

A black and white photograph of a forest with tall, thin trees, likely a coniferous forest. The trees are arranged in a perspective that leads the eye towards the center. The lighting is soft, creating a sense of depth and texture in the bark and foliage.

Unkept Promises

The struggle for Forests, Land
and Wages in Harda

PEOPLE'S UNION FOR DEMOCRATIC RIGHTS

JANUARY 2010

In 2006, the Government of India passed the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act that legalised individual and collective ownership of land occupied by tribal and non-tribal communities residing on forest lands traditionally. The legislation was welcomed by civil liberties groups across the country, as it set the tone for redressing a historical wrong by recognising and granting tenurial and ownership rights to communities, long deprived of these. For the first time, it seemed plausible that the equations that had so far favoured the Forest Department, the sole authority over forest lands, would be reversed with individual and community rights falling into place.

In 2008, the Madhya Pradesh Government came out with a proposed time frame for implementation of the Act. It was estimated that the entire process would be set in motion by early February and completed duly by September 2008. However, the progress towards this has been slow. The delays in setting up mechanisms and initiating the process have resulted in tensions and conflict between people, the forest department and civil administration. Following reports of attacks on activists of the Shramik Adivasi Sangathan and institution of numerous cases and arrests of tribals, PUDR sent a four-member team to conduct a fact-finding in Harda between 5-8th September this year.

The Shramik Adivasi Sangathan is one of the few organisations that has been active since 1996 on issues of poverty and deprivation concerning tribal and non-tribal populations living in the hilly terrains of the erstwhile *Gondwana* region of Madhya Pradesh. Based on the Gandhian principles of non-violence, the Sangathan has been vocal in drawing attention to issues of caste, class, and gender oppression that characterises social relations between and among communities living in the region. In the course of the fact finding that concentrated on the Sangathan's work in the district of Harda, the team met various people in Harda town, the Collector, the Police SDO, the DFO, forest officials and watchers, Sangathan activists and residents of various tribal hamlets. The following is the report prepared by the team.

I. The Region

Located in the central heartland of the Indian Peninsula, with the Narmada river in the north and the Satpura ranges in the South, the district of Harda provides a rich diversity of landscape, of plains,

forests and mountains. The districts of Sehore to the north, Hoshangabad to the northeast, Betul to the southeast, Khandwa to the south & west, and Dewas to the northwest, make up the borders of Harda. The landscape and terrain changes as one travels from north to south. To the north, lie the low-lying areas of the plains, the high productivity agricultural belt, while the south and west are hilly with forest cover.

Carved out as a separate district from Hoshangabad in 1998, Harda district is divided into three development blocks of Harda, Timarni and Khirkiya. The total area of the district is 2644.32 sq. kms. of which 94% is rural. The forests cover 1425.36 sq. km. i.e. 57% of the total area of the district. 20% of this forest is on village land. Tropical dry deciduous forest with teak as a dominant tree species occupies 50 per cent of the area of the Harda Forest Division. In fact it was the 'Harda Model' of participatory forest management that served as pilot for World Bank funded Social Forestry –Joint Forest Management Programme (1994-1999). The district also has the only private forest estate left in the country. The teak forests are an important source of revenue for the forest department, that conduct regular auctions to service the local timber industry in Harda. There are roughly 60 functioning saw mills in Harda town that make direct purchases from the Forest Department.

| Particulars | Timarani | Harda | Khrikiya | Total |
|---------------------------------|----------|----------|----------|----------|
| Total Population (2001) | 1,45,980 | 1,90,398 | 1,38,538 | 4,74,916 |
| Town Area Population (2001) | 19,183 | 64,497 | 17,487 | 1,01,167 |
| Revenue Villages | 135 | 196 | 195 | 526 |
| Forest Villages | 44 | 1 | — | 45 |
| Total Villages | 179 | 197 | 195 | 571 |
| Total Police Station | 2 | 2 | 2 | 6 |
| Total 'Patwari' Area | 33 | 43 | 41 | 117 |
| Total 'Patel' | 109 | 187 | 170 | 466 |
| Total 'Kotwar' | 147 | 196 | 161 | 504 |
| Area (Sq.Km.) | 822.09 | 998.41 | 823.82 | 2644.32 |
| Total Panchayat | 73 | 71 | 67 | 211 |
| Total Agricultural Land (Hect.) | 56,101 | 65,605 | 53,015 | 1,74,721 |
| Irrigated Land (Hect.) | 41,820 | 48,275 | 20,623 | 1,10,718 |

The district has a total population of 474,416 of which 79% resides in villages. One-third consist of tribals of which *Korku and Gond* form the main tribal groups and 16% is Scheduled Caste. The distribution of SCs and STs is far from uniform. Of the 513 inhabited villages in the rural areas, 99 have more than 90% tribal population and 225 villages have more than 50% tribal residents. Similarly 197 villages have below 5% dalit population while 113 villages have more than 25% dalits.

