitably. Accordingly the requisite amendments have been made.

General Recommendations

Placing of the Bill after its enactment in the Ninth Schedule to the Constitution

60. The Committee have noted that the Bill is an urgent measure intended to address a historical injustice done to a large section of some of the weakest and most marginal communities of our society and in particular the Scheduled Tribes. The Committee have also noted that the courts have passed a number of orders in the light of guidelines issued by the Ministry of Environment and Forests including stay on regularisation of land title and preventing the process of recognition of rights from being completed. At this stage any further delay on the ground of litigation will lead to further injustice to the Scheduled Tribes and other traditional forest dwellers and will result in mass eviction. Since this law is directly intended to fulfill the constitutional mandate under the Directive Principles stated in Article 39(a), 39(b) and 46 of the Constitution and the States mandate under Article 48A, it deserves protection available through Article 31B. The Committee strongly recommend that the Bill after its enactment may be placed in the Ninth Schedule to the Constitution with a view to ensuring smooth and speedy implementation of the provisions of this law.

Setting up of Forest Produce Prices Commission

61. The Committee also recommend that the Government or Nodal Agency designated for the implementation of this Act should set up a 'Forest Produce Prices Commission' to fix a minimum support price for all the forest produce and regulate their prices across the country in order to protect forest dwelling scheduled tribes and other traditional forest dwellers from middlemen and traders.

Rehabilitation Package

62. The Committee are concerned to note that all forest land situated under non-Scheduled areas under this Act will still be open to land acquisition by the Government. Either all such non-Scheduled areas should also be put under the same blanket of protection from acquisition through a Constitutional amendment, or at least the following principles should be introduced in order to deal with the future proposals of acquisition or curtailment of such rights by the State:

- (i) Proposals for large development projects which involve the acquiring of any of the Forest Rights should be first subjected to a holistic appraisal as to the desirability and justifiability of the project. A process for the social appraisal of such projects should be in place, which is made legally binding, and should include the examination and scrutiny of intended "Public purpose". The possibility of achieving the same objective through alternatives that do not curtail, or minimize the curtailment of rights recognized under this Act should also be explored.
- (ii) While determining compensation, the replacement value at the operative market rates along with solatium of at least thirty-five percent must invariably be the basic principle. While determining compensation for the curtailment of other Forest Rights, too, the corresponding principle should be followed. For smooth and effective resettlement, the principle of geographical continuity, cultural homogeneity and ready adaptability must be accepted in choosing and planning resettlement units and sites. The Forest Rights such as those of collecting minor forest produce, common property resources should not be curtailed, but replaced. Loss of livelihood, lost opportunities, and lost common amenities such as access to a water body, or a road or troughs for cattle etc. should be compensated for. If housing or shelter is acquired, better housing, pre-approved by the project-affected persons, should be provided. If Forest Rights are acquired for large projects, there should be a prior legal agreement to give each affected right holder's family a job, free shares equivalent to fifteen percent of the land, the facility or the other entitlement that is acquired. The availability of sufficient trained persons from among the rights holders should be a pre-

condition for curtailment of rights. This means that the training should be provided by the proponent, but only for those who are willing to voluntarily take it up at an earlier stage. In cases where there are irrigation projects, an equal extent of newly irrigated land should be pre-condition of compensation. As far as land is concerned, it should be land-for-land at a location approved by the rights holders. Communities should be assured relocation as an organic whole and not fragmented in the process of relocation, especially in the case of Scheduled Tribes. Specific benefits arising from certain projects such as power or water for irrigation should be first made available free of cost to the rights holders whose right will be curtailed for such projects. Only if such conditions can be legally assured and approved in advance, and provided at least two years before actual relocation, should any sort of curtailment of Forest Rights be considered.

- (iii) Wherever the people are not willing to shift, it must be assumed that the fault is either in the package being offered, the progress of implementation, or in the approach to the communities.
 - (iv) The first policy option should be an option that would save forest dwelling Scheduled Tribes and other traditional forest dwellers from displacement and alienate them from their lands and livelihood. The next preference should be a technology and project with minimum displacement, which should be accepted even if the costs are greater and the benefits are less than the greater displacement option.
 - (v) All forest dwelling Scheduled Tribes and other traditional forest dwellers must be rehabilitated strictly in compliance with ILO 107 Convention, and in strict compliance with the policy of “prior informed consent”
63. The Joint Committee recommend that the Bill, as amended, be passed.

New Delhi

V.KISHORE CHANDRA S. DEO,
Chairman
Joint Committee on the Scheduled
Tribes (Recognition of Forest Rights)
Bill, 2005.

THE SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005
AS REPORTED BY THE JOINT COMMITTEE
No. 158-B of 2005

**THE SCHEDULED TRIBES AND OTHER TRADITIONAL
FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS)
 BILL, 2006**

*[Words underlined indicate the amendments suggested by the Joint Committee
 and asterisks indicate omissions]*

A

BILL

to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystems;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to state development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Short title and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

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(a) “community forest resource ” means customary common forest land within the traditional or customary boundaries of the village, or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government after open process of consultation by an Expert Committee, which includes experts from the locality appointed by the Ministry of the Central Government dealing with tribal affairs, and shall also be according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) “forest dwelling Scheduled Tribes” means the members or community of the Scheduled Tribes who primarily reside in or in the close proximity of forests and includes the Scheduled Tribe pastoralist communities who depend on the forests or forest lands for bona fide livelihood needs;

(d) “forest land” means land of any description ** recorded or notified as forest and includes *unclassed forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) “forest rights” means the forest rights referred to in section 3;

(f) “forest villages” means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) “Gram Sabha” means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

Explanation.- For the purposes of this clause, the term “village assembly” shall be construed according to the definition of “village” as given in clause (p), which applies also to areas covered by the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996;

40 of 1996.

(h) “habitat” includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers, fuel wood and the like, stones, slates and boulders and products from water bodies including fish, weeds and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (I) of article 244 of the Constitution;

18 of 2003.

(n) "sustainable use" shall have the same meaning as * in the Biological Diversity Act, 2002;

(o) "traditional forest dweller" means any member or community that is residing in, or in close proximity of, the forest land and primarily dependent on forest land or forest resources for their livelihood needs, which term includes-

(i) communities who have been traditionally living in or adjacent to forests for at least three generations;

(ii) such communities which have settled or been located in the forest land as a result of government policy or the failure thereof such as all those who were settled by or encouraged to settle by any government department or policy on forest land, and all such bodies of people settled under with lease, patta or assignment on forest land for forestry or other work or use, including all residents of forest villages, taungya settlements and the like defined in any manner whatsoever, regardless of whether they are recorded or not;

(iii) if he or she or his or her family have been forcibly displaced from their original habitats because of development projects, natural calamities, or other circumstances;

16 of 1927.
53 of 1972.
69 of 1980.

(iv) if his or her original habitat has been declared as forest, Sanctuary, National Park or Protected Area under the Indian Forest Act, 1878 or the Indian Forest Act, 1927 or Wild Life (Protection) Act, 1972 or is otherwise considered as forest area under Forest (Conservation) Act, 1980 or other applicable laws; and

(v) if he or she has been forced to occupy or purchase forest land or resources for livelihood purposes as a result of a failure of the Central Government or a State Government to fulfill its commitment to provide land or other livelihood resources made to that individual or to a group of persons to which that individual or group belongs;

(p) "village" means—

40 of 1996.

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, regardless of whether the area involved is a Scheduled Area or not;

*** *** *** ***

(ii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iii) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature. 53 of 1972.

CHAPTER II

FOREST RIGHTS

Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers defined.

3. (I) For the purposes of this Act, the following rights, which are secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, *Zamindari* or such intermediary regimes that occur in forest land;

(c) right of ownership access to collect, use, transport and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not into revenue villages;

(i) community right and authority to use, protect, regenerate, conserve, control, or manage any community forest resource, provided that such right shall include the right to all produce and benefits such as timber, minerals, environmental and cultural services;

(j) rights which are recognised 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;

(k) right of access to biodiversity and community right to intellectual

property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, 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;

(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation.

(2) The vesting of rights shall include the lands occupied by the families of forest dwelling Scheduled Tribes and other traditional forest dwellers earlier or leased to them by the Forest Department and taken away subsequently by the Forest Department or other agencies for plantation or any other like purposes.

(3) The Central Government shall ensure that the provisions of developmental requirements of food, fibre, education, health, communication and the like of the forest dwelling Scheduled Tribes and other traditional forest dwellers are met and the land requirements from the forest lands to provide such basic and essential developmental facilities in forests or in the proximity of forests shall be provided.

69 of 1980. (4) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, 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 seventy-five trees per project, namely:-

- (a) schools;
- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres;

Provided such diversion of forest land shall be allowed only if,-

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

(5) Notwithstanding any custom or usage, the female members of the Scheduled Tribes and Other Traditional Forest Dwellers shall have equal rights vested, with special provision for female-headed households and widows.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

Recognition of and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972, and with the consent of all the rights holders and in consultation with independent ecological and social scientists familiar with the area that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

53 of 1972.

(c) the State Government, after obtaining the consent of all the holders of rights and in consultation with independent ecological and social scientists familiar with the area, has concluded that other reasonable options such as co-existence, where even in critical wildlife habitats, human use is not incompatible with conservation values, or where some changes in resource use patterns could make them compatible with conservation values, or partial relocation, where complete relocation is not necessary for the mitigation of such impacts are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfills the requirements of such affected individuals and communities given in the National Relief and Rehabilitation Policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the area concerned.

and of the concerned individuals, to the resettlement and to the package provided has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses:

Provided further that the community shall have the right to their original habitation if unsatisfied with the rehabilitation.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed**.

(6) Where the forest rights recognized and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation.

(7) The forest rights recognised and vested by sub-section (1) in the forest dwelling Scheduled Tribes and other traditional forest dwellers shall be exercised only to the extent vested.**

(8) Where rights are being claimed under clause (e) of section 3 by communities that partially or fully practise shifting cultivation, such community shall have full decision-making powers over land use on any land that falls within the traditional boundaries or range of that community.

(9) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

(10) The forest rights recognized and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and

cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights and responsibilities of Government.

5. (1) The Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with;

(e) ensure that when forest dwelling Scheduled Tribes or other traditional forest dwellers seek to sell the harvested minor forest produce, they may be allowed to sell to any person of their choice but the Government shall offer them adequate and fair minimum support price and take steps to protect them from middlemen and traders;

(2) The Government shall ensure that the forest dwelling Scheduled Tribes and other traditional forest dwellers shall not be denied any benefit arising out of any explorations, exploitations and use of natural resources and shall also adequately compensate the forest dwelling Scheduled Tribes and other traditional forest dwellers for any damages caused by such activities.

(3) The Government shall protect the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers under this Act and shall prohibit any one who does not belong to a forest dwelling Scheduled Tribe or who is not an other traditional forest dweller, such as an individual agency, corporation or institution from violating the provisions of this Act and take punitive action against them for such violation.

(4) The Government shall protect the right to access biodiversity and the community right to intellectual and traditional knowledge related to forest biodiversity and cultural diversity.

(5) No forest land shall be acquired or diverted that may adversely affect the rights recognized under this Act without prior intimation to and prior consent of the Gram Sabha and the affected persons without paying adequate and equal compensation on the principle of “cultivable land for land” and proper rehabilitation;

Provided that in areas where the Sixth Schedule to the Constitution is applicable, its provisions regarding land acquisition shall prevail over the provisions of this Act.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other forest dwellers and

6. (1) The Gram Sabha shall be the authority for * determining the nature and extent of individual or community forest rights, or both, that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local and customary limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim * for exercise of such rights and the Gram Sabha shall,

dwellers and the procedure thereof.

then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any potential rights holder aggrieved by the resolution of the Gram Sabha may submit an application to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider * such application and communicate recommendations of an advisory nature to the Gram Sabha within a period of sixty days after which the Gram Sabha shall make a decision and pass a final resolution as per the decision within ninety days:

Provided that every such * application to the Sub-Divisional Level Committee shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha.

*** *** *** ***

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolutions passed by the Gram Sabha and to make recommendations, if any, to the Gram Sabha which shall then make its final decision and prepare the records of forest rights and forward it** to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Gram Sabha may make an application to the Sub-Divisional Level Committee which shall send its recommendations to the Gram Sabha for a final decision.

(5) Any person aggrieved by the final decision of the Gram Sabha may prefer a petition to the District Level Committee within sixty days from the date of the decision of the Gram Sabha under sub-section (4) and the District Level Committee shall consider and dispose of such petition:

Provided that no such petition shall be preferred directly before the District Level Committee unless the same has been preferred before and commented upon by the Sub-Divisional Level Committee by way of recommendations made to the Gram Sabha, and the Gram Sabha has made its final decision through a resolution:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(6) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by ** the Gram Sabha.

(7) The decision of the District Level Committee on the record of forest rights, shall be final and binding.

(8) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such records and reports as may be called for by that agency.

*** *** *** ***

(9) The composition of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall be as follows:-

(i) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall have at least one-half of its total members from the forest dwelling Scheduled Tribes with provisions for adequate inclusion of elected representatives and disadvantaged communities on the committees;

(ii) At least one-third of the non-official members of the Committees constituted under this section shall be women;

(iii) The Committee shall also have officers of the departments of Revenue, Tribal Affairs and Forest of the concerned State Government of the appropriate level as may be decided by the State Government;

(iv) All the Committees constituted under this section shall be headed by the official representing the revenue department.

(v) The number of members of the Sub-Divisional Level Committee, District Level Committee and the State Level Monitoring Committee and the rules of procedure to be followed by them shall be such as may be prescribed.

(10) The functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be as follows:-

(a) the Sub-Divisional Level Committee shall-

(i) receive applications against the decisions of the Gram Sabha and send its recommendations on them to the Gram Sabha as per the procedure as may be prescribed;

(ii) facilitate the organising of multi-Gram Sabha meetings for deciding on boundaries of shared community forest resources and resolving disputes between them over such boundaries;

(iii) initiate Gram Sabha meetings in cases where the Gram Sabhas fail to discharge their responsibilities; and

(iv) receive communications from the Gram Sabha and make related recommendations, if any;

Provided that during the process of investigation of claims by Gram Sabhas, the Sub-Divisional Level Committee may ensure information dissemination and capacity building and training support in its area of jurisdiction on behalf of the District Level Committee.

(b) The District Level Committee shall-

(i) ensure that the recognised rights are entered in the revenue records and forest records within three months of their finalisation;

(ii) during the process of recognition of rights, ensure that the Sub-Divisional Level Committees and the Gram Sabhas in their districts receive all necessary support for widespread information dissemination in local languages and through traditional communication channels about the provisions of this Act and the procedure to be followed for filing of claims;

(iii) organise training and capacity building support for members of Sub-Divisional Level Committees, Gram Sabhas, civil society organizations and representatives and other local stakeholders;

(iv) ensure that existing revenue and forest records, maps, other required documents are made available to the Sub-Divisional Level Committees and the Gram Sabhas as required; and

(v) ensure that the Gram Sabhas receive technical support, when requested for, of surveyors and cartographers for preparing maps of the areas over which rights are claimed.

(c) State-Level Monitoring Committee shall–

(i) ensure that the constitution and functioning of the Sub-Divisional Level Committees and the District Level Committees referred to in this section is completed within six months of the enactment of this Act; and

(ii) monitor the performance of the Sub-Divisional Level Committees and the District-Level Committees periodically.

(11) For the purpose of defining the boundaries of a shared customary forest area or to resolve any dispute between two or more Gram Sabhas over questions of such shared forest boundaries or of community rights determined in a shared customary forest area under this Act, the two or more Gram Sabhas shall meet jointly within a period of sixty days of claims being made for such a shared forest area or a dispute over its boundaries becoming apparent, for the purpose of determining the boundaries and for resolving the disputes:

Provided that if such a meeting fails to take place, the Sub-Divisional Level Committee shall convene such a meeting within a period of thirty days after the expiry of the said period of sixty days.

(12) The evidence acceptable in support of a claim to a right under this Act shall include, but not be limited to, the following, namely:–

(a) oral evidence of the community and members of the community;

(b) spot verification of cultivated area, age of trees, and the like by the authority (the Gram-Sabha or Committee) concerned;

(c) improvements made to the land such as bunds, check dams and the like;

(d) documentary evidence such as primary evidence, offence reports, prior pattas or leases, house tax receipts and the like;

(e) official or independent records such as gazetteers, forest enquiry reports, anthropological studies or literature, surveys and maps;

(f) affidavits from the claimant or his or her neighbours and other community members;

(g) official records of rights and permitted uses under Princely States, zamindars and the like; and

(h) documentary evidence from any prior research or documentation of reputed institutions or individuals, including reports, publications of renowned anthropologists and reports of the Anthropological Survey of India.

Gram Sabhas. other institutions consisting solely of members of that Gram Sabha with representation of women, to consider matters that fall within the purview of the Gram Sabha under this Act and recommend a course of action to the Gram Sabha:

Provided that the powers of such Committees or institutions shall be purely advisory in nature.

Rehabilitation. 8. Any ineligible and primarily forest-dependent encroacher shall be offered *in situ* rehabilitation through employment in afforestation or in other forest-based activity.

CHAPTER V

OFFENCE AND PENALTIES

*** *** *** ***

Offences by members or officers of authorities and Committees under this Act

9. Where any authority or Committee or officer or member of such authority or Committee contravenes any provisions of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Cognizance of offences.

10. No court shall take cognizance of any offence under section 9 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

Members of authorities, etc. to be public servants.

11. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency. **13.** The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions. **14. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing:**

Provided that such directions shall be consistent with the provisions of this Act and shall not result in the curtailing or abrogation of any of the rights recognised under this Act.

Overriding effect of the Act. **15. If the provisions of any other law for the time being in force or any decree, judgment, award or order of any court are in contravention to the provisions of this Act, the provisions of this Act shall prevail.**

Power to make rules. **16. (1)** The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6,

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State level Monitoring Committee under sub-section (8) of section 6.

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) the number of members of the Sub-Divisional Level Committee, District Level Committee and the State Level Monitoring Committee and the procedure to be followed by the said Committees under clause (v) of sub-section (9) of section 6;

(f) the procedure to receive applications against the decisions of Gram Sabha and sending of the said recommendations to the Gram Sabha under sub-clause (i) of clause (a) of sub-section (10) section 6;

(g) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made,

the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

APPENDIX-I
(Vide para 2 of the Report)
The Motion for reference of the Bill to a Joint Committee.

MOTION

“That the Bill to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes who have been residing in such forests for generations but whose rights could not be recorded and to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land, be referred to a Joint Committee of the Houses consisting of 30 members, 20 from this House, namely:-

1. Shri Shingada Damodar Barku
2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Shri V.Kishore Chandra S. Deo
5. Shri Giridhar Gamang
6. Dr. P.P. Koya
7. Shri A. Krishnaswamy
8. Shri Shailendra Kumar
9. Shri Rajesh Kumar Manjhi
10. Shri Babu Lal Marandi
11. Shri Madhusudan Mistry
12. Shri Hemlal Murmu
13. Shri Jual Oram
14. Shri Baju Ban Riyan
15. Shri Nand Kumar Sai
16. Asv. P. Satheedevi,
17. Shri Sugrib Singh
18. Shri Rajesh Verma
19. Shri Ravi Prakash Verma
20. Shri P.R. Kyndiah

and 10 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the second week of the next Session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 10 members to be appointed by Rajya Sabha to the Joint Committee”.

.....

APPENDIX-II
(Vide para 3 of the Report)

Motion in Rajya Sabha for reference of the Bill to a Joint Committee.

MOTION

“That this House concurs in the recommendation of the Lok Sabha that the House do join in the Joint Committee of the Houses on the Bill to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes who have been residing in such forests for generations but whose rights could not be recorded and to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:-

1. Shri Moolchand Meena
2. Shri Rishang Keishing
3. Dr. Radhakant Nayak
4. Smt. Brinda Karat
5. Shri Devdas Apte
6. Shri Birabhadra Singh
7. Shri Ravula Chandra Sekar Reddy
8. Shri N. Jothi
9. Shri Mangani Lal Mandal
10. Shri Nand Kishore Yadav

the above motion was adopted by the Rajya Sabha at its sitting held on Friday, the 23rd December, 2005”.

APPENDIX –IV
(Vide para 13 of the Report)

**LIST OF ASSOCIATIONS/ORGANISATIONS/INDIVIDUALS ETC. FROM WHOM
MEMORANDA WERE RECEIVED BY THE JOINT COMMITTEE.**

Memo No.	Name of Associations with Address
1.	Shri P. Vivekanandan, SEVA Sustainable-agriculture & Environment Voluntary Action, 45 TPM Nagar, Viratipattu, Madurai – 625010, Tamil Nadu
2.	Shri Mahabir Bhagora, M.P., Udaipur, Rajasthan
3.	Jangal Zameen Jan Andolan, 23 Shanti Nagar, Akar Complex, Roopsagar Road, University Road, Udaipur
4.	Nandini Sundar, Professor, Department of Sociology, University of Delhi, Delhi School of Economics, Delhi-07
5.	Shri Ambarish Rai, Lok Sangarsh Moracha, C-49, Manglam Apptt. Shalimar Garden, Ext. II, Sahibabad, Distt. Ghaziabad, Pin- 201005
6.	Ms. Madhuri, Jan Sangarsh Morcha (Madhya Pradesh-Chattisgarh) Conveners: Shramik Adivasi Sangathan, Kothi Bazar, near Bohra Masjid, Betul (MP), Narmada Bachao Andolan, Jain Road, Mandleshwar (MP)
7.	Ms. Smita Gupta, Institute for Human Development, NIDM Building (3 rd Floors) IP Estate, Mahatama Gandhi Marg, Delhi –110002.

8. Shri Soonoo Taraporewala,
India House No. 2, Flat – 14,
August Krant Marg,
Mumbai – 400036
9. Shri Bibhudendra Pratap Das,
Ex. MLA,
President,
Orissa Krushak Mahasangh,
Plot No. 585, Sahilgagar,
Bhubaneswar – 7,
Orissa
10. ANTHRA, B-135, Sainikpuri,
Secunderabad-500094,
Andhra Pradesh
11. Shri Maya Ramaswamy,
Nature Artist and Illustrator,
574, Shakthi Nilaya,
15th Main, Padmanabhanagar,
Bangalore-560060
12. Shri S.R. Sankaran, IAS (Retd.)
114 Sapphire (Former Secy. Govt. of India, Rural Department),
Amrita Hill, Punjagntta,
Hyderabad 500082.
13. Shri K.R. Sethna,
Former member of the Indian Board for Wildlife,
Yellikodigi Estate,
Atdur P.O.-577111,
Chikmagalur Distt.
Karnataka
14. Shri Shankar Gopalkrishnan,
Secretary,
Campaign for Survival and Dignity, Delhi,
SRUTII, Q. 1 Hauz Khas Enclave,
New Delhi
15. Shri K. M. Chinnappa/Praveen Bhargav,
Wildlife First,
26th A Main, 4th T. Block,
Jaya Nagar,
Bangalore-560041

16. Shri Shiba Sanwar,
National Forum of Forest People and Forest Workers,
North Bengal Regional Committee,
Goubathan Bazar, Kalimpong,
L-501, Asha Laxmi Aptt. Ravingar Chowk Nagar
17. Shri Ambarish Rai/Ms. Pratibha Sinde,
Lok Sangarsh Morcha
Rajratra Building,
Distt. Nandurbar (Maharashtra) 425413,
C-49 Manglam Aptt. Shalimar Garden Ext.
Sahibabad (UP)
18. Shri C.R. Bijoy,
Doctors Quarters,
Shri Ramakrishna Hospital,
395 Sarojini Naidu Road,
Coimbatore,
Tamil Nadu, 641044
19. Dr. Archana Prasad,
Reader,
Centre for Jawaharlal Nehru Studies,
Jamia Millia Islamia,
New Delhi.
20. Jungle Adhikar Sangharsh Samiti,
Dahanu Road, Thana Distt.
Maharashtra
21. Shri Akhilesh Mangal
Bangalore
22. Shri Ayan Khan,
C/o Altaf Khan,
B-125 Bagh Dil Kusha,
Bhopal (M.P.) 462023
23. Shri Phiroze M. Patel,
Member Conservation Cell,
Vidharbha Economic Development Council,
Nagpur
24. Shri S. Faizi,
Ecologist,
R 2, Saundarya Aptt.,
Nandavanam,
Trivandrum

25. Action Research in Community,
Health and Development (ARCH),
E-702, Samrajya Complex, Near Fatehganj,
Vadodra 390002,
Gujarat

26. Shri Vinay Kumar,
S/o Vishnu Gaikwad,
H.No, 1-1215
Gullaboudi,
Behind. V.V.H. School,
Near AAIWAN-E-Shalni Road,
Gulbarga
Karnataka

27. North Bengal Forest Mazedoor Union,
Kalchini, Jalpaiguri Distt.

28. Navjeevan Bahuudeyshei Sanstha,
Badali,
Ahmednagar

29. Shri Prem Khaswas,
President,
Himalayan Forest Villager's Organization,
Central Committee,
Gorubathan,
Darjeeling

30. Shri J.K. Mohanty,
Additional Secretary,
Government of Madhya Pradesh,
Scheduled Tribes and Scheduled Castes Welfare Deptt.,
Mantralay, Vallabh Bhawan,
Bhopal

31. Shri Killivalavan R.,
Shri Shreesha Shagrithaya,
Dr. Meghna Krishadas,
C/o Growing Wild,
Karnataka.

32. Shri Subir Sharma,
Founder and Genl. Secretary,
Adivasi Reformation & Welfare,
Society (WARS),
District, West Singhbhum,
Jharkhand, India-833213
33. Adivasi Kranti Sangathan,
At Lokanathpur,
P.O. Badasuahlo,
Dist. Dhenkanal, Orissa,
Pin-759039.
34. Shri Prakash Shrivastava,
E-3 Punjabi Bagh,
Bhopal (M.P.) 462023
35. Shri Krishan Kumar Sharma, Secretary,
Shree Yatra Seva Samiti,
26/1 Near Post Office,
Aheerpura, Raja Mandi,
Agra-282002
36. Shri P.K.Sen,
Director- Tiger & Wildlife Division,
WWF-India,
172 B, Lodhi Estate,
New Delhi-110003
38. Adivasi Mukti Sangathan,
At-Post Sendhwa, Distt. Badwani,
(Madhya Pradesh) Pin-451666
39. Ms. Neha Verma,
Indian Forest Service(P)
F-4 New Hostel,
Indira Gandhi National Forest Academy,
Forest Research Institute,
Dehradun-248006.
40. Shri Pradip D. Prabhu,
Senior fellow,
National Institute of Rural Development,
Rajendranagar,
Hyderabad 500030,
Andhra Pradesh

41. Shri Xavier M, Director,
Rajpipla Legal Aid Society,
Poicha Road, Oil Mill Compound,
Rajpipla-393145
42. Shri Saltuben Khair/Shri Amirbhai Vasava,
Adivasi Mahasabha(AMS)
C/o Behavioural Science Centre,
St. Xaviers College Campus,
Narvangpur, Ahmedabad, Gujarat
43. Shri Ashok Choudhury,
National Forum of Forest People and Forest Workers,
B-137, Ist Floor, Dayanand Colony,
Lajpat Nagar-IV New Delhi-110024
44. Akhil Bhartiya Vanvasi Gramin Mazdoor Mahasangh,
(Industrial Unit of Bhartiya Mazdoor Sangh)
44/26, Dakshin Tatyatope Nagar,
Bhopal-462003
45. Prakrili Mitr Sangh,
76, Ist Floor, Bajaya Bazar,
Alwar (Rajasthan)
46. Shri Ramkrishan Chaudhary Sar,
Shrirampur, Pusad,
Maharashtra.
47. Shri Sukanti Nayak,
President,
Adivasi Jala Jangal Jani Jana,
Surakshya Mahasangha,
Uttar Orissa At/PO- KARANJIA
Distt. Mayurbhanj,
Orissa
48. Shri Ravi Singh,
Secretary General and CEO,
WWF India,
172 B, Lodi Estate,
New Delhi-110003
49. Shri A. Kishan, IFS,
Dy Conservator of Forest,
Office of Prl. Chief Conservator of Forests,
Abids, M.J. Market.
Hyderabad-500001

50. Shri Bir Singh Mahato, M.P.
16 Mahadev Road, New Delhi.
51. Shri Sunil Kumar Mahto, M.P.,
215, North Avenue
New Delhi.
52. Dr. Jitendra Chaturvedi,
Chief Executive,
Development Association for Human Advancement,
Standard Montessori School,
Near Localreeti Press, Joshia Pura,
Bahraich.
53. Shri Gopi Majhi,
Convener,
Orissa Chapter, Campaign for survival and Dignity,
488/F Nayapalli Bhubaneswar,
Orissa.
54. Ms. Praneet Goteti,
Bangalore.
55. Shri K. Buchi Ram Reddy, IFS (Retd.)
3-9-58/c Sharadanagar,
Ramanthpur,
Hyderabad
56. Shri Krishna Narain,
Wildlife Conservationist,
36 'Ramalaya',
Subbarama Chetty Road,
Basavanagudi.
57. Shri Jacob Thundyil and others,
No. 79 Ramachandran Street,
Vasudevan Nagar,
Jaffer Khanpet,
Chennai-600083.
58. Shri Daiguang
President,
Barak Valley Hill Tribes Union,
Hqtrs. Hmarkhawlien,
Cachar (Assam) –788106.

59. Lawyers Environmental Awareness Forum,
Kerala High Court Advocates Association,
High Court, Ernakulam,
Cochin.
60. Shri Yeshwant J. Nayak and others,
AASRA,
Society for Child Welfare,
Ponda, Goa
61. Shri Ashok B.R.
Bangalore
62. Shri Devdar Parvatbhai B. and Farmer Ragubhai K.,
Free Legal Aid and Advisory Office.
Dahod, Gujarat
63. Shri Paresh Batra,
Dhen Kanal,
Orissa
64. Shri Chhettubhai Devenbhai,
Bordra Dist.,
Narmada,
Gujarat
65. Shri Bir Singh Mahto and others (7) M.,Ps.
66. Ranchi Association,
Andaman & Nicobar Islands,
Port Blair.
67. Shri Amit Verma,
Indian Forest Service (P),
F-3 New Hostel,
Indira Gandhi National Forest Academy,
Forest Research Institute, Dehradun.
68. Shri K. Hawlasailo,
Genl. Secy.,
Human Rights Network of Indigenous Tribal Peoples (HR-NIT),
North East Chapter, Headquarter,
Aizwl (Tuilcual),
Mizoram-796001S
69. Shri Mansukh Bhai D. Vasava, M.P.,
55 North Avenue,
New Delhi.