II. Issues of Land and Economy

Historically this area was under the domination of *Mughals* and *Peshwas* until the establishment of British control in the 20th century. Inhabited at one time (before 16th century) almost exclusively by the *Gonds*, the massive inflow of people from the other parts of the North-western parts led to a demographic transition that pushed the *Gonds* into the more remote jungle areas. This shift of population became somewhat permanent once agriculture became the mainstay of the economy. Due to the relative abundance of cultivable land and the paucity of population, neither of the rulers, the *Peshwas* nor the British made any attempts to introduce a formal system of *zamindari* land rights. Land was leased out to a host of temporary *malguzars* – money-lenders, traders, village headman etc. who were given the authority to collect revenue on behalf of the State. Long leases strengthened a sense of hereditary rights which the British confirmed in 1854 by formally according saleable, proprietary title to the *malguzar* class.

Many of the *malguzars* owned ten or twelve ploughs and on average cultivated 140 acres a piece. Tulsiram Shukul of the Harda pargana for example had no less than 150 ploughs and occupied actually 4,500 acres of cultivated land. It is estimated that roughly 29 percent of the land was held by non-cultivating Brahmin *malguzars* alone. *Marwaris* and *baniyas* engaging in traditional money-lending activities also gained prominence as the new *malguzars*. The distinction between agricultural and non-agriculturalists ceased to exist. As reported by a settlement officer in 1905, 'there [wa]s hardly a single moneylender in the district who [wa]s not a landlord, and many of the landlords, even of agricultural castes, combine[d] the business of money and grain dealer with that of a cultivator.' Having gained proprietary rights to collect revenues that worked out to less than 40 percent of the assets, these moneylenders succeeded in driving up rents to 'so high limits that if paid at all they could only be paid with the greatest difficulty. In 1891, J. Bampfylde Fuller reported of tenants being drawn to debt in a position 'little removed from that of servitude' (*The*

Cambridge Economic History of India, 79-82).

Besides agriculture, forests of teak and sal in the region also proved to be of special commercial significance. In 1861 following the capture and subsequent execution of the tribal leader Sardar Bhubhut Singh in Jabalpur jail, the Bori forest of Madhya Pradesh was declared as the first reserve forest of India in 1862.

(i) Work, wages and livelihood in the plains

The dominant occupation of the plain areas is agriculture. The dark alluvial soil of the low lying areas of the plains along with extra water from the Tawa dam supports a rich harvest with 76% of the cultivated area being double cropped. 94% of the land is sown with soyabean during the Kharif season. During the Rabi season 63% of the land is sown with gram and another 35% is wheat. Close proximity to Harda town that has one of the biggest grain *mandis* of the state, ensures ready access to markets. The price of land varies from Rs. 40,000 to 50,000 per acre. Given the high productivity of agricultural yields, control and ownership of land is a crucial determinant of wealth. Despite the passage of the Land Ceiling Act restricting the ownership of agricultural land upto 30 acres, ownership and distribution of land appeared to be relatively unequal across communities. Historically, the plain area had its own inherited legacy of land transfers between communities through the institution of *malguzars*, wherein a person who was unable to repay loans taken, transferred ownership rights to the moneylender; this system of land transfers remained unaltered in the post independence period. According to the Sarpanch of Joryamuh (District Betul) approximately half of the village consisted of landless families, who formed the main agricultural workforce for those possessing land.

In the course of its fact-finding, PUDR came across several instances of certain families owning more than the designated limit as per the Land Ceiling Act. The total cultivated land in the district is 1658 sq km and if divided equally among the households works out to 2.5 hectares per household. The present MLA of Harda, Kamal Patel of the BJP has himself admitted to owning more than 200 acres of agricultural land in the district, before the Jabalpur High Court. This iniquitous pattern of land ownership is further skewed on account of several other factors ; high level of rural indebtedness, lack of sufficient and secure employment opportunities, poverty etc. Unable to sustain the highly resource intensive model of agriculture, small farmers are egged to take loans by mortgaging land to private moneylenders.