70. Jharkhand Ulgulan Manch,
Jharkhand Jungle Bacao Andolan,
Gram Sabha Manch, Jharkhand,
Bharat Jan Andolan, Jharkhand,
Jharkhand.
71. Shri K. Shashidhar,
S-367, 7th Bharat Nagar II,
Viswaneedan P.O. Bangalore-560091
72. Shri Lalsing Pargi,
Secretary,
Eklavya Sangathan,
8, Mangaldeep Flats,
Near Parikshit Bridge,
Gandhi Ashram P.O.
Ahemedabad-380027
73. Shri R. Prabhu, M.P.,
AB-14, Pandara Road,
New Delhi
74. Shri Gautam Bandhopadhya,
National Coordinator,
Peoples Alliance for Livelihood Rights,
Chattisgarh.
75. Shri Laxman Misal,
Activist, Adivassi Jangal Janjeevan Andolan,
At Khanvel Khomarpada,
Dadra & Nagar Haveli
76. Shri Pankaj Kumar,
Adv. Supreme Court of India,
R/O H-/197 Kalibari Marg,
New Delhi.
77. Ms. G. Vijayalaxmi,
Secretary,
Centre for Environment and Development,
3-41-8 Sri Venkats Krishana Nilayam,
Sainagar Colony. M. R. Pets
Trui – 533401, East Godavari District, Andhra Pradesh
78. Dr. Santibhushan Nandi,
94/2, Kalil Kundu Lane,
Howrah-711101

79. Shri Moloy Baruah,
President,
Early Birds,
26 Surujmukhi,
P.O. Silpukhuri, Guwahati-781003
80. Shri Vishnu Kant,
Janjati Hitraksh Pramukh,
A.B. Vanvasi Kalyan Ashram,
New Colony, Jaipur-302001
81. Shri Manmohan Singh Batti, MLA,
Madhya Pradesh Legislative Assembly,
128, Amarwada,
Chindwara, M.P.
82. Shri Anil Gar,
Kohli Bazar, Betu,
(Satpura Land Search and Training Centre)
83. Shri Pradeep Soor,
B.C. Bhar Road,
P.O. Chandannagar,
Dist. Hooghly,
West Bengal-712136
84. Srikakulam Adivasi Samakhya,
Sri Mutaka Michharao,
Eathamanuguda (Village),
Puliputti (Panchayati)
Seethampetha(Mandal),
Srikakulam (Dist.) and others
85. Shri Ashish Kothari,
C/o Kalpvriksh,
Apt. 5, Shree Dutta Krupa,
908 Decean Gymkhana,
Pune-41004
86. Shri Manu Jaiswal and others,
Indian Institute of Science,
Bangalore-560012
87. Shri Changan Kumar Betal,
Asstt. Teach Joynagar Hight School.
Vill. Jhanpathara.
P.O. Champi.
P.S. Mahisadal,
Dist. Purba Medinipur

88. Dr. Muhammad Mukhtar Alam,
Chairman,
Labour League Foundation,
62-A, Luxmibai Enclave,
Ashok Vihar, Phase-III,
Delhi.
89. Headmaster
Don Bosco School
Ledrymbai, Jainlia Hills,
Meghalaya-793160
90. Dr. V.K. Bahuguna, IFS,
Managing Director,
Tripura Forest Development & Plantation,
Corporation Limited,
Near Raj Bhavan P.O. Abhoynagar,
Agartala
91. All India Democratic Women's Associatin ,
121 VBP House Rafi Marg,
New Delhi-110001
92. Campaign for Survival & Dignity and other Organisations, (Additional)
93. Shri Khemraj Desai,
President,
Akhil Bhartiya Rabari Rayka Samaj,
Seva Sansthan Trust
Post Kora, Tehsil Prheenmal,
Jalore, Rajasthan
94. Shri K. Vardha Rajan,
General Secretary,
All India Kisan Sabha,
4 Ashoka Road, New Delhi-110001
95. Ms. Madhu Sarin,
48, Sector, 4 Chandigarh-160001
96. Madhya Pradesh Adivasi Ekta Mahasangha,
13 B, Padamnabha Nagar, Bhopal (M.P.)
97. Action Research in Community Health and Development (ARCH),
E 702, Samrajya Complex,
Near Fatehganj Post Office, Fatehganj
Vadodra-390002, Gujarat
98. Shri B.D. Sharma,
Former Commissioner for Scheduled Castes and Scheduled Tribes
99. Shri Pradip Prabhu,
Senior Fellow,
National Institute of Rural Development,
Hyderabad

100. Shri M. S. Selvaraj,
General Secretary,
Vivasayigal Thozhilalargal,
Munnetra Sangam,
13/341, Kasim Vayal, Gudalur,
620212, Nilgiris District, Tamil Nadu
101. Shri Bhim Singh Shankarbhai Vasava,
Ucenal, Distt. Surat, Gujarat
(and other 451 identical memoranda received from different persons)
C/o Lok Sangarsh Morcha
102. Shri Dileep Singh Bhuria,
Ex. Member of Parliament,
25/30 Ground Floor, West Patel Nagar,
New Delhi-110008
103. Shri Chandi Prasad Bhatt,
Sarvodya Kendra, Gopeshwar
Uttranchal-246401
104. Shri K.V. Poulouse,
Chairman Nilgiri District Panchayat
& District Planning Cell,
Udhagamandalam, Nilgiri District-643001
105. Dr. Sagri R. Ramdass
Mr. Madhusudan,
Mr. K. Pandu Dora,
ANTHRA, Secunderabad
106. All India Agricultural Workers Union,
4 Ashoka Road, New Delhi
107. Shri Valmiki Thapar,
Shri M.K. Jiwrajka
Ranthambore Foundation
Delhi
108. Shri Sanjay Upadhyay
Advocat Supreme Court of India
Noida.
109. National Forum of Forest People and Forest Workers,
Lajpat Nagar, Delhi

APPENDIX V

(vide para 64 of the Report)

List of Witnesses who Tendered Oral Evidence Before the Joint Committee

Sl.No.	Name of Association/Organisation/individual etc.	Date on which evidence was taken	Page no.
1	2	3	4
1.	Prof. Nandini Sunder, Department of Sociology, University of Delhi. New Delhi	03.03.2006	04
2.	Ms. Smita Gupta, Senior Fellow, Institute of Human Development, New Delhi	03.03.2006	07
3.	Shri Lal Sinh Paragi, Secretary, Eklavya Sangthan, Ahemdabad, Gujarat	03.03.2006	72
4.	National Campaign for Survival and Dignity C/o SHRUTI Q-1Haus Khas Enclave, New Delhi	03.03.2006	14
5.	Jan Jangal Jameen Andolan, Rajasthan	09.03.2006	03
6.	Bharat Jan Andolan, Jharkhand	09.03.2006	-
7.	Dr. Archana Prasad, Reader Jamia Milia Islamia University Delhi	09.03.2006	19
8.	People Alliance for Livelihood Rights, Chattisgarh	10.03.2006	-

Sl.No.	Name of Association/Organisation/individual etc.	Date on which evidence was taken	Page no.
1	2	3	4
9.	Lok Sangarsh Morcha Madhya Pradesh	10.03.2006	05
10.	Ms. Sunita Narain, Director Centre for Science and Environment 41 Tughlakabad Institutional Area New Delhi-110 062	10.03.2006	-
11.	Shri S.R. Sankaran, IAS (Retd) Former Secretary, Ministry of Rural Development Government of India, New Delhi	10.03.2006	12
12.	Dr. M.K. Ranjit Singh. Former Additional Secretary Ministry of Environment & Forest Government of India	23.03.2006	
13.	Jan Sangarsh Morcha, Madhya Pradesh	23.03.2006	06
14.	Shri Pradip Prabhu, Senior Fellow, National Institute of Rural Development, Hyderabad	23.03.2006	40
15.	Shri B.D. Sharma, IAS (Retd)	24.03.2006	98
16.	All India Democratic Women's Association 121 V.B.P.House, Rafi Marg, New Delhi	24.03.2006	91
17.	Ms. Madhu Sarin, Chandigarh	24.03.2006	95
18.	Adivassi Adhikar Manch (M.P. & Chandigarh)	24.03.2006	
19.	All India Kisan Sabha 4 Ashoka Road, New Delhi	24.03.2006	

Sl.No.	Name of Association/Organisation/individual etc.	Date on which evidence was taken	Page no.
1	2	3	4
20.	Action Research in Community Health & Development, (ARCH) Gujarat	24.03.2006	25
21.	National Forum of Forest People and Forest Workers, North Bengal Regional Committee, Kalimpong	17.04.2006	109
22.	Shri Sanjay Upadhyay, Advocate, Supreme Court of India	17.04.2006	108
23.	Shri C.R. Bijoy, Coimbatore	17.04.2006	18
24.	Shri Ashish Kothari. C/o Kalpvriksh Pune	17.04.2006	85
25.	SEVA Sustainable Agriculture & Environment Voluntary Action, Madurai	18.04.2006	01
26.	Shri Samar Singh, IAS (Retd)	18.04.2006	
27.	Shri D. S. Prasad, Andhra Pradesh	19.04.2006	
28.	Shri B. Narsingh Rao	19.04.2006	
29.	Shri K. Krithna Rao	19.04.2006	
30.	Smt. Bhoodevi	19.04.2006	
31.	Shri K. Laxman Rao	19.04.2006	
32.	Shri Shankara Reddi, Andhra Pradesh	19.04.2006	
33.	Shri Bala Raju, Andhra Pradesh,	19.04.2006	
34.	Shri N. Snayasi Rao, Andhra Pradesh	19.04.2006	
35.	Smt. Sagari Ram Das Director ANTHRA (NGO) Secunderabad Andhra Pradesh	19.04.2006	10

Sl.No.	Name of Association/Organisation/individual etc.	Date on which evidence was taken	Page no.
1	2	3	4
36.	Shri N. Madhusudhan Director, Yakshi (NGO) Secunderabad, Andhra Pradesh	19.04.2006	10
37.	Shri K. Pandu Dora D. Bhimavaram village East Godavari District Andhra Pradesh	19.04.2006	10
38.	All India Agriculture Workers Union	19.04.2006	106
39.	Adivassi Mahasabha, Gujarat C/o Behaviourial Science Centre, St. Xavier's College Campus, Navrangpura, Ahmedabad-380009	19.04.2006	42
40.	Shri Valmik Thapar, Ranthambore Foundation New Delhi	19.04.2006	107
41.	Shri M.K. Jiwarajka Member Secretary, Central Empowered Committee	19.04.2006	
42.	Shri Koshy Baby, Nilgiris, Tamilnadu	19.04.2006	
43.	Shri K. V. Paulose Chairman, Nilgiris District Panchyat and District Planning Cell Nilgiris District	19.04.2006	104
44.	Shri P.H. Abdul Kareem Nilgiris, Tamilnadu	19.4.2006	

**MINUTES OF THE FIRST SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

I

FIRST SITTING

The Committee sat from 1500 hrs. to 1645 hrs. on 16 January, 2006 in
Committee Room No. 63, Parliament House, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Shri Giridhar Gamang
5. Dr. P.P. Koya
6. Shri A. Krishnaswamy
7. Shri Shailendra Kumar
8. Shri Rajesh Kumar Manjhi
9. Shri Babu Lal Marandi
10. Shri Madhusudan Mistry
11. Shri Hemlal Murmu
12. Shri Bajju Ban Riyan
13. Adv. P. Satheedevi
14. Shri Rajesh Verma
15. Shri Ravi Prakash Verma
16. Shri P.R. Kyndiah

Rajya Sabha

17. Shri Moolchand Meena
18. Dr. Radhakant Nayak
19. Smt. Brinda Karat
20. Shri Devdas Apte
21. Shri Birabhadra Singh
22. Shri N. Jothi
23. Shri Mangani Lal Mandal
24. Shri Nand Kishore Yadav

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Ms. Meena Gupta	-	Secretary
Shri Rajeev Kumar	-	Joint Secretary
Ms. Ruchira Pant	-	Joint Secretary
Shri P.K.Varma	-	Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Smt. Sharda Jain	-	Deputy Legislative Counsel
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2. At the outset, the Chairman welcomed the Members of the Joint Committee and drew their attention to the various provisions of the Bill and referred to the importance and urgency of the task before the Committee.

3. Then, the Minister of Tribal Affairs and Development of North Eastern Region, (Sh. P.R. Kyndiah) spoke about the Bill and the need to bring the proposed legislation.

3. Thereafter, the representatives of the Ministry of Tribal Affairs gave a brief video presentation to the Committee on various provisions of the Bill.

[The witnesses then withdrew}

4. The Committee then considered the methodology, focus and to the time frame for completion of the work. The Committee observed that the Bill deals with a sensitive issue and requires a thorough and comprehensive study.

5. In order to give wider publicity to the contents of the Bill, the Committee decided that a Press Communique be issued in all the national dailies in English and Hindi versions inviting memoranda from public in general and experts/organisations/associations and NGOs interested in the subject matter of the Bill. The Committee also desired that the contents of the Press Communiqué be given wide publicity through All India Radio and Doordarshan. A

member (Shri Madhusudan Mistry) also suggested that the Bill might be translated into some of the regional languages in order to elicit suggestions from a wide section of people of the country. The Committee further decided that all the State Governments/Union territories might also be requested to give their views/suggestions on the provisions of the Bill for consideration by the Committee.

6. The Chairman observed that members who are desirous of giving their written opinions/suggestions may do so. The Committee also felt the need that two or three study groups might be formed to undertake on the spot study visits to various parts of the country where forest Tribal belts are located to elicit the views of various organizations, associations and general public interested in the subject matter.

7. The Committee also decided to hear the views of the representatives of the other concerned Ministries *viz.* Ministries of Environment and Forests, Panchayati Raj, Rural Development and Social Justice and Empowerment at their subsequent sittings.

8. A verbatim record of proceedings was kept.

The Committee then adjourned.

[The witness then withdrew]

**JOINT PARLIAMENTARY COMMITTEE ON THE SCHEDULED TRIBES
(RECOGNITION OF FOREST RIGHTS) BILL, 2005 INVITE
MEMORANDA/SUGGESTIONS.**

PRESS COMMUNIQUE

The **SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005** as introduced in Lok Sabha on 13 December, 2005 has been referred to the Joint Parliamentary Committee under the Chairmanship of **Shri V. Kishore Chandra S. Deo, MP** for examination and report to the Parliament. The text of the Bill as introduced in Lok Sabha is available on the Website <http://www.parliamentofindia.nic.in> under the heading 'Bills with the Committees' and the Gazette of India, Extraordinary, Part II, Section 2, dated the 13 December, 2005. A copy of the Bill may also be obtained on requisition from Assistant Director (COSL), Room No. 80, II Floor, Parliament House, New Delhi -110001.

The **SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005** inter alia provides for the recognition and vesting of forest rights and occupation in forest land in forest dwelling Scheduled Tribes who have been residing in such forests for generations but whose rights could not be recorded and for establishing a framework for recording the forest rights so vested and to determine the nature of evidence required for such recognition and vesting in respect of forest land.

In order to have wider consultations the Committee at their sitting held on 16 January, 2006, have decided to invite memoranda/suggestions on the Bill from the public in general and experts/organizations/associations and NGOs interested in the subject matter of the Bill.

All those who are interested in submitting written memoranda/suggestions may send two copies thereof either in English or in Hindi to **Shri R.K. BAJAJ, DEPUTY SECRETARY, LOK SABHA SECRETARIAT, ROOM NO. 108, III FLOOR, PARLIAMENT HOUSE, NEW DELHI-110001, Fax No.23010756 Email bajaj.rk@sansad.nic.in** within 15 days from the date of publication of this advertisement.

While submitting written memoranda/suggestions, those who are desirous of giving oral evidence before the Committee besides sending memoranda are requested to intimate to that effect for consideration of the Committee.

The memoranda/suggestions which might be submitted to the Committee would form part of the records of the Committee and should be treated as strictly confidential and not circulated to anyone, as such an act would constitute a breach of privilege of the Committee.

New Delhi;

Dated:

**MINUTES OF THE SECOND SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

II

SECOND SITTING

The Committee sat from 1100 hrs. to 1425 hrs. on 27 January, 2006 in
Committee Room No. 62, Parliament House, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Dr. P.P. Koya
4. Shri Shailendra Kumar
5. Shri Rajesh Kumar Manjhi
6. Shri Babu Lal Marandi
7. Shri Madhusudan Mistry
8. Shri Bajju Ban Riyan
9. Shri Nand Kumar Sai
10. Shri Sugrib Singh
11. Shri Ravi Prakash Verma
12. Shri P.R. Kyndia

Rajya Sabha

13. Shri Moolchand Meena
14. Shri Rishang Keishing
15. Smt. Brinda Karat
16. Shri Birabhadra Singh
17. Shri N. Jothi
18. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representatives of the Ministry of Environment & Forests

Dr. Prodipto Ghosh	-	Secretary
Shri J.C. Kala	-	Director-General, Forests
Shri Jagdish Kishwan	-	Inspector-General, Forests

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar	-	Joint Secretary
Shri P.K. Varma	-	Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Dr. Sanjay Singh	-	Joint Secretary and Legislative Counsel
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2. At the outset, the Chairman welcomed the members of the Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005.

3. Before, the Committee proceeded to hear the views of the representatives of the Ministry of Environment & Forests, the Chairman drew their attention to the provisions contained in the Direction 58 of the Directions by the Speaker under Rules of Procedure and Conduct of Business in Lok Sabha.

3. Thereafter, the Committee heard views of the representatives of the Ministry of Environment and Forests on the Bill under reference. The Committee desired that the information on points which was not readily available with them might be furnished in writing to the Committee by the Ministry of Environment and Forests. The Committee also desired that copy of various guidelines/circulars/directions etc. issued under Forest (Conservation) Act, 1980 might be furnished to the Committee by the Ministry of Environment & Forests.