With relatively little improvement in conditions and the exorbitant rates of interest charges, repayments become difficult, forcing farmers to forgo their rights over land.

Residents of Ratatalai village, district Harda confirmed the above pattern of land usurpation prevalent in the region. Ratatalai village, considerable large housing about 700 families also happens to be the ancestral home of the reigning BJP MLA, Kamal Patel. Kamal Patel's uncle Hari Shanker is himself known to own about 70-75 acres of land. Ram Bharose, the sarpanch of Ratatalai, confirmed reports of friction between the Jat (moneylenders) and the Khodku communities over land in the village. He confirmed how farmers had to mortgage land due to the cost of increasing agricultural inputs, seeds and fertilizers etc. The rate at which money-lenders gave out loans was approximately Rs. 50,000 per acre and with the interest charged Rs. 3 per Rs. 100 borrowed per month. This works out to an annual interest rate of 43%. Besides regular farming, other expenses related to weddings, funerals etc. also made it incumbent for the cultivators to mortgage their assets, in this case their small holdings of land to the money-lenders.

The inability to repay back loans has serious implications. It not only signifies temporary loss of ownership but a more demanding and permanent sacrifice of the loss of personal economic freedom. For the landless, this inevitably means innumerable hours of *begar* (forced labour) in the fields and houses of the moneylenders. Villagers present at the meeting confirmed the fact that many of them their wives and children had to work long hours not just in the fields but also do odd jobs around and in the houses of the rich. Attempts to break away from the folds of bondage proved to be difficult and impossible. Three separate incidents of violence were reported while the PUDR team was there at Harda, involving the murder of persons suspected of attempting to break out of the clutches of *begar*. While the police declined from drawing linkages between the two, the local Congress leader, Mr. Hemant Tale however drew attention to the economic contradictions existing at the ground level between Jats and Bishnois and the apparent similarities between all three cases.

Constitutionally while the practice of coercing a person to work without any remuneration as *begar* is recognised as a criminal offence, the registration of criminal cases against those engaged in such practices has been few. What is surprising is that the district administration when questioned by PUDR, denied outright the

existence of *begar* in the district. While the District Collector, Ms. Renu Pant gave the plea that she had recently taken over, another official present at the meeting, the Sub Divisional Police Officer, Mr. Jitendra Pawar justified the feudal practice of forced labour. His logic was that if a person had taken a loan and was unable to repay it, then the money-lender was within his full right to take possession of the property and resources of such a person and use means to prevent that person from running away. The SDPO obviously had no clue of the larger law of the country that debars the use of force for recovery of loans.

Ownership of agricultural land therefore forms one of the crucial determinants of power in the local economy. Since majority of workers employed are either landless persons from neighbouring villages and districts, and the lack of suitable employment opportunities, casual employment as farm labour is in heavy demand. Seasonal migration is a common phenomena, peak periods being the sowing and harvest seasons. Daily wages for agricultural labour varies from Rs. 60-70 per day. The women are paid on an average about Rs. 10 lower than men workers. When asked about employment prospects under NREGA, people seemed less enthusiastic about it, due to the non-availability of guaranteed work under the scheme. According to villagers on an average NREGA provided about 8-10 days of guaranteed employment in a year.

Besides agriculture, people also find employment as *coolies* in the grain mandi at Harda. *Hammals* as they are called, are paid on a piece rate system, on the number of sacks of grain loaded and unloaded per day.. The price for one bori (sack) was initially Rs. 5. However, due to a successful agitation launched by the loaders in 2009, the price of each sack was increased to Rs. 7.

Harda town also has 60 saw mills that also provide another avenue for employment. Majority of the workers employed in these mills owned by the Patel community are persons from outside the region. Predominantly from parts of Eastern Uttar Pradesh and Bihar, these workers live within the factory premises itself and work almost 12-14 hrs in a day, on wages that fall far below the minimum wages stipulated. Wages received on an average vary between Rs. 50- 55 per day. In the factories visited by PUDR, there were no signs of any safety equipment made available to workers. Sitting on the bare floor sawing away at logs, without any protective gear to stop them from inhaling the dust, these workers were literally working in the midst

of a cloud of sawdust.