4. The Committee, then decided to hold their next sitting on 7.2.2006 to hear the views of the representatives of the Ministries of (i) Panchayati Raj; (ii) Rural Development (Department of Land Resources); and (iii) Social Justice and Empowerment on the proposed legislation.

5. A verbatim record of the proceeding was kept.

The Committee then adjourned.

**MINUTES OF THE THIRD SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

III

THIRD SITTING

The Committee sat from 1100 hrs. to 1400 hrs. on 7 February, 2006 in Committee Room 'E', Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Shri Giridhar Gamang
5. Shri A. Krishnaswamy
6. Shri Madhusudan Mistry
7. Shri Hemlal Murmu
8. Shri Bajju Ban Riyan
9. Shri Rajesh Verma
10. Shri Ravi Prakash Verma
11. Shri P.R. Kyndiah

Rajya Sabha

12. Smt. Brinda Karat
13. Shri Devdas Apte
14. Shri Birabhadra Singh
15. Shri Ravula Chandra Sekar Reddy
16. Shri N. Jothi
17. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.C. Ahuja - Joint Secretary
Shri J.V.G.Reddy - Under Secretary

Representatives of the Ministry of Social Justice & Empowerment

Smt. Sarita Prasad - Secretary
Shri Sewa Ram - Joint Secretary

***Representatives of the Ministry of Rural Development
(Department of Land Resources)***

Dr. (Mrs.) Renuka Viswanathan - Secretary
Shri L. Rynjah - Additional Secretary

Representatives of the Ministry of Panchayati Raj

Shri M.K. Khanna - Additional Secretary
Smt. Aditi Mehta - Joint Secretary

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary
Shri P.K. Varma - Deputy Secretary

Representative of the Ministry of Law & Justice

Shri Nampoothiary - Joint Secretary

2. At the outset, the Chairman welcomed the members of the Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005.
3. The Chairman at first invited the representatives of the Ministry of Social Justice & Empowerment to express their views on the provisions of the Bill and drew their attention to the provisions of Direction 58 of the Directions by the Speaker.
4. Thereafter, the representatives of the Ministry of Social Justice & Empowerment put forth their views on the provisions of the Bill under reference. The following important points were discussed during the deliberations:-
 - (i) estimates regarding number of STs, SCs and OBCs living in forests
 - (ii) violation of human rights of tribals and their victimization by forest department officials.
 - (iii) data regarding atrocities against tribals living in forests and the schemes for the compensation and rehabilitation of such victims
 - (iv) welfare schemes for empowerment of SCs/STs and OBCs living in forests.
 - (v) contingency plans of the Ministry to address the issue of rights of non tribals in the event of their eviction after enactment of the Bill into legislation
 - (vi) the scope for inclusion of non-tribals in forests within the scope of the Bill.

5. The Committee desired that the Ministry of Social Justice & Empowerment might furnish a detailed note covering the above said points for their information.

(The witnesses then withdrew.)

6. A verbatim record of the proceeding was kept.

6. Then, the Committee held discussions with the representatives of the Ministry of Tribal Affairs to seek clarifications regarding the basis for exclusion of SCs/OBCs and other non-tribal communities from the scope of the Bill. The representatives of the Ministry clarified that there is need for distinction between STs and other communities due to legal/constitutional and historical reasons and also the preponderance of ST population in the forests. However, regarding the rights of non-tribals living in the forests, the Ministry assured that they would finalise their view and place it before the Committee.

8. A verbatim record of the proceeding was kept.

9. Thereafter, the Committee invited the representatives of the Ministry of Rural Development (Department of Land Resources) for discussion. The discussion comprised the following important points:-

- (i) the need for proper survey and recording of land rights of tribes.
- (ii) the scarcity of survey staff and the assistance being given to the State Government to augment the same.
- (iii) compensatory afforestation.
- (iv) schemes relating to rural employment/self employment in tribal areas.
- (v) need for amendments in the Land Acquisition Act 1894 and Forest Act, 1927 to harmonise the interest of development of industry and the protection of tribals displaced from forests
- (vi) increasing budgetary allocation for tribal areas sub-plans as the facilities created under the plans are also utilized by non-tribals in the forests.

(The witnesses then withdrew.)

10. A verbatim record of the proceeding was kept.

11. Then, the representatives of Ministry of Panchayati Raj were called in. The Committee held discussion with the representatives of Ministry of Panchayati Raj on some of the following important points:-

- (i) changes needed in long title and preamble of the Bill to expand the scope of the Bill from FDST to include STs living and dwelling in and around forest and also to provide for adequate recognition, vesting and recording of rights.
- (ii) amendments to commencement clause, definition of core areas, forest village and cut off date for recognition and vesting of forest rights.

- (iii) importance of PESA in the context of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005.
- (iv) Amendments regarding constitution of a Committee by gram sabha and sub-divisional and district level committees and state level monitoring committees in the matter of procedure for vesting of rights.

12. Thereafter, the representatives of the Ministry of Panchayati Raj also made a video presentation suggesting amendments to various provisions of the Bill.

(The witnesses then withdrew.)

13. A verbatim record of the proceedings was kept.

14. The Chairman then invited the attention of the Members of the Committee to the terms of reference to the Committee which require the Committee to present their report by the last day of the second week of Budget Session, 2006 i.e. 24 February, 2006. Thereupon, the Committee felt that they had so far completed the preliminary work of briefing by the ministries concerned of the Government of India on various provisions of the Bill. The Committee are yet to consider the suggestions/views to be received from public in the form of memoranda and also from the State/Union Territories on the various provisions of the Bill. The Committee would also like to have the benefit of views by hearing experts on the subject. In addition, the Committee also desired to undertake on the spot study visits to various parts of the country to elicit the views of various organizations, associations, NGOs and general public on the provisions of the Bill. The Committee felt that it would be appropriate for them to take clause-by-clause consideration of the Bill and finalise their report after completing the above task. As these works could not be completed within the stipulated time, the Committee decided to seek extension of time for presentation of their report by the last day of the second week of the Monsoon Session, 2006. Accordingly, the Committee authorized the Chairman to apprise the Speaker and move a motion for extension of time for presentation of the report in the House during the Budget Session, 2006.

The Committee then adjourned.

**MINUTES OF THE FOURTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

IV

FOURTH SITTING

The Committee sat from 1500 hrs. to 1630 hrs. on 3 March, 2006 in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Dr. P.P. Koya
5. Shri Madhusudan Mistry
6. Dr. Babu Rao Mediyam
7. Shri Sugrib Singh
8. Shri Ravi Prakash Verma

Rajya Sabha

9. Shri Rishang Keishing
10. Dr. Radhakant Nayak
11. Smt. Brinda Karat
12. Shri Devdas Apte
13. Shri Ravula Chandra Sekar Reddy

SECRETARIAT

Shri R.C. Ahuja - Joint Secretary
Shri R.K. Bajaj - Deputy Secretary
Shri J.V.G.Reddy - Under Secretary

Representative of Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary

Representatives of Ministry of Law & Justice

(Legislative Department)

Shri T. K. Viswanthan - Secretary
Shri N.K. Namboothiry - Joint Secretary and Legislative Counsel

2. At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

Then, Prof. Nandini Sunder, Department of Sociology, University of Delhi was called in to tender her evidence before the Committee. The Chairman explained to her the provisions of the Direction 58 under which evidence before the Committee could be treated as public and made available to M.Ps.

Thereafter, the Committee heard views/suggestions of Prof Nandini Sunder on the various provisions of the Bill as follows:-

- (i) inclusion of non-tribal forest dwellers within the scope of the Bill
- (ii) role, powers and composition of the Gram Sabha
- (iii) relocation of people from the core areas of National Parks and Sanctuaries
- (iv) rules of evidence
- (v) transfer of tribal land
- (vi) ceiling of 2.5 hectare of land

[The witness then withdrew]

A verbatim record of the proceedings was kept.

3. The Chairman, then, invited Ms. Smita Gupta, Senior Fellow, Institute of Human Development, Delhi to express her views on the provisions of the Bill and drew her attention to the provisions of the Direction 58 of the Directions by the Spaker.

Thereafter, the Committee heard the views/suggestions of the witness on some of the following points as under :-

- (i) issue of cut off date
- (ii) issues relating to rights of people living in National Parks and Wildlife Sanctuaries
- (iii) 2.5 hectare land ceiling
- (iv) development of infrastructure like schools, handpumps etc.
- (v) nistar rights
- (vi) offences and penalties
- (vii) encroachment of forest land

[The witness then withdrew]

A verbatim record of the proceedings was kept.

5. Thereafter, the representative (Shri Lalsinh Paragi) of Eklavaya Sangthan, Ahmedabad was called in. The Chairman drew his attention to the provisions of the Direction 58 of Directions by the Speaker.

The Committee then heard the views/suggestions of the witness which included some of the following points as under :-

- (i) giving back land to those who have been evicted from government project areas
- (ii) cut off date
- (iii) removal of ceiling of 2.5 hectare of land
- (iv) inclusion of non-ST people within the scope of the Bill.

[The witness then withdrew]

A verbatim record of the proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE FIFTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

V

FIFTH SITTING

The Committee sat from 1500 hrs. to 1715 hrs. on 9 March, 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri Giridhar Gamang
4. Dr. P.P.Koya
5. Shri Shailendra Kumar
6. Shri Babu Lal Marandi
7. Shri Madhusudan Mistry
8. Shri Baju Ban Riyan
9. Dr. Babu Rao Mediyam

Rajya Sabha

10. Shri Rishang Keishing
11. Shri Devdas Apte
12. Shri Birabhadra Singh
13. Shri Ravula Chandra Sekar Reddy
14. Shri N. Jothi

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri J.V.G.Reddy	-	Under Secretary
Shri K. Jena	-	Under Secretary

Representative of Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

4. Thereafter, the representatives of Jangal Jammen Jan Andolan, Rajasthan were called in. The following were present:-

- (i) Shri Ramesh Nandwana
- (ii) Shri Raghav Dutt Vyas
- (iii) Shri Bhanwar Singh Chandana
- (iv) Shri Mangilal Gujjar
- (v) Shri Ladu Ram
- (vi) Shri Arjun Lal
- (vii) Shri Nanadas
- (viii) Shri Meghraj
- (ix) Shri Jawan Lal
- (x) Ms. Charumitra Nehru

Then the Chairman drew their attention to the provisions of the direction 58 of the Directions by the Speaker. Thereafter, the Committee heard their views/suggestions on the following points :-

- (i) inclusion of people living in marginal area developmental agency in the State of Rajasthan
- (ii) extension of right to non-ST communities
- (iii) powers of Gram Sabha
- (iv) cut off date
- (v) displacement of people due to construction of dams etc. by the government
- (vi) issues of settlement of Rights & resettlement in core areas of national parks and sanctuaries

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

5. Thereafter, the representative (Shri George Monippally) of Bharat Jan Andolan, Jharkhand was called in. The Chairman explained to him the provisions of the direction 58 of the Directions by the Speaker. Thereafter, the Committee heard his views/suggestions on the following points:-

- (i) cut off date
- (ii) role and powers of gram sabha as a deciding body
- (iii) displacement of people by forest department due to reforestation
- (iv) definition of forest land
- (v) ceiling of 2.5 hectare of land

[the witness then withdrew]

A verbatim record of the proceedings was kept.

6. Then, Dr. Archana Prasad, Reader, Jamia Millia Islamia was called in. The Chairman explained to her the provisions of the direction 58 of the Directions by the Speaker. Then, the Committee heard her expert views/suggestions on the following points:-

- (i) decentralization of system at different levels viz. gram sabha level, State level, sub-divisional and district level
- (ii) issues of ecology and social equity
- (iii) cut off date
- (iv) inclusion of provisional right in core areas
- (v) inclusion of non S.T. forest dwellers within the scope of the Bill
- (vi) shifting cultivation
- (vii) land ceiling of 2.5 hectare of land and *nistar* rights
- (viii) re-development of forest and fringe areas

[the witness then withdrew]

A verbatim record of the proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE SIXTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

VI

SIXTH SITTING

The Committee sat from 1500 hrs. to 1615 hrs. on 10 March, 2006 in
Committee Room No. '63' Parliament House, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Shingada Damodar Barku
3. Shri Mahavir Bhagora
4. Shri Giridhar Gamang
5. Dr. P.P. Koya
6. Shri A. Krishnaswamy
7. Shri Shailendra Kumar
8. Shri Bajju Ban Riyan
9. Dr. Babu Rao Mediyam

Rajya Sabha

10. Shri Rishang Keishing
11. Smt. Brinda Karat
12. Shri Devdas Apte
13. Shri Ravula Chandra Sekar Reddy

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri J.V.G.Reddy	-	Under Secretary
Shri K. Jena	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K. Nampoothiry - Joint Secretary and Legislative Counsel

2. At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

3. Thereafter, a representative (Shri Gautam Bandhopadhyay) of People's Alliance for Livelihood Rights, Chhattisgarh was called in. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard his views/suggestions on the various provisions of the Bills as follows :-

- (i) cut off date
- (ii) relocation/settlement in protected areas
- (iii) ceiling of 2.5 hectare of land
- (iv) role of gram sabha in the process of verification, identification and conflict resolution etc.
- (v) role of PESA to strengthen gram sabha
- (vi) protection of tribal land from non-tribal and industrial use
- (vii) common property regions viz. river basin etc.
- (viii) misuse of cultivable land and its environmental affects

[witness then withdrew]

A verbatim record of proceedings was kept.

4. Thereafter, Ms. Sunita Narain of the Centre for Science and Environment, Delhi was called in. The Provisions of direction 58 of Directions by the Speaker were explained to her by the Chairman. Thereafter, the Committee heard her views/suggestions on the following points :-

- (i) conflict between some provisions of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 and Wildlife Act
- (ii) land area under tiger reserve and protected areas and "core areas of reserves"
- (iii) rights of people within the core areas of sanctuaries and national parks
- (iv) offences and penalties under the proposed legislation
- (v) unsustainable use of forest assets
- (vi) protection of grazing rights

[the witness then withdrew]

A verbatim record of proceedings was kept.

5. Thereafter, Shri S. R. Sankaran, IAS (Retd) was called in. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. The Committee then heard his views/suggestions on various provisions of the Bill as under:-

- (i) issues of inclusion of non-tribal forest dwellers within the scope of the Bill
- (ii) rights of people living in core areas of national parks and sanctuaries
- (iii) cut off date
- (iv) deletion of section 4(7) of the Bill
- (v) procedure for verification of forest rights
- (vi) clauses relating to offences and penalties
- (vii) clause 14 relating to 'Act not in derogation of any other law'
- (viii) role of gram sabha in the context of the Bill

[the witness then withdrew]

A verbatim record of the proceedings was kept.

6. Thereafter, the representatives of Lok Sagarsh Morcha, Madhya Pradesh were called in. The following were present :-

Shri Ambarish Rai
Smt. Pratibha Shinde
Shri Vipin Shukla
Smt Suman Vasava
Shri Yamuna Padavi
Smt. Katha Vasave
Shri Dayaram Pavara
Shri Ramdas Tadvi
Shri Bhajangabhai Vasava
Shri Yashada Vasava

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. The Committee then heard their views/suggestions on the following points :-

- (i) cut off date
- (ii) deletion of section 7 relating to offences and penalties
- (iii) issues relating to non-tribal population
- (iv) issues relating to eviction and relocation of oustees
- (v) ceiling of 2.5 hectare of land
- (vi) joint forest management committees and role of gram sabha

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE SEVENTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

VII

SEVENTH SITTING

The Committee sat from 1500 hrs. to 1720 hrs. on 23 March, 2006 in Committee Room 'B' Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri Giridhar Gamang
4. Dr. P.P. Koya
5. Shri Bajju Ban Riyan
6. Dr. Babu Rao Mediyam

Rajya Sabha

7. Shri Moolchand Meena
8. Shri Rishang Keishing
9. Dr. Radhakant Nayak
10. Smt. Brinda Karat
11. Shri Mangani Lal Mandal
12. Shri Nand Kishore Yadav

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K. Nampoothiry - Joint Secretary and Legislative Counsel

2. At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

3. Thereafter, Dr. Ranjit Singh was called in to tender his evidence before the Committee. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard his views/suggestions on the various provisions of the Bills as follows:-

- (i) inclusion of non-tribal communities within the ambit of the proposed legislation
- (ii) Jhum Cultivation
- (iii) Cut off date
- (iv) Issues relating to national parks and sanctuaries
- (v) offences and penalties proposed in the Bill

[the witness then withdrew]

A verbatim record of the proceedings was kept.

4. Thereafter the representatives of Jan Sangarsh Morcha were called in. The following were present:-

Ms Madhuri
Shri Anurag Modi
Shri Phagram
Shri Mangal Singh

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the following points in connection with various provisions of the Bill.

- (i) inclusion of non-scheduled tribe traditional forest dwelling communities within the ambit of the proposed legislation
- (ii) nistar rights
- (iii) issues of non-advansi forest dwellers in national parks and sanctuaries
- (iv) cut off date
- (v) destruction of forest due to illegal mining and other developmental projects

- (vi) 2.5 hectare of land ceiling
- (vii) empowerment of gram sabha in recognizing the rights
- (viii) atrocities on forest dwellers by forest department officials

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

5. Thereafter, the representatives of Jungle Adhikar Sangarsh Samiti were called in. The following were present:-

Shri Brian Lobo
Smt. Indiavi Tulpule
Shri Ramakant Patil

The Chairman explained to them the provisions of direction 58 of Directions by the Speaker. Thereafter, the Committee heard their views/suggestions on the following points :-

- (i) need to amend the definition of 'village' in the context of the Bill
- (ii) role of gram sabha
- (iii) penalties for contravention of provision by forest officials
- (iv) rehabilitation of persons displaced due to eviction
- (v) recognition of rights of non-tribal forest dwellers
- (vi) cut off date
- (vii) issues relating to national parks and sanctuaries

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

6. Thereafter, Shri Pradip Prabhu, Senior Fellow, National Institute of Rural Development, Hyderabad was called in. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. The Committee then heard his views/suggestions on various provisions of the Bill as under:-

- (i) need to specify the nature of evidence in the proposed legislation
- (ii) powers of States to take over the land
- (iii) in situ rehabilitation
- (iv) rights relating to minerals under the surface of the land in occupation of the people

[the witness then withdrew]

A verbatim record of the proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE EIGHTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

VIII

EIGHTH SITTING

The Committee sat from 1500 hrs. to 1700 hrs. on 24 March, 2006 in Committee Room No. '53' Parliament House, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri Giridhar Gamang
4. Dr. P.P. Koya
5. Shri Bajju Ban Riyan
6. Dr. Babu Rao Mediyam

Rajya Sabha

7. Shri Moolchand Meena
8. Shri Rishang Keishing
9. Smt. Brinda Karat
10. Shri Mangani Lal Mandal
11. Shri Nand Kishore Yadav

SECRETARIAT

Shri R.K. Bajaj - Deputy Secretary
Shri K. Jena - Under Secretary
Shri J.V.G.Reddy - Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri P.K.Varma - Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri R.S. Shukla - Deputy Legislative Counsel

2. At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

3. Thereafter, Shri B.D. Sharma was called in to tender his evidence before the Committee. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard his views/suggestions on the following points relating to the Bill

- (i) historical injustice done to forest dwelling communities
- (ii) inclusion of non-ST forest dwellers within the scope of the Bill
- (iii) shifting cultivation
- (iv) role of gram sabha
- (v) powers of Governor and Tribal Advisory Council in the context of the Bill

[the witness then withdrew]

A verbatim record of the proceedings was kept.

4. Thereafter, the representatives of All India Democratic Women's Association were called in. The following were present :-

Ms. Sudha Sundararam
Ms. Kirti Singh

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the following points relating to the Bill :-

- (i) recognition of rights jointly in the names of both spouses
- (ii) cut off date
- (iii) inclusion of non-ST forest population within the scope of the Bill
- (iv) issues relating to provisional rights in the core areas of National Parks and sanctuaries
- (v) adequate compensation to the dislocated persons due to eviction
- (vi) monitoring process of resettlement and relocation by gram sabha
- (vii) safeguarding the interest of women forest dwellers
- (viii) atrocities on women by forest guards during collection of minor forest produce
- (ix) role and responsibilities of State in forest management
- (x) infrastructural requirement viz. access to water, free schooling, hospitals, road etc.
- (xi) provisions for authorities and procedure for settlement of rights
- (xii) powers of gram sabha in verification of land rights
- (xiii) adequate representation of women in sub-divisional/district level/state level committees

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

5. Thereafter, Ms. Madhu Sarin was called in. The Chairman explained to her the provisions of direction 58 of the Directions by the Speaker. The Committee then heard her views/suggestions on various provisions of the Bill on the following :-

- (i) inclusion of non-ST forest dwellers in the scope of the Bill
- (ii) recognition of rights of displaced/evicted people
- (iii) issues relating to core areas
- (iv) rights in the joint names of both the spouses
- (v) community rights, common property rights and right over minor forest produce
- (vi) in situ rehabilitation
- (vii) shifting cultivation
- (viii) role of PESA in the context of the Bill
- (ix) ceiling of 2.5 hectare of land
- (x) nature of evidence

[the witness then withdrew]

A verbatim record of the proceedings was kept.

6. Then, the representatives of All India Kisan Sabha were called in. The following were present :-

Shri Dhulichand
Shri Rajendra Singh Munda
Shri Sanjay Parate

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. The Committee then heard their views/suggestions on the following points :-

- (i) inclusion of non-ST tribal communities in the scope of the Bill
- (ii) cut off date
- (iii) ceiling of land keeping in view the quality of land, soil, irrigation facilities, geological and other situation prevailing in the tribal area
- (iv) permanent rights to the forest dwellers living in national parks and sanctuaries
- (v) infrastructure facilities viz. power, education and road etc.
- (vi) jhum cultivation
- (vii) dislocation of forest dwellers due to developmental project

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

7. Thereafter, representatives of Adivassi Adhikar Manch ((M.P. & Chhattisgarh) were called in. The following were present :-

Shri B.S. Dhakad
Shri Budhsen Singh
Shri Jasvinder Singh
Shri Sukhranjan Usendi

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the various provisions of the Bills on the following points :-

- (i) Cut off date
- (ii) 2.5 hectare of land ceiling
- (iii) issues relating to constitution of sub-divisional, district level and state level committees
- (iv) role of gram sabha

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

8. Then, the representatives of Action Research in Community Health & Development (ARCH), Gujarat were called in. The following were present :-

Shri Ambrish Mehta
Shri Rajesh Mishra

The Chairman explained to them the provisions of direction 58 of the Directions by the Speaker. The Committee then heard their views/suggestions on the following points :

- (i) rights relating to forest produce and management of forest
- (ii) role of district level and other committees
- (iii) role of Ministry of Environment & Forest in regard to grant of permission
- (iv) role of gram sabha
- (v) need to conduct training camps to explain the provisions of the Bill by the Ministry of Tribal Affairs and Revenue Department

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE NINTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

IX

NINTH SITTING

The Committee sat from 1500 hrs. to 1640 hrs. on 17 April, 2006 in
Committee Room No. 074, Parliament Library Building, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Dr. P.P. Koya
5. Shri Shailendra Kumar
6. Shri Rajesh Kumar Manjhi
7. Shri Babu Lal Marandi
8. Shri Baju Ban Riyan
9. Dr. Babu Rao Mediyam
10. Shri Sugrib Singh
11. Shri Rajesh Verma

Rajya Sabha

12. Shri Ravula Chandra Sekar Reddy
13. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representative of the Ministry of Tribal Affairs

Shri P.K.Varma

- Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiry

- Joint Secretary & Legislative Counsel

Shri R.S. Shukla

- Deputy Legislative Counsel

2. At the outset, Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

3. Thereafter, Shri Sanjay Upadhyay, Advocate, Supreme Court of India was called in. The Chairman explained to him the provisions of the Direction 58 of the Directions by the Speaker. The Committee then heard his views/suggestions which negated the wrong perception that -

- (i) the Bill seeks to hand over forest to tribal communities
- (ii) the bill encourages decimation of forests
- (iii) the 2.5 Ha of land proposed to be given to every tribal family will exceed the total area under the forest land
- (iv) the Bill contradicts the Wildlife Act and Forest Conservation Act
- (v) the Bill does not take into account the special conditions of North Eastern States
- (vi) the recognition process will be distorted by vested Panchayat Bodies
- (vii) the Bill may destroy the national parks and sanctuaries

He also stressed the need to frame the rules simultaneously as well as ensure representation of various stakeholders in sub divisional level and district level committees

[the witness then withdrew]

A verbatim record of the proceedings was kept.

4. Thereafter, Shri C.R. Bijoy was called in. The Chairman drew his attention to the provisions of the direction 58 of the Directions by the Speaker. Then, the Committee heard his views/suggestions on the following points :-

- (i) definition of village in the context of the Bill;
- (ii) section 6 (1) relating to procedure for vesting forest rights and the need to include forest dwellers other than STs;
- (iii) role and responsibilities of gram sabha; sub-divisional level committee and district level committee;
- (iv) offences & penalties under the proposed legislation;

- (v) cut off date;
- (vi) extension of protected areas and issues relating to wild life, national park and sanctuaries

[the witness then withdrew]

A verbatim record of the proceedings was kept.

4. Thereafter, a representative (Shri Ashish Kothari) of Kalpavriksh, an NGO involved in tribal affairs was called in. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. Thereafter, the Committee heard his views/suggestions on the following points :-
- (i) need for recognition of forest and natural resources rights of local communities;
 - (ii) need to have site specific solutions to the problems of tribal people;
 - (iii) inclusion/reognition of rights of nomadic communities;
 - (iv) section 2 (b) relating to definition of core areas;
 - (v) provisional rights of people living inside protected areas of national park and sanctuaries;
 - (vi) identification of core areas or critical wildlife habitat by an independent body of scientists;
 - (vii) section 3(j) relating to community forest resources
 - (viii) cut off date
 - (ix) rights to nistar and forest produce
 - (x) provision of a clause in the proposed legislation relating to mandatory public hearing and consent of local community in the matter of developmental project on the land belonging to forest dwelling community
 - (xi) composition of sub-divisional committees, district level committees and state level monitoring committees;
 - (xii) need to specify/define the kind of infringement or violation for imposition of penalties under the Bill

[the witness then withdrew]

A verbatim record of the proceedings was kept.

6. Thereafter, the representatives of National Forum of Forest People and Forest Workers were called in. The following were present :-
1. Smt. Mamta Dash
 2. Shri Munni Lal
 3. Shri Shiba Sunwar
 4. Shri Ashok Choudhary
 5. Shri Sanjay Basu Mullick
 6. Shri Parshuram Netam
 7. Shri Debnit Nandi

Then, the Chairman drew their attention to the provisions of the direction 58 of the Directions by the Speaker. Thereafter, the Committee heard their views/suggestions on the following points :-

- (i) historical injustice done with the forest dwelling communities;
- (ii) need for inclusion of forest dwellers other than STs within the scope of the Bill;
- (iii) Cut off date;
- (iv) provisions for recognising collective rights;
- (v) ceiling of 2.5 hectare of land;
- (vi) matter relating to core areas
- (vii) offences by members or officers of authorities and committees under the proposed legislation

[the witnesses then withdrew]

A verbatim record of the proceedings was kept.

7. Thereafter, the Chairman read out the schedule relating to various stages of considerations of the Bill. The Chairman also apprised the members that as per schedule they could give their notices of Amendments to the various provisions of the Bill by 28 April, 2006.

The Committee then adjourned.

**MINUTES OF THE TENTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

X

TENTH SITTING

The Committee sat from 1500 hrs. to 1630 hrs. on 18 April, 2006 in Committee Room No. 074, Parliament Library Building, New Delhi.

PRESENT

Shri V. Kishore Chandra S. Deo - *Chairman*

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Shri Giridhar Gamang
5. Dr. P.P. Koya
6. Shri Shailendra Kumar
7. Shri Rajesh Kumar Manjhi
8. Shri Madhusudan Mistry
9. Shri Jual Oram
10. Shri Bajju Ban Riyan
11. Dr. Babu Rao Mediyam
12. Shri Ravi Prakash Verma

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri P.K.Varma - Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiary	-	Joint Secretary and Legislative Counsel
Shri R.S. Shukla	-	Deputy Legislative Counsel

2. At the outset, Hon'ble Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Committee.

3. Thereafter, Shri Samar Singh, IAS (Retd) was called in. The Chairman explained to him the provisions of direction 58 of the Directions by the Speaker. Then, the Committee heard his views/suggestion on the following points :

- (i) legal and constitutional propriety of the Bill;
- (ii) possible contradictions between existing central laws on forests and wildlife vis-à-vis proposed legislation;
- (ii) issues of scheduled castes and other disadvantage categories of people residing in forests;
- (iii) issues relating to encroachment on forest land;
- (iv) issues relating to National Parks and Sanctuaries;
- (v) need to define the terms like 'nuclear family' and words in preamble such as 'for generation' and 'recognised rights';
- (v) community rights and community forest resources;
- (vi) role of gram sabha, sub-divisional level and district level committees
- (vii) nature, quantum and grading of penalty
- (viii) need for an integrated approach of all the agencies of Government machinery in recognizing and implementing the Schemes

[the witness then withdrew]

A verbatim record of proceedings was kept.

4. Thereafter, the representatives of (SEVA sustainable – Agriculture & Environment Voluntary Action, Madurai) were called in . The following were present :-

Shri Padmakumar
Shri S. Muthiah
Shri R. Muthiah
Shri Hanwant Singh
Shri Babulal Raika
Shri Hira Ram Raika
Shri Bhopal Ram Raika

The Chairman explained to them the provisions of the direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the following points:-

- (i) issues relating to pastorlists and their livelihood;
- (ii) customary rights of nomadic tribes;
- (iii) Grazing rights; and
- (iv) Atrocities by forest officials on forest dwellers

[the witnesses then withdrew]

A verbatim records of proceedings was kept.

5. The Chairman then drew the attention of the members of the Committee towards the various stages of the consideration of the Bill and apprised the members that the last date for sending the notices of amendments was 28 April, 2006 and requested them to send notices as early as possible.

The Committee then adjourned.

**MINUTES OF THE ELEVENTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

XI

ELEVENTH SITTING

The Committee sat from 1500 hrs. to 1800 hrs. on 19 April, 2006 in Committee Room No. 074, Parliament Library Building, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Mahavir Bhagora
3. Dr. P.P. Koya
4. Shri Shailendra Kumar
5. Shri Rajesh Kumar Manjhi
6. Shri Bajju Ban Riyan
7. Shri Jua Oram
8. Dr. Babu Rao Mediyam
9. Shri Ravi Prakash Verma

Rajya Sabha

10. Dr. Radhakant Nayak
11. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G.Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri P.K.Varma

- Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiry - Joint Secretary and Legislative Counsel

Shri R.S. Shukla - Deputy Legislative Counsel

2. At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Joint Committee.

3. First, a representative (Shri Valmiki Thapar) of Ranthambore Foundation and Shri M.K.Jiwarajka, Member, Central Empowered Committee were called in. The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the following points:-

- (i) Issues relating to National Parks & Sanctuaries;
- (ii) Inclusion of non ST Forest dwellers within the scope of the Bill;
- (iii) Land rights on forest land and rights over minor forest produce ;
- (iv) Ceiling of 2.5 hectare of land;
- (v) Need to differentiate between Government owned Forest and privately owned forest;
- (vi) Land assigned under Joint Forest Management;
- (vii) Anomalies in Guidelines issued in 1990 by the Ministry of Environment & Forest; and
- (viii) Need to set up a Commission for rehabilitation;

[the witnesses then withdrew]

A verbatim record of proceedings was kept.

4. Thereafter, the representatives of All India Kisan Workers Union were called in. The following were present :-

Com. Suneet Chopra, Joint Secretary, AIAWU

Com. Kumar Shiralkar, Member Central Working Committee, AIAWU

The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the committee heard their views/suggestions on the points as follows :-

- (i) Various anomalies in respect of recognizing the Scheduled Tribes in the States;
- (ii) Proposed cut off date;
- (iii) Proper land record and land survey;**

- (iv) 2.5 hectare land ceiling;
- (v) Community property rights in the forest areas under the jurisdiction of Gram Panchayats, autonomous district councils;
- (vi) Issues relating to minor forest produce;
- (vii) Protection of tribal people from exploitation; and
- (viii) Need to formulate a comprehensive Forest Act;

[the witnesses then withdrew]

A verbatim record of proceedings was kept.