The merchants lobbies being well connected politically, the reigning BJP MLA has business links with Natwar Patel the man owning the single largest timber business, translates into sufficient clout not just with politicians but officials of the local civil administration. The prompt arrest of activist, Shamim Modi following the call given by the Harda Industries Association and Vyapari Sangh on February 10, 2009 is an important example of the proximity between business and the administration. The fact that factories in the town have been operating without adhering to minimum wage laws or labour standards is a sufficient pointer to the complicity that they enjoy with the higher-ups in the local administration. Labour law violations have never figured as an issue of concern for the local authorities. Recently however, a directive issued by the Jabalpur High Court (2083/09) to the local administration in Harda in a case filed by the Sangathan, has offered some reprieve for workers. The Labour department has been forced to file over a hundred cases covering non-payment of minimum wages, irregular maintenance of records and non-payment of compensation to workers injured on work.

(ii) Land Rights and Livelihood in Forest Areas

The southern half of Harda district is predominantly made up of forest land supporting teak and sal vegetation. Villages in the forest

Plan of Action for Implementation of the Act announced by the Madhya Pradesh Government

| | |
|------------------------|--|
| 26 Jan -5 Feb, 2008 | Meeting of Gram Sabha to decide upon the composition of the Van Adhikar Samiti and election of President and Secretary |
| 10-15 February 2008 | Initiation of the process of claims by resident villagers |
| February -April, 2008 | Receipt of claims |
| May-June , 2008 | Verification, recording of evidence and claims and preparation of land maps by the village Van Adhikar Samiti |
| July 2008 | Approval by the Gram Sabha and forward of its report to the Sub-Divisional Committee |
| July- August, 2008 | Approval by the Sub-Divisional Committee and forward of its report to the District Committee |
| August-September, 2008 | Final approval and notification of claims |

areas are divided into two main categories, revenue villages and forest villages. Forest villages are settlements which are located on forest land and established by the special regulatory law under the jurisdiction of the Forest Department. The district on the whole has 45 forest and 522 revenue villages. In the forest villages, it is the Forest Department that is responsible for the welfare and development, which in effect enhances the relative power that the Forest Department enjoys over people living in its jurisdiction. This includes among others the power to delineate boundaries between forest and non-forest land, determining the permissible limits of land use, the relative allocation of forest-based rights related to collection of essential forest produce, imposing fines and penalties related to theft of forest products etc. While the 2006 Act, explicitly makes the Gram Sabha the nodal agency for initiating the process of rights allocation, the Forest Department has been reluctant to let go of the powers enjoyed by it on the ground.

During its visit to the two villages of Dhega and Ucharbarari, the team witnessed growing tension in the village relating to the control of forest land. While the 2006 Forest Act clearly provides for grant of ownership deeds to tribal and non-tribal communities living in forests for over 75 years, in both Dhega and Ucharbarari, much to the surprise of the fact finding team the process of land identification and regularisation has yet to begin. As per section 6 of the 2006 Act, it is the Gram Sabha that has the authority to initiate the process for determining the nature and extent of individual or community rights. The Gram Sabha is authorised to receive, consolidate and verify claims and prepare a map delineating the area of each recommended claim. It then passes a resolution and forwards a copy of the same to the Sub-Divisional level Committee. This latter Committee after reviewing the document sends it to a District Committee that gives the final nod of approval.

In both Dhega and Unchaburari villages, no such meeting of the Gram Sabha had purportedly taken place in the last one and a half years, resulting in immense confusion regarding the status of their current possessions amongst villagers. Having cultivated land around their homesteads for generations, the uncertainty surrounding land rights meant that many a families did not undertake any cultivation in the sowing season. PUDR witnessed vacant tracts of forest land that had once been used to grow essential food crops for the forest communities. In some areas where land had

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

Section 3 (1) For the purpose of this Act, the following rights, which 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;
- c) Right of ownership, access to collect, use 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 and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
- i) Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use

S. 3(m) right o 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 prior to the 13th day of December 2005.

S. 4 (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 complete.

S. 6 (1) The Gram Sabha shall be the authority to initiate the process 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 dwellers within the local 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 in such manner as may be prescribed 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.

S. 6(5) the State Government shall constitute a District level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee

S.6(6) the decision of the District level Committee on the record of forest rights shall be final and binding.

S. 6(7) 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 returns and reports as may be called for by that agency.

been cultivated, we found that the Forest Department had come and dug up the land, or destroyed the crops that had been sown, to discourage cultivation. Given the fact, that there is a problem of malnutrition in the area, the insensitiveness with which food crops are deliberately wasted and destroyed is simply unacceptable.