5. Thereafter representatives of Anthra, an NGO based in Secunderabad were called in. The following were present :-

Ms. Sagari R. Ramdas - Director
Shri N. Madhusudhan
Shri K. Pandu Dora

The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the points as follows :-

- (i) Shifting cultivation rights of Adivasi communities;
- (ii) Grazing (both settled and transhuman) rights;
- (iii) Recognition of rights of Pastoralist community;
- (iv) Cut off date;
- (v) Issues relating to protected areas;
- (vi) Empowerment of Gram Sabha;
- (vii) Offences and penal provisions; and
- (viii) Joint Forest Management and Community Forest management programmes in the State of Andhra Pradesh;

[the witnesses then withdrew]

A verbatim record of proceedings was kept.

6. Thereafter, the representatives of various N.G.Os. from Andhra Pradesh were called in. The following were present :-

Shri N. Sanyasi Rao, Director, ARTs (NGO)
Shri K. Krishna Rao
Shri D.S. Prasad
Smt P. Bhudevi

Shri Narsinga Rao
Shri Sanhara Reddy

The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the points as follows :-

- (i) cut off date;
- (ii) 2.5 hectare land ceiling;
- (iii) lack of written land records with tribal people and nature of evidence and powers of Gram Sabha;

- (iv) reserved Forests & unreserved Forests;
- (v) need to identify unsurveyed villages;
- (vi) need to specify nature of evidence in the Bill;
- (vii) inclusion of Non-tribal Forest dwellers in the Bill; and
- (viii) community rights;

[the witnesses then withdrew]

A verbatim record of proceeding was kept.

7. Thereafter, the following persons from the District of Nilgiris, Tamilnadu appeared before the Committee :-

Shri K.V.Poulose, Chairman, District Panchayat, Nilgiris
Shri Koshy Baby
Shri P.H.Abdul Kareem
Shri K. Bala Murugan

The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the committee heard their views/suggestions on the points as follows :-

- (i) issues relating to tribals of Gudalur area in Nilgiris who are exclusively Governed by the Gudalur Janniom Estate (Abolition and Conversion into Rytowari) Act,1989; and
- (ii) horticultural and agricultural land unilaterally and arbitrarily declared as forest land; and
- (iii) eviction of tribals by Forest Department

[the witnesses then withdrew]

A verbatim record of proceedings was kept.

8. Thereafter, the representatives of Adivasi Mahasabha, Gujarat were called in. The following were present :-

Shri Gova Rathod,
Shri Datubhai Vasava

The Chairman explained to them the provision of direction 58 of the Directions by the Speaker. Then, the Committee heard their views/suggestions on the points as follows :-

- (i) Admissible evidence for recognizing the rights;
- (ii) Empowerment of Gram Sabha;
- (iii) Cut off date; and
- (iv) Settlement of rights of non-tribal Forest Community;

[the witnesses then withdrew]

A verbatim record of proceedings was kept.

The Committee then adjourned.

**MINUTES OF THE TWELFTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

XII

TWELFTH SITTING

The Committee sat from 1100 hrs. to 2030 hrs. on 8 May, 2006 in Committee Room 'C', Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri C.K. Chandrappan
3. Shri Giridhar Gamang
4. Shri Shailendra Kumar
5. Shri Jual Oram
6. Shri Baju Ban Riyan
7. Dr. Babu Rao Mediyam

Rajya Sabha

8. Shri Rishang Keishing
9. Dr. Radhakant Nayak
10. Smt. Brinda Karat
11. Shri Devdas Apte
12. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G. Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary
Shri P.K.Varma - Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiry - Joint Secretary and Legislative Counsel

2. At the outset, the Chairman welcomed the members of the Joint Committee and the officials. The Chairman informed the Committee about the circulation of 7 lists containing amendments given notice of by the Members of the Committee and 2 lists containing amendments given notice of by members, who are not the members of the Committee, under rule 301 of the Rule of Procedure & Conduct of Business in Lok Sabha. The Chairman also informed the members that all these amendments had been circulated to them in a consolidated list incorporating all the 9 lists.

3. The Committee then took up clause-by-clause consideration of the Bill with reference to the amendments given notice of by the members of the Committee as well as amendments received under rule 301 with a view to formulating their views and arriving at conclusions. The members present at the sitting moved their amendments.

4. First of all the Committee took up for consideration Clause 3 and adopted the following amendments:-

(i) Clause 3, Page 3, line 6

After the words “Scheduled Tribes”

Add “and other traditional forest dwellers on all forest lands”

(ii) Clause 3(a), Page 3, line 10

After the words “Scheduled Tribes”

Add “or other traditional forest dwellers”

(iii) (a) Clause 3 (b), Page 3, line 11

For the words “used”

Substitute “including those used”

(b) Clause 3 (b), page 3, line 12

After the word “regimes”

Add “that occur in forest land”

(iv) Clause 3 (c), Page 3, line 13

For the existing clause

Substitute “Right of ownership access to collect, use, transport and dispose of minor forest produce which has been traditionally collected within or outside village boundaries”

(v) Clause 3 (d), Page 3, line 14-15

(a) After the words “such as”

Insert “fish and other products of water bodies,”

(b) for “(both settled and transhumant)”

Substitute “(both settled or transhumant)”

(vi) Clause 3 (h), Page 3, line 23

For the existing clause

Substitute “rights of settlement of all forest villages, old habitation unsurveyed villages and other villages in forests whether recorded, notified or not into revenue villages.”

(vii) Clause 3, Page 3, line 24-25

Omit Clause 3 (i)

(viii) Clause 3 (j), Page 3, line 26-28,

For existing clause 3(j)

Substitute “community right and authority to use, protect, regenerate, conserve, control, or manage any community forest resource, provided that such right shall include the right to all produce and benefits such as timber, minerals, environmental and cultural services.”

(ix) Clause 3 (k), Page 3, line 31

After words “customary law”

Insert “of the concerned tribes”

(x) After Clause 3 (k)

Add new clause “right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity.”

(xi) Clause 3(l), Page 3, line 33

After words “Scheduled Tribes”

Insert words “or other traditional forest dweller, as the case may be”

(xii) After Clause 3(l)

Add new clause 3(1) (m), 3(2), 3(3), 3(4) and 3(5)

(M) right to *in situ* rehabilitation including alternative land in cases where the scheduled tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation.

(2) The vesting of rights shall include the lands occupied by the families of forest dwelling Scheduled Tribes and other traditional forest dwellers earlier or leased to them by the Forest Department and taken away subsequently by the Forest Department or other agencies for plantation or any other like purposes.

(3) The Central Government shall ensure that the provisions of developmental requirements of food, fibre, education, health, communication and the like of the forest dwelling Scheduled Tribes and other traditional forest dwellers are met and the land requirements from the forest lands to provide such basic and essential developmental facilities in forests or in the proximity of forests shall be provided.

(4) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities which involve felling of trees not exceeding seventy-five trees per project, namely:-

- (a) schools;
- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centers;
- (l) roads; and
- (m) community centers.

Provided such diversion of forest land shall be allowed only if-

- (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

(5) Notwithstanding any custom or usage, the female members of the Scheduled Tribes and other traditional forest dwellers shall have equal rights vested, with special provision for female-headed households and widows.

5. Thereafter, the Committee took up consideration of clause 4 and adopted the following amendments :-

(i) Page 3, line 37

For the heading under Chapter III “RIGHTS OF FOREST DWELLING SCHEDULED TRIBES”

Substitute : “RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS”

(ii) (a) Clause 4(1), Page 3, lines 43-45 and page 4, lines 1-2

For the existing clause 4(1)

Substitute

“Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in-

- (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
- (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3;”

(iii) After Clause 4(1), Page 4

Add new clause

“The forest rights recognized under this Act in Critical Wildlife Habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purpose of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972, and with the consent of all the rights holders and in consultation with independent

ecological and social scientists familiar with the area that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government, after obtaining the consent of all the holders of rights and in consultation with independent ecological and social scientists familiar with the area, has concluded that other reasonable options such as co-existence, where even in critical wildlife habitats, human use is not incompatible with conservation values, or where some changes in resource use patterns could make them compatible with conservation values, or partial relocation, where complete relocation is not necessary for the mitigation of such impacts are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfills requirements of such affected individuals and communities given in the National Relief and Rehabilitation Policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the area concerned, and of the concerned individuals, to the resettlement and to the package provided has been obtained in writing;

(f) No resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package.

Provided that critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State or Central governments or any other entities for other uses.

Provided further that the community shall have the right to their original habitation if unsatisfied with the rehabilitation.

- (iv) Clause 4(2), Page 4, line 4
After words “Scheduled Tribes”
Insert “ and to other traditional forest dwellers”
- (v) Clause 4(2), Page 4, line 5
After words “tribal communities”
Insert “or other traditional forest dwellers”
- (vi) Clause 4(2), Page 4, line 6

For the words “25th day of October, 1980”
Substitute “13th day of December, 2005”

(vii) Clause 4(3), Page 4,

For existing Clause 4(3)

Substitute “A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin.”

(viii) Clause 4(4), Page 4, line 9

After words “Scheduled Tribe”

Insert “or other traditional forest dwellers”

(ix) Clause 4(4), Page 4, line 11

Omit words “in such manner as may be prescribed”

(x) For Clause 4(5)(i)

Substitute “Where the forest rights recognized and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation”

(xi) Clause 4(5)(ii), line 18-20,

Omit clause 4(5)(ii)

(xii) Clause 4(6), Page 4, line 22

After word “Schedule Tribe”

Insert “or other traditional forest dwellers”

(xiii) Clause 4 (6) (i) , Page 4, lines 23

Clause 4 (6) (i) added to clause 4 (6) after the word “shall”

(xiv) Clause 4 (6) (ii) Page 4, lines 24-26

Omit section 4 (6) (ii)

(xv) Clause 4 (7), Page 4, line 27-33

Omit clause 4 (7) alongwith proviso

(xvi) After Clause 4(7)

Add new Clause

“Where rights are being claimed under clause (e) of section 3 by communities that partially or fully practise shifting cultivation, such community shall have full decision-making powers over land use on any land that falls within the traditional boundaries or range of that community.

(xvii) Clause 4 (8), Page 4, lines 34-35

For the existing clause

Substitute “the forest rights shall be conferred free of all encumbrances and procedural requirements including clearance under the forest conservation Act, 1980, requirement of paying of the net present value and compensatory afforestation for diversion of Forest land, except those specified in this Act.”

(xviii) After Clause 4(8)

Add new sub-clause as under:

“The forest rights recognized and vested shall include the right of land to forest dwelling Scheduled Tribes or other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition..”

6. The Committee then took up for consideration Clause 5 and adopted the following amendments:-

(i) Clause 5, Page 4, line 36-49, Page 5, line 1-3

For the existing clause 5

Substitute 5(1) (a) to (j), 5(2), 5(3), 5(4) and 5(5)

“5. (1) The Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act shall be empowered to:-

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchment areas, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the Biodiversity are complied with;

(e) ensure that when traditionally forest dwelling Scheduled Tribes or other traditional forest dwellers seek to sell the harvested minor forest produce they may be allowed to sell to any person of their choice but the Government shall offer them adequate and fair minimum support price and take steps to protect them from middlemen and traders;

(2) the Government shall ensure that the Forest dwelling Scheduled Tribes and other traditional forest dwellers shall not be denied of any benefit arising out of any explorations, exploitation and use of natural resources and shall also adequately compensate the forest dwelling Scheduled Tribes and other traditional forest dwellers for any of the damages caused by such activities.

(3) The Government shall protect the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers under this Act and shall prohibit any one who does not belong to a forest dwelling Scheduled Tribe or who is not an other traditional forest dweller, such as an individual agency, corporation or institution from violating the provisions of this Act and take punitive action against them for such violation.

(4) The Government shall protect the right to access biodiversity and the community right to intellectual and traditional knowledge related to forest biodiversity and cultural diversity.

(5) No forest land shall be acquired or diverted that may adversely affect the rights recognized under this Act without prior intimation to and prior consent of the Gram Sabha and the affected persons without paying adequate and equal compensation on the principle of “cultivable land for land” and proper rehabilitation:

Provided that in areas where the Sixth Schedule to the Constitution is applicable, its provisions regarding land acquisition shall prevail over the provisions of this Act.

7. Then the Committee took up for consideration Clause 6 and adopted the following amendments:-

(i) Clause 6 (1), Page 5,

For existing Clause 6(1)

Substitute “The Gram Sabha shall be the authority for determining the nature and extend of individual or community forest rights, or both, that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local and customary limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.”

(ii) Clause 6 (2), Page 5, line 13-15

For the existing sub-clause

Substitute “Any potential rights holder aggrieved by the resolution of the Gram Sabha may submit an application to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider such application and communicate recommendations of an advisory nature to the Gram Sabha within a

period of sixty days after which the Gram Sabha shall make a decision and pass a final resolution as per the decision within ninety days:

Provided that every such application to the Sub-Divisional Level Committee shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha;”

a. Page 5, for the existing sub-clauses 6(3), (4), (5), (6), (7), (8) and (9).
Substitute

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolutions passed by the Gram Sabha and to make recommendations, if any, to the Gram Sabha which shall then make its final decision and prepare the records of forest rights and forward it to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Gram Sabha may make an application to the Sub-Divisional Level Committee which shall send its recommendations to the Gram Sabha for a final decision.

(5) Any person aggrieved by the final decision of the Gram Sabha may prefer a petition to the District Level Committee within sixty days from the date of the decision of the Gram Sabha under sub-section (4) and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee unless the same has been preferred before and commented on by the Sub-Divisional Level Committee by way of recommendations made to the Gram Sabha, and the Gram Sabha has made its final decision through a resolution:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(6) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest right prepared by the Gram Sabha.

(7) The decision of the District Level Committee on the record of forest right, shall be final and binding.

(8) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such records and reports as may be called for by that agency.

(9) The composition of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall be as follows:-

- (i) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall have at least half of its members from the forest dwelling Scheduled Tribe with provisions for

- adequate inclusion of elected representatives and disadvantaged communities on the committees;
- (ii) At least one-third of the non-official members shall be women;
 - (iii) The Committee shall also have officers of the departments of Revenue, Tribal Affairs and Forest of the concerned State Government of the appropriate level as may be decided by the State Government;
 - (iv) All the committees constituted under this section shall be headed by the official representing the revenue department.
 - (v) The number of members of the Sub-Divisional Level Committee, District Level Committee and the State Level Monitoring Committee and the rules of procedure to be followed by them shall be such as may be prescribed.

(iv) After Clause 6(9),
Add new sub-clauses 6(10), 6(11), 6(12)

(10) The functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be as follows:

(a) The Sub-Divisional Level Committee shall-

- (i) receive applications against the decision of the Gram Sabha decisions and send its recommendations on them to the Gram Sabhas as per the procedure as may be prescribed;
- (ii) facilitate the organizing of multi-gram sabha meetings for deciding on boundaries of shared community forest resources and resolving disputes between them over such boundaries;
- (iii) initiate Gram Sabha meetings in cases where Gram Sabha fail to discharge their responsibilities.
- (iv) Receive communications from the Gram Sabha and make related recommendations, if any:

Provided that during the process of investigation of claims by Gram Sabhas, the Sub-Divisional Level Committee may ensure information dissemination and capacity building and training support in its area of jurisdiction on behalf of the District Level Committee.

(b) The District-Level Committee shall:-

- (i) ensure that the recognised rights are entered in the revenue records and forest records within three months of their finalisation;
- (ii) during the process of recognition of rights, ensure that the Sub-Divisional Level Committees and Gram Sabhas in their districts receive all necessary support for widespread information dissemination in local languages and through traditional communication channels about the provisions of this Act and the procedure to be followed for filing of claims;

- (iii) organize training and capacity building support for members of Sub-Divisional Level Committees, Gram Sabhas, civil society organizations and representatives and other local stakeholders;
- (iv) ensure that existing revenue and forest records, maps, other required documents are made available to Sub- Divisional Level Committees and Gram Sabhas as required; and
- (v) ensure that the Gram Sabhas receive technical support, when requested, of surveyors and cartographers for preparing maps of the areas over which rights are claimed.