The Forest Department has traditionally been the sole authority over forest lands. The 2006 Forest Act in fact introduced certain changes in the power equation that necessarily downgraded the powers of the Forest Department. The situation created has led to the Forest Department asserting its traditional authority. For example, in the Harda division, the department has come up with a new institution called the *Van Chowki* where those accused of 'theft' of forest produce or any other crime are detained for interrogation and questioning by the Department. One such *chowki* is located in Gayasen, district Harda. A short meeting with the Deputy Ranger of Gayasen gave us some idea of the rationale behind setting up of such *chowkis*.

Exploitation of tribals by forest officials

There are a large number of cases imposed on the tribals by the forest department. This is nothing but a form of harassment and repression. Some of these cases are of compoundable nature and the accused can get bail in these, but in many instances, non-bailable sections have been added clearly to deny bail. For example, in June 2007, cases were filed against a number of people of Dhega and Ucharbarari villages under the Prevention of Damage to Public Property Act, 1984. As a result Brijlal of Ucharbarari village was kept in judicial custody from 9 June to 26 June, 2007 and similarly Gangaram of Dhega village was kept in judicial custody from 17 June to 26 June. It should be noted that the two were released by the order of Special Sessions Magistrate, on the ground that the forest department does not have the power to prosecute anyone under section 3 and 4 of the Prevention of Damage to Public Property Act. Section 3 and 4 of the Act list the properties, damage to which can be an offence. These properties include

- (a) Any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;
- (b) Any oil installations;
- (c) Any sewage works;
- (d) Any mine or factory;
- (e) Any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith,

There is no mention of forest land or forest property in this list. Therefore the Magistrate ordered that there is no ground for a case under section 3 and 4 of the above mentioned case. In his order the Magistrate also made a reference to the judgment of the Jabalpur bench of the Madhya Pradesh High Court in *Anand Kr. Goenka vs State of Madhya Pradesh* (2001, MPHT, 252). The Court had made it clear that forest officials can register a case under the offences listed under the Forest Act 1927 and not under the Prevention of Damage to Public Property Act, unless authorized by a Magistrate. A case registered by a forest official under section 3 and 4 of the Prevention of Damage to Public Property Act, without the authorization of a Magistrate would be null and void. Under such a situation forest officials cannot file a charge sheet under this Act.

Accordingly the sessions court has declared the action of the forest department wrong on the basis of the judgment of the Jabalpur bench of MP High court.

This shows how the forest department is repressing the tribals in an arbitrary manner. The forest officials do not even hesitate to go violate the High Court order in order to harass the tribals

According to him, a Van Chowki, consisting of two or three rooms with about three-four forest personnel permanently stationed there, was a useful and more recent addition made specifically with the aim of helping the department to execute its mandate. It was to be the nodal point for coordination of activities related to forest protection and conservation.

A word or two about the forests in this region would be order here. Over the years, the forests in this region have been shaped to look more like teak and sal plantations. The thick undergrowth, supporting plant and animal life is clearly missing. The trees are arranged in straight rows and columns, with no 'messy undergrowth' to obstruct their progress. The Deputy Ranger at Gayasen mentioned as to how regular clearing was done to help trees grow. The fact that the department, in its fetish to keep forest clean, was actively killing biodiversity reserves, seemed to be a point that failed to make its mark. The Forest Department it seemed had truly only commercial interest in mind. Trees would be planted but only those which would fetch a high price in the market. The teak and sal forests represented a profitable venture, an enterprise that the department would fight to protect so as to reap further profits in future.

The Harda Social Forestry programme of Joint Forest Management undertaken with World Bank support between 1994-99, seemed to have left its mark. During negotiations for the Madhya Pradesh Forestry Project, the World Bank imposed certain changes in laws and rules that on hindsight have not been in the wider interests of forest protection or the well-being of local forest communities. First, 31 species of trees were freed from transit regulations. Second, it was proposed that the Land Revenue Code be changed to remove restrictions on felling trees on private land. Both these moves combined together to cause wide-scale forest felling on private property. Third, *nistar* facilities for villagers living more than 5 km from the forest were stopped, forcing these traditional resource users to buy forest products at market prices that they could ill afford.