(c) State-Level Monitoring Committee shall-

- (i) ensure that constitution and functioning of the Sub-Divisional Level Committees and District Level Committees referred to in this section is completed within six months of the enactment of this Act; and
- (ii) monitor the performance of the Sub-Divisional Level Committees and District-Level Committees periodically.

(11) For the purpose of defining the boundaries of a shared customary forest area or to resolve any dispute between two or more Gram Sabhas over questions of such shared forest boundaries or of community rights determined in a shared customary forest area under this Act, the two or more Gram Sabhas shall meet jointly within a period of sixty days of claims being made for such a shared forest area or a dispute over its boundaries becoming apparent, for the purpose of determining the boundaries resolving the disputes:

Provided that if such a meeting fail to take place, the Sub-Divisional level Committee shall convene such a meeting within a period of thirty days after the expiry of the said period of sixty days.

(12) The evidence acceptable in support of a claim to a right under this Act shall include, but not be limited to, the following, namely:-

- (a) oral evidence of the community and members of the community;
- (b) spot verification of cultivated area, age of trees, and the like by the authority (the Gram-Sabha or Committee) concerned;
- (c) improvements made to the land such as bunds, check dams and the like;
- (d) documentary evidence such as primary evidence, offence reports, prior pattas or leases, house tax receipts, etc;
- (e) official or independent records such as gazetteers, forest enquiry reports, anthropological studies or literature, surveys and maps;
- (f) affidavits from the claimant or his or her neighbours and other community members; and
- (g) official records of rights and permitted uses under Princely States, zamindars and the like; and
- (h) documentary evidence from any prior research or documentation of reputed institutions or individuals, including reports, publications of renowned anthropologists and reports of the anthropological survey of India.

8. Thereafter, the Committee considered clause 7 and felt that the provision regarding penalties should be done away with. The Committee, therefore, decided that clause 7 in Page 4 of the Bill be omitted.

9. The Committee thereafter, felt that there was need to empower Committees of Gram Sabha and also concerned about the rehabilitation of ineligible and primarily forest dependent encroachers. Therefore, the Committee decided to add new clauses as under:-

(i) After Clause 6
Add new Clauses

“The Gram Sabhas may at any time constitute one or more committees or other institutions consisting solely of members of that Gram Sabha with representation of women, to consider matters that fall within the purview of the Gram Sabha under this Act and recommend a course of action to the Gram Sabha:

Provided that the powers of such committees or institutions shall be purely advisory in nature.”

“Any ineligible and primarily forest-dependent encroacher shall be offered in situ rehabilitation through employment in afforestation or in other forest-based activity.”

10. Then the Committee considered clause 13 and felt that directions issued by the Central Government under this Clause should not be inconsistent with the provisions of the Act and should not curtail or abrogate the rights recognized under the Act. The Committee, therefore, decided to add a new proviso as follows:-

(i) Clause 13, Page 7, lines 4-6

After Clause 13 Add a new proviso as under:-

“Provided that such directions shall be consistent with the provisions of this Act and shall not result in curtailing or abrogating any of the rights recognized under this Act.”

11. Then the Committee considered clause 14 and substituted the clause as follows:

(i) For Clause 14, page 7, lines 7-8
Substitute as under:

“If the provisions of any other law for the time being in force or any decree, judgement, award or order of any court are in contravention to the provisions of this Act, the provisions of this Act shall prevail.”

12. The Committee, thereafter, considered clause 15 and adopted the following amendment:-

(i) Clause 15 (1), Page 7, line 9

After the word “notification”

Insert “and subject to the condition of previous publication”

- (ii) Clause 15 (2)(a), Page 7, lines 13-14,
Omit sub-clause 15 (2) (a)
 - (iii) Page 7, lines 15-16,
For Clause 15 (2) (b),
Substitute “procedural details for implementation of the procedure specified in Section 6 of this Act.”
 - (iv) Page 7, lines 28,
After clause 15 (2)(e)
Add “(e) the number of members of the Sub-Divisional Level Committee, District Level Committee and the State Level Monitoring Committee and the procedure to be followed by the said Committees under clause (v) of sub-section (9) of section 6;
 - (f) the procedure to receive applications against the decisions of Gram Sabha and sending of the said recommendations to the Gram Sabha under sub-clause (i) of clause (a) of section 10 of section 6;”
13. The Committee then adjourned to meet again on 9 May, 2006 at 1100 hrs. to take up the further clause-by-clause consideration.

**MINUTES OF THE THIRTEENTH SITTING OF THE JOINT COMMITTEE ON THE
SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

XIII

THIRTEENTH SITTING

The Committee sat from 1100 hrs. to 1400 hrs. on 9 May, 2006 in Committee Room No. '62', Parliament House, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri C.K. Chandrappan
3. Shri Giridhar Gamang
4. Shri Shailendra Kumar
5. Shri Jual Oram
6. Shri Bajju Ban Riyan
7. Dr. Babu Rao Mediyam
8. Shri Ravi Prakash Verma

Rajya Sabha

9. Shri Rishang Keishing
13. Dr. Radhakant Nayak
14. Smt. Brinda Karat
15. Shri Devdas Apte
16. Shri Mangani Lal Mandal

SECRETARIAT

Shri R.C. Ahuja	-	Joint Secretary
Shri R.K. Bajaj	-	Deputy Secretary
Shri K. Jena	-	Under Secretary
Shri J.V.G. Reddy	-	Under Secretary

Representatives of the Ministry of Tribal Affairs

Shri Rajeev Kumar - Joint Secretary
Shri P.K.Varma - Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiry - Joint Secretary and Legislative Counsel

At the outset, the Chairman, Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 welcomed the members of the Joint Committee. The Committee then resumed further Clause- wise consideration of the provisions of the Bill.

2. The Committee then took up for consideration Clause 2 and adopted the following amendments:-

(i) Clause 2 (a) Page 2, lines 2-4

Omit Clause 2 (a)

(ii) Clause 2 (b), Page 2, lines 5-8

Omit Clause 2 (b)

3. The Committee then considered the need for a definition of “Community Forest Resource.” Accordingly, the Committee decided to add a new definition of Community Forest Resource as under:

“2 (a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village, or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;”

4. Then, the Committee considered concept of “core areas”. The Committee were of the opinion that the term has not been defined on scientific or objective basis. As such the Government have the power to declare any areas as core areas which may lead to mass eviction of people from these areas. To overcome these problems, the Committee felt that the term ‘core areas’ and its definition should be substituted with a new term i.e. “critical wildlife habitat” and its definition to declare any areas as inviolate for the purpose of Wild Life Conservation. The Committee, therefore, decided to add a new definition of ‘Critical Wildlife Habitat’ as section 2 (b) as follows:-

(b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government after open process of

consultation by an Expert Committee, which includes experts from the locality appointed by the Ministry of the Central Government dealing with tribal affairs, and shall also be according to the procedural requirements arising from sub-sections (1) and (2) of section 4.”

6. The Committee also accepted the following amendments in clause (2):-

(i) Clause 2 (c), Page 2, line 10

After the word “reside in”

Insert “or in the close proximity of forests”

(ii) (a) Clause 2 (d), Page 2, line 13

For words “falling within any forest area”

Substitute “recorded or notified as forest”

(b) Clause 2 (d), Page 2, line 14

For words “unclassified”

Substitute “unclassed”

(iii) (a) Clause 2 (g) Page 2, lines 24

After the word “panchayats”

Insert the words “padas, tolas and other”

(b) Clause 2 (g), Page 2, line 25

After word “institution”

Add “and elected village committees with full and unrestricted participation of women.”

Explanation: For the purposes of this clause the term “village assembly” shall be construed according to the definition of “village” as given in clause (p), which applies also to areas covered by the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996;”

(iv) Clause 2 (i) Page 2, line 30

After the word “tubers”

Insert “fuel wood and the like stones, slates and boulders and products from water bodies including fish, weeds,”

(v) After Clause 2 (n), page 2, line 33

Add a new clause 2 (o) regarding definition of other traditional forest dwellers.

“(o) “traditional forest dweller” means any member or community that is residing in or in close proximity of the forest land and primarily dependent on forest land or forest resources for their livelihood needs, which term includes-

(i) communities who have been traditionally living in or adjacent to forests for at least three generations;

(ii) such communities which have settled or been located in the forest land as a result of government policy or the failure thereof such as all those who were settled by or encouraged to settle by any government department or policy on forest land, and all such bodies of people settled under with lease, patta or assignment on forest land for forestry or other work or use, including all residents of forest villages, *taungya* settlements and the like defined in any manner whatsoever, regardless of whether they are recorded or not;

(iii) if he or she or his or her family have been forcibly displaced from their original habitats because of development projects, natural calamities, or other circumstances;

(iv) if his or her original habitat has been declared as forest, sanctuary, national park or protected area under the Indian forest act, 1878 or the Indian forest Act, 1927 or Wild Life (Protection) Act, 1972 or is otherwise considered as forest area under Forest (Conservation) Act, 1980 or other applicable laws; or

(v) if he or she has been forced to occupy or purchase forest land or resources for livelihood purposes as a result of a failure of the Central Government or State Governments to fulfill their commitment to provide land or other livelihood resources made to that individual or to a group of which that individual belongs;”

(vi) (a) Page 2, line 41

After words “Act, 1996;”

Add “regardless of whether the area involved is a Scheduled Area or not”.

(b) Page 2, lines 42-43
Omit (ii)

5. The following amendments were also adopted:

Enacting Formula
Page 1, line 1,
For “Fifty-sixth”
Substitute “Fifty-seventh”

6. Short title

Clause 1, lines 4-5

For “The Scheduled Tribes (Recognition of Forest Rights) Act, 2005”

Substitute “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”

6. The long title and the preamble of the Bill were also amended to provide for recognition and vesting of forest rights in other Traditional Forest Dwellers.

7. The Committee also decided to recommend that Government should initiate necessary action to place the provisions of the Bill, as and when enacted, in the Ninth Schedule to the Constitution.

8. The amendments received from the members which were considered but not accepted by the Committee or were withdrawn by the members are given in the annexure.

9. The Committee then authorised the Legislative Counsel to modify the text of various Clauses, in the light of the amendments accepted by the Committee, correct patent errors and carry out amendments of verbal and consequential nature wherever necessary in the Bill.

11. The Committee then decided to meet again on 17th May, 2006 at 1500 hrs. to consider and adopt their draft Report.

The Committee then adjourned.

**JOINT COMMITTEE ON THE SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS)
BILL, 2005**

**List of amendments received from the Members of the Committee which were considered and
not accepted by the Committee at their sitting held on 8 and 9 May, 2006
(vide para 10 of the minutes)**

S.No	Name of Member and Text of Amendment	Clause No.
1	SHRI RADHAKANT NAYAK	
(i)	Page 3, line 10, <u>After</u> the words “Scheduled Tribes” <i>Add “or other right holder as specified under this Act in accordance with the principles of self-management”</i>	3(a)
2	SMT BRINDA KARAT DR BABU RAO MEDIYAM SHRI BAJU BAN RIYAN	
	<i>Page 3, line 11-12, For the existing clause 3 (b), Substitute “community rights for bona fide livelihood needs such as nistar, by whatever name called, including those in intermediary regimes”</i>	3(b)
3	SHRI C.K. CHANDRAPPAN	
(i)	Page 3, line 14, <u>after</u> the words “right of” <u>Insert</u> “collectively self regulatory”	3(d)
(ii)	Page 3, line 16, <u>after</u> the word “communities” <u>Add</u> at the end “to define forest land”	
4	SHRI C.K. CHANDRAPPAN	
	<i>Page 3, for sub clause 3 (e), Substitute “right to community tenure and decisions over land use in habitat and habitations of primitive tribal groups and pre-agricultural communities in their traditional habitats in any forest land;”</i>	3(e)

S.No	Name of Member and Text of Amendment	Clause No.
5	SHRI RADHAKANT NAYAK	
	Page 3, line 17, <u>For</u> the word “primitive” <u>Substitute</u> “endangered”	3(e)
6	SHRI C.K. CHANDRAPPAN	
(i)	Page 3, line 19 <u>after</u> the word “disputed”, <u>Insert</u> “forest”	3(f)
(ii)	Page 3, line 20, <u>after</u> the word “claims” <u>Insert</u> “over such land”	
7	SHRI RADHA KANT NAYAK	
	Page 3, line 22 <u>After</u> the words “State Government”, <u>Insert</u> “past or present”	3(g)
8	DR. P.P. KOYA	
	Page 4, line 7, <u>After</u> the word “heritable”	4 (3)
	<u>Insert</u> “ in accordance with the basic principle of equity, customary laws and traditional practices”	
9	SHRI C.K. CHANDRAPPAN	
	Page 4, <u>after</u> sub-clause 4 (3) (i), <u>Add</u> new sub-clause 4 (3) (ii) “the individual and/or community titles to the extent given and the recording of rights over minor forest produce and other rights over forest lands shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in case of households headed by a single person”.	4 (3)
10	SHRI RADHAKANT NAYAK	
	Page 4, lines 9-11, <u>For</u> the existing clause 4 (4),	4 (4)
	<u>Substitute</u> “save as otherwise provided, no member of a forest dwelling Scheduled Tribes shall be evicted or removed from forest land under his occupation, without his/her informed consent and concurrence. Any resettlement must be on his/her choice and option of the family, and decided in concurrence with both male and female members of the people concerned. In the event of resettlement, lands of equal quality and appropriate value of minerals, if any, underneath the surface or sub-surface of the originally occupied land, free from all encumbrances and suitable to provide for their present needs and future development will be provided, in addition to other framing inputs and skills training where necessary”.	

S.No	Name of Member and Text of Amendment	Clause No.
11	SHRI C.K. CHANDRAPPAN	
	<p><i>Page 4, line 11, after sub-clause 4 (4)</i> <u>Add</u> the proviso “provided that, after said procedure is complete, any forest dependent person whose occupation has not been recognized as a right shall be offered in situ rehabilitation, such as secure alternative full time employment at the minimum wage, by the State government concerned; and shall not be evicted from his or her occupation until such employment has been provided or if he or she has refused said offer.”</p>	4 (4)
12	SHRI RADHA KANT NAYAK	
	<p><i>Page 4, lines 16-17,</i> <u>For</u> the words “under actual occupation and shall in no case exceed an area of two and one half hectares per nuclear family of a forest dwelling Scheduled Tribes.”</p> <p><u>Substitute</u> “equivalent to the states land ceiling determined under the Land Reforms Act, 1960, in the given State, which is more.”</p>	4 (5)(i)
13	SHRI RADHAKANT NAYAK Page 4, line 35, <u>after</u> sub-section 4 (8) new Section 4 A,	New Clause 4 A
	<p>“where the forest rights recognized and vested under sub-section (1) are in respect of land mentioned in the Act, the title to the extent given shall be registered jointly in the name of both the spouses in the case of married persons and in the name of single head male or female in the case of single household or according to the customary law of the concerned Scheduled Tribes, as the case may be”</p>	
14	SHRI DAMODAR BARKU SHINGDA SHRI C.K. CHANDRAPPAN SHRI SHAILENDRA KUMAR SHRI RADHAKANT NAYAK	
	<p>Page 6, line 23, <u>For</u> the words “one thousand rupees” <u>Substitute</u> the words “five thousand rupees and imprisonment upto six months”</p>	8
15	SMT. BRINDA KARAT DR. BABU RAO MEDIYAM SHRI BAJU BAN RIYAN	
	<p><i>Page 6, lines 22-23,</i> <u>For</u> the words “be proceeded against and punished with fine which may extend to one thousand rupees” <u>Substitute</u> “criminal prosecution, disciplinary action and a fine that may extend to one lakh of rupees”</p>	8