Joint forest management as a strategy rests on the formation of Village Forest Protection Committees (VFPC), through which government and development aid funds are channelled for 'forest management' and village-level development works. The programme was introduced to reinforce a participative element of community involvement into the otherwise bureaucratic pattern of forest protection. In Harda, an ill conceived and implemented joint forest

management was there for all to see. In both Dhega and Unchabarari, a new category of casual forest guards called 'forest watchers' had been employed by the Forest department from within the local communities to keep a watch on their fellow dwellers. PUDR came across teams of forest watchers in Unchbarari village, sitting on a plot of land that they claimed to have rescued from an 'encroacher.'

Which brings us to the problematic use of terms that have a direct bearing on the individual and collective rights enjoyed by communities, such as 'encroacher.' As per the 2006 Act, all categories of forest dwellers (tribals and non-tribals) are entitled to clearly defined sets of rights over forest land and its resources for individual and collective use. These include amongst others, the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood, community rights such as *nistar*, right of ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries, other community rights of uses or entitlements such as fish and other products of water bodies, grazing and traditional seasonal resource access of nomadic or pastoralist communities (Section 3(1)).

While the procedure mentions somewhat arbitrarily but clearly December 13, 2005 as the cut off date for identifying communities who have resided for over three generations, the label of encroachment is easily applied to all. In a desperate attempt to claim land, both the Forest Department as well forest communities have been competing with each other staking claims to new land. Individual homesteads and agricultural fields are traditionally located far apart from each other, and in the absence of any written records, there is nothing except word of mouth that may be employed to corroborate claims to land. This placed the local communities at a serious disadvantage. The issue of encroachment or *atikraman* therefore came up repeatedly in all conversations. In villages visited, the communities showed PUDR the pillars erected recently by the Forest Department to mark new boundaries. The Forest guards and watchers on the other hand too complained of similar encroachments of recent origin by villagers.

Deep rifts within and between different tribal villages and groups on the question of land rights was observed as a result of this. Those employed as watchers and receiving a monthly salary of Rs. 3000 were looked upon as government agents spying on members of their own community. It was observed that many of the watchers

employed came from different tribal groups residing in the same village, leading to conflicts within communities as a result of financial disparities between ordinary villagers and forest watchers, to contested bans on grazing in the forest and collecting timber for individual use and curtailment of *nistar* rights. For example in the village of Unchabarari alone, consisting of a total of 60 houses, there were 40 watchers employed to oversee operations. This divisive policy of employing community persons in the name of forest protection and funded out of the budget of the VFPC, needs to be condemned. The strategy clearly has many long time costs associated with it, such as increased social and economic hierarchies, breakdown of local networks within communities, and so on which directly contradict the letter and spirit of what the 2006 Act aims to achieve.

III. Shramik Adivasi Sangathan

Formed in 1996 on the issue of forest and land rights of tribals, the Shramik Adivasi Sangathan (SAS) is one of the few organisations working in this region. Its membership base, concerns and area of work have rapidly increased over the years, bringing its leadership and activists in direct confrontation with the ruling political elite and administration. The SAS is active in the districts of Betul, Harda, Khandwa taking up a variety of issues related to begar, payment of wages, caste and gender oppression, widespread corruption and so on. The organisations's working strategies are based on Gandhian principles of non-violence and satyagraha. The SAS is formally a part of a larger federation called the Samajwadi Jan Parishad, active in 14 states across the country.

PUDR met SAS activists in its office in Harda to know more about its activities. Mangal Singh, resident of Jorhamuh village, district Betul, and one of the oldest activists of the Sangathan, provided a detailed account of the organisation's history and work. Mangal Singh recounted how very often tribals were denied bail in bailable offences on false and frivolous charges, of which they knew nothing. In 2001 for example, the tribal hamlet of Danwakheda (district Betul) was burnt to ashes by the forest department. After nearly two years of struggle in 2003, FIRs were finally registered against the forest officials. In retaliation in 2004, 10 cases were registered, all of them bailable offences, against the villagers. The arrested were kept in detention for about two weeks and released on a personal bond on the condition that they would produce solvency of Rs. 5000 each. Unable to meet

this demand, the villagers of Danwakheda continue to have arrest warrants pending against them. The forest officers accused for this were acquitted in July 2004. In a similar case, involving torching of an entire village, Bhandarpani (district Betul) in July 2003, when the tribals went to complain against the misdeeds of the Forest Department, the entire hamlet was demolished once again and villagers taken captive. In this case, the forest officers accused were acquitted in May 2005.

The probability of cases being registered against erring officials on complaints submitted by tribals appeared to be proportionately lower. In a bizarre case involving villagers of Ghorpadmall and Kabra (district Betul) who had gone to file a complaint against corrupt forest officials who had not paid them their due wages, much to their dismay found that instead of their complaints being heard, there were 20 cases slapped on them. Though sections imposed were bailable and compoundable, those arrested were denied bail and had to languish in jail for more than 45 days. Even children were not spared. In a case involving villagers of Malikheda (district Betul) 11 minors were sent to jail for helping their parents construct huts on forest lands. However, in the same village, a cabinet-sub-committee of the State government stayed the demolition of liquor shops situated on forest land, on the plea that the shops helped generate extra revenue for the government.

The socio-economic backwardness of the region has been one of the central points of the Sangathan's campaign. The organisation has determinedly strived to highlight the oppression and exploitation faced by the people through a combination of methods.

With the passage of the 2006 Forest Dwellers Act, the regularisation of land rights has become one of the major demands of the Sangathan. The organisation has been vocal in highlighting the laid back attitude of the civil administration to go ahead with the procedures established for the confirmation of land and other rights for communities as per the provisions of the Act. At a meeting of Sangathan activists from different villages of Harda in Chirapatla on 6 September, attended by PUDR, it was confirmed that no meeting of the Gram Sabhas had been held for identification and verification of claims. There was confusion amongst people as to how the process would be executed. There was clearly no visible method in which the administration had sought to go about things.

For example, in some villages, the administration had distributed

forms to some and not all residents. The Harda Collector herself admitted to having issued notices dated August 6, 2009 to individual families asking them to provide proof of residence and of cultivating their plots. Most families when asked in September had still not received these notices, with the last date for submission having already passed on August 22, 2009. Where such forms had been distributed, PUDR found them to be totally contrary to the provisions spelt out under the Act. Written in chaste Hindi, it called upon people to submit documents such as voter identity, ration cards as proof of residence. It is precisely in the absence of any written documentation that the Act clearly exempted tribal communities living over three generations from submitting such documents to verify claims. To add to their woes, the team came across certain cases where ownership deeds had actually been issued to persons without them having filed any claims. Ramdas, a korku tribal belonging to Dhega Village for example, was surprised when he received a title deed (No.1561/Harda/Timarni/Bori/Dhega/39) duly signed by the District Collector marking out land rights allotted to him as per the regulations. Ramdas was unable to understand why or how he had been issued these two plots of land, which did not resemble in any way the land that he presently cultivated. He cultivated 5 plots, while the deed mentioned two. Also the shape of the plots did not correspond to any of the ones he tilled. Additionally there was no directions or pointers provided as to where these plots were actually located. Not only did others in the village wonder at to why only one of them had received this document, Ramdas himself could not understand how to contest the land rights allotted to him.

This confusion over how to proceed with matters, exacerbated by the unhelpful attitude of the administration, is largely responsible for the undue tension prevalent in the area. On July 11, 2007 about 50 forest guards accompanied by the Ranger, O.P. Patel reached Dhega village and started assaulting the tribals. The villagers overpowered the Ranger and tied him up and informed the Superintendent of Police, Harda. The next day an F.I.R was registered against SAS activists at the Rahatgaon P.S. The same police station did not find it worthwhile to accept the complaint made by the SAS activists against the forest officials. When even the Harda P.S. failed to register a complaint, the injured people decided to file a case at the local sessions court. What followed was even more bizarre. Shamim Modi one of the top leaders of SAS was charged for kidnapping and preventing the injured women activists from being taken to the hospital by the police. Why should

Exploitative Relations

Findings of the 2001 Jan Sunvai

In 2001, the SAS organised a public hearing (*Jan Sunvai*) on forest rights that highlighted the lacunae in the participatory forestry process as well as cases of corruption and exploitation. Produced below are excerpts from the final report prepared by the Tribunal

Begari: Several women from Dhega village told the panel that till 2-3 months ago, one woman from every household had to spend eight days in turn doing unpaid domestic work at the forest guard's house. This included fetching water, cooking, washing utensils, sweeping and mud washing the house. On the women complaining about this to the Conservator of Forests when he visited Dhega on April 10, the forest guard accused the Shramik Adivasi Sanghatan (SAS) of spoiling his relations ('apsi rishta') with