S.No	Name of Member and Text of Amendment	Clause No.
16	SHRI C.K. CHANDRAPPAN	
	(ii) Page 6, lines 24-27, <u>for</u> proviso to clause 8, <u>Substitute</u> –	8
	<p>“If the State Level Monitoring Committee, suo motu or on receipt of any complaint against the SDLC, the DLC or the District Collector as the case may be, is of the opinion that the said committee and/or officers are guilty of not carrying out its functions within the time specified under the relevant sections namely 6 (2), 6 (3), 6 (4) and 6 (5), without any reasonable cause, it shall impose a penalty of two hundred and fifty rupees each day per member of the said committee till the functions specified under the relevant sub-sections mentioned herein are fulfilled, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees, and the decision of the State Level Monitoring Committee shall be binding;</p> <p>Provided that the SDLC, the DLC or the District Collector, as the case may be shall be given a reasonable opportunity of being heard before any penalty is imposed on them;</p> <p>Provided further that the burden of proving that they acted reasonably and diligently shall be on the accused.”</p>	
17	SHRI RADHAKANT NAYAK	
	<i>Page 7, lines 9-10,</i>	15 (1)
	<u>After</u> the word “ this Act”	
	<u>Add</u> “except where they contravene the letter and spirit of the five principles of the Nehruvian Panch Sheel which form the foundation of this Act, <u>viz.</u> simpler laws, lesser administration, respect for this customs and traditions, etc.”	
18	SHRI C K CHANDRAPPAN	
	<i>Page 7, lines 15-16, for sub clause, 15 (2) (b),</i>	15 (2) (b)
	Substitute –	
	“ (a) procedural details for the implementation of procedure specified in section 6”	
19	SHRI KHAGEN DAS (under rule 301)	
	<i>Page 7,</i>	15 (2) (d)
	<u>Omit</u> sub clauses 15 (2) (d)	

S.No	Name of Member and Text of Amendment	Clause No.
20	<p>SHRI C. K. CHANDRAPPAN</p> <p><i>Page 7, line 21, sub clause 15 (2) (d)</i></p> <p><u>Omit</u> the word “Forest”</p>	15 (2) (d)
21	<p>SHRI KHAGEN DAS (under rule 301)</p> <p><i>Page 7,</i></p> <p><u>Omit</u> sub clause 15 (2) (e)</p>	15 (2) (e)
22	<p>SHRI C K CHANDRAPPAN</p> <p><i>Page 7, lines 25-28, for sub clause 15 (2) (e),</i></p> <p><u>Substitute</u> –</p> <p>“ the procedure to be followed by the Sub-Divisional Level Committee, District Level Committee and State Level Monitoring Committee in the discharge of their functions under sub-section (9) of section 6”</p>	15 (2) (e)
23	<p>SHRI KHAGEN DAS (under rule 301)</p> <p><i>Page 7, line 37,</i></p> <p><u>After</u> clause 15, <u>Add</u> new sub section 16 as under:-</p> <p>“ 16 (1) The State Government may by notification make rules for carrying out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters namely:-</p> <p>(a) the level of official of the department of the State Govt. to be appointed as members of the Sub Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub section (8) of section 6.</p> <p>(b) The composition and function of the Sub Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of this functions under sub section (9) of section 6.</p> <p>(c) Any other matter which is required or prescribed.”</p>	Add New Clause

List of Amendments not moved.

S.No	Name of Member and Text of Amendment	Clause No.
24	<p>SHRI S.D. BARKU</p> <p style="text-align: center;"><i>Page 4, <u>after line 35</u>,</i></p> <p><u>Add</u> a new sub-section “the right recognized under this Act should not be acquired except with the prior informed consent of the Gram Sabha and the individual right holder provided that no such acquisition shall be undertaken without ensuring rehabilitation as per the rehabilitation policy to be provided in advance.”</p>	New Sub section 4 (9)
25	<p>SHRI RAJESH VERMA</p> <p><i>Page 4, <u>for line 36</u></i></p> <p style="text-align: center;"><u>Substitute</u></p> <p>“A Community of forest rights holders and/or the Gram Sabha under this Act shall have the authority to ensure that the exercise of recognized rights is combined with the responsibility of protection, conservation with sustainable use and regeneration of adjoining forests in which community rights have been vested, and such authority shall include the power to make and enforce rules and regulations for exercise of rights.”</p>	5
26	<p>SHRI RAJESH VERMA</p> <p><i>Page 4, line 38, <u>for the words “wild animal”</u></i></p> <p><u>Substitute</u> “wild life”</p>	5(a)
27	<p>SHRI C.K. CHANDRAPPAN</p> <p>(i) Page 4, lines 37-40, <u>for</u> sub-clause 5 (a),</p> <p style="text-align: center;"><u>Substitute</u></p> <p>“The gram Sabha shall develop rules and regulations that will cover the following matters;</p> <p>(ii) Page 4, <u>after</u> the line 40 [sub-clause 5(a)]</p> <p><u>Add</u> new sub-clauses</p> <p>“(i) Ensuring that forest rights holders will not indulge in any activity that has significant or irreversible adverse effects on wild life, forests or bio-diversity, including clearing of forest land or felling of natural trees excepting when required as part of a shifting cultivation cycle;</p> <p>(ii) ensure that adjoining catchment areas, water resources and other ecologically sensitive areas are adequately protected;</p> <p>(iii) ensure that the (habitat of forest dependent persons and particularly) Scheduled Tribes are preserved from any form of destructive practices affecting their cultural and natural heritage.”</p>	5(a)

S.No	Name of Member and Text of Amendment	Clause No.
28	SHRI RADHAKANT NAYAK	
	Page 4, lines 39-40, <u>After</u> the word “local area” <u>Omit</u> “including clearing of forest land or trees which have grown naturally on that land for any non forestry purposes including re-afforestation.”	5(a)
29	SHRI RAJESH VERMA	
	Page 4, line 41, <u>after</u> the words “ensure that” <u>Insert</u> “reasonable efforts are made so that”	5(b)
30	SHRI C.K. CHANDRAPPAN	
	Page 4, <u>Omit</u> sub-clause 5(b)	5(b)
31	SHRI RAJESH VERMA	
	Page 4, line 43, <u>after</u> the words “ensure that” <u>Insert</u> “reasonable efforts are made so that”	5(c)
32	SHRI C.K. CHANDRAPPAN	
	Page 4, <u>Omit</u> sub-clause 5(c)	5(c)
33	SHRI RADHAKANT NAYAK	
	Page 4, line 44, <u>After</u> the word “natural heritage” <u>Add</u> “including large scale development projects”	5(c)
34	DR P.P. KOYA	
	Page 4, line 45, <u>Omit</u> the words “and to the forest authorities”	5(d)
35	SHRI RAJESH VERMA	
	(i) Page 4, line 45, <u>after</u> the word “authorities” <u>Insert</u> “of”	5(d)
	(ii) Page 4, line 45, <u>after</u> the word “activity” <u>Insert</u> “that comes to their notice and is”	

S.No	Name of Member and Text of Amendment	Clause No.
36	SHRI C.K. CHANDRAPPAN	
(i)	Page 4, for the lines 45-46, <u>Substitute</u> “It shall be the duty of any forest rights holder to inform the Gram Sabha and the concerned authorities of any activity in violation of any of the provisions of-	5 (d)
(ii)	In Page 5, <u>for</u> sub-clause 5(e) <u>Substitute</u> “A forest rights holder will make all reasonable effort to ensure that the decisions taken by the gram sabha in exercise of its powers under section 5(a) are complied with.”	
37	SHRI RADHAKANT NAYAK	
	Page 4, <u>for</u> lines 45-46, <u>Substitute</u> “obtain written concurrence from the Gram Sabha and to inform the forest authorities any activity, including those by commercial, state and private enterprises in violation of any of the provisions of”	5(d)
38	SHRI SHINGDA DAMODAR BARKU	
	<i>Page 5, after sub-clause (e) of clause 5,</i> <u>Add</u> “Provided that the Gram Sabha should be empowered to make regulations for these matters and forest right holders make efforts to ensure compliance with such regulations.”	5(e)
39	SHRI RAVI VERMA	
	Page 5, <u>after</u> line 3, <u>add</u> the following proviso:- “(e) Provided that the State Government and the Central Government extend all possible assistance and co-operation to the Gram Sabha for such compliance.”	5(e)
40	DR P.P. KOYA	
	<i>Page 5, line 38,</i> <u>After</u> the word “State Level” <u>Insert</u> “District Level, Sub-Divisional Level, Village Level and Gram Sabha Level.”	6(7)
41	SHRI RAJESH VERMA	
	<i>Page 5, line 40, for the word “returns”</i> <u>Substitute</u> “records”	6(7)

S.No	Name of Member and Text of Amendment	Clause No.
42	SHRI C.K. CHANDRAPPAN	
	<p><i>Page 5, for clause 6(7)</i> <u>Substitute</u> “The State Government shall constitute a State Level Monitoring Committee to monitor the timely constitution of SDLCs and DLCs and the process of recognition and vesting of forest rights and to submit to the nodal agency such records and reports as may be called for by the agency.”</p>	6(7)
43	SHRI SHINGDA DAMODAR BARKU	
	<p><i>Page 5, line 42,</i> <u>After</u> the words “department of revenue” <u>Omit</u> “forest”</p>	6(8)
44	SHRI KHAGEN DAS (UNDER RULE 301)	
	<p><i>Page 5, line 43,</i> <u>Omit</u> the word “and” <u>before</u> “Tribal Affairs” <u>After</u> the word “Tribal Affairs” <u>insert</u> “science, technology & environment”</p>	6(8)
45	SHRI C.K. CHANDRAPPAN SHRI RAJESH VERMA SHRI RADHAKANT NAYAK SHRI SHINGDA DAMODAR BARKU	
	<p><i>Page 5, lines 41-43, for clause 6(8)</i> <u>Substitute</u> “The Sub-Divisional Level Committee, the District Level Committee shall consist of one officer each of the departments of Revenue and Tribal Affairs of the State Government at the appropriate level as may be prescribed, along with a reputed academic representing civil society and familiar with the issue of tribal and other forest dependent people in the area, and two representatives of the panchayati raj institution at that level, at least one of which should be a woman;</p> <p>The State Level Monitoring Committee shall consist of one officer each of the department of Revenue and Tribal Affairs of the State Government at the appropriate level as may be prescribed and shall also include at least three experts in matters of forests and forest communities;</p> <p>An officer of the appropriate level from the Tribal Welfare department, or, in case no such department exists, the Social Welfare Departments, shall be secretary of the Sub-Divisional Level Committees, and an officer of the Revenue Department at the appropriate level shall be the chairperson;</p> <p>The State Level Monitoring Committee shall be chaired by an officer of the Tribal or Social Welfare Departments as the case may be, and an officer of the Revenue Department shall be the Secretary.”</p>	

S.No	Name of Member and Text of Amendment	Clause No.
46	<p>SHRI RADHAKANT NAYAK SHRI D.B.SHINGDA SHRI C.K. CHANDRAPPAN SHRI SHAILENDRA KUMAR SHRI RAJESH VERMA SHRI KHAGAN DAS (NOTICE UNDER RULE 301)</p>	7
	<p>Page 6, lines 6-16, <u>Omit</u> sub-section (iii) (iv) and (v) of section 7</p>	
47	<p>SHRI RAJESH VERMA</p> <p>Page 6, lines 15-16 <u>for</u> the words “de-recognized for such period as the District Level Committee on the recommendation of the Gram Sabha may decide.”</p>	7
	<p><u>Substitute</u> “suspended for a period not exceeding three months and as decided by Gram Sabha.”</p>	
48	<p>SHRI C.K. CHANDRAPPAN</p> <p>Page 6, <u>for</u> lines 12-18,</p> <p><u>Substitute</u> “he shall be guilty of an offense against this Act and be penalized by the Gram Sabha, which shall have the authority to decide on penalties for the said offense.</p> <p>In case the offender refuses to accept the Gram Sabha’s authority, the Gram Sabha shall inform the concerned authorities who shall be bound to enforce the Gram Sabha’s penal decision within the prescribed time frame.”</p>	
49	<p>SHRI RADHAKANT NAYAK</p> <p>Page 6, lines 12-18,</p> <p><u>For</u> the existing lines 12-18 under Section 7 (v),</p> <p><u>Substitute</u> “he shall be guilty of an offence against this Act and be penalised by the Gram Sabha which shall have the authority to decide on penalties for the said offence in accordance with the customary law of the said community.”</p>	7 (v)
50	<p>SHRI KHAGEN DAS (NOTICE UNDER RULE 301)</p> <p><u>After</u> clause 7, <u>add</u> new sub-clause ,</p> <p>“whoever other than a Scheduled Tribe commits or conspires or attempts to commit or abets, advocates, advises or knowingly facilitates the contravention of the provisions of this act or does anything to frustrate the object of this act shall be punishable with imprisonment for two years and a fine of Rs.10,000/-.”</p>	7 (A) new sub-clause

S.No	Name of Member and Text of Amendment	Clause No.
51	<i>SHRI C.K. CHANDRAPPAN</i>	
	<i>Page 7, line 8, after clause 14,</i>	14 A
	Insert a new clause 14 A	
	<p>“ 14 (A) the provisions of this Act shall not apply to any matters and particularly to any forest rights, the determination, recognition, resolution or vesting of which is within the competence of an Autonomous District Council, Autonomous Regional Council or other body empowered to do so by the Sixth Schedule of the Constitution, by Articles 371 (A) or 371 (G), by any other similar constitutional provision or by the laws of the States of Arunachal Pradesh and Manipur.”</p>	
52	<i>SHRI KHAGEN DAS (under rule 301)</i>	
	Page 7,	15 (1)
	<u>Omit</u> sub clause 15 (1)	

**MINUTES OF THE FOURTEENTH SITTING OF THE JOINT COMMITTEE ON
THE SCHEDULED TRIBES (RECOGNITION OF FOREST RIGHTS) BILL, 2005**

XIV

FOURTEENTH SITTING

The Committee sat from 0900 hrs. to 1030 hrs. on 19 May, 2006 in Committee Room No. '139', Parliament House Annexe, New Delhi

PRESENT

Shri V. Kishore Chandra S. Deo - Chairman

MEMBERS

Lok Sabha

2. Shri Shingada Damodar Barku
3. Shri Mahavir Bhagora
3. Shri C.K. Chandrappan
4. Shri Giridhar Gamang
5. Shri P.P. Koya
6. Shri Shailendra Kumar
7. Shri Madhusudan Mistry
8. Shri Hemlal Murmu
9. Dr. Babu Rao Mediyam
10. Shri Sugrib Singh
11. Shri Rajesh Verma

Rajya Sabha

12. Dr. Radhakant Nayak
13. Smt. Brinda Karat
14. Shri Ravula Chandra Sekar Reddy

SECRETARIAT

Shri R.C. Ahuja - Joint Secretary
Shri R.K. Bajaj - Deputy Secretary
Shri K. Jena - Under Secretary

Representative of the Ministry of Tribal Affairs

Shri P.K.Varma

- Deputy Secretary

***Representative of the Ministry of Law & Justice
(Legislative Department)***

Shri N.K.Nampoothiry - Joint Secretary and Legislative Counsel

Shri K. Srinivas - Assistant Legislative Counsel

2. At the outset, the Hon'ble Chairman welcomed the Members of the Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 to the sitting.

3. The Committee then considered and adopted the draft Report and the Bill as amended with minor modifications of factual nature.

4. The Chairman then drew the attention of the Members of the Committee to the provisions contained in Direction 87 of the Directions by the Speaker regarding Minutes of Dissent and announced that the Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat by 1700 hours on 19 May, 2006.

5. The Committee authorised the Chairman and in his absence Shri Jual Oram, M.P. to present the report and lay the record of evidence on the Table of the House.

6. The Committee also authorised Smt. Brinda Karat, M.P. and in her absence Shri Radhakant Nayak, M.P. to lay the Report and the record of evidence on the Table of Rajya Sabha.

6. The Committee decided that two sets of memoranda containing comments/suggestions on the provisions of the Bill received by the Committee might be placed in the Parliament Library, after the Report had been presented, for reference by the Members of Parliament.

7. Thereafter, the Committee placed on record their appreciation of the cooperation and assistance rendered by the legislative counsel of the Ministry of Law & Justice (Legislative Department), Officers of the Ministry of Tribal Affairs, representatives of the various organizations/associations/individuals/NGOs/Experts etc.

8. The Committee also placed on record their appreciation of the hard work done and valuable assistance rendered by the officers and staff of the Lok Sabha Secretariat to facilitate the work of the Committee.

9. The Chairman while associating himself in thanking the above mentioned officers, also thanked the members of the Committee for extending their full cooperation to him in conducting the proceedings of the Committee in most congenial atmosphere.

11. The members of the Committee also placed on record their high appreciation of and thanks to the Chairman (*Shri V. Kishore Chandra S. Deo*) for very ably and impartially conducting the proceedings of the Committee and guiding their deliberations.

The Committee then adjourned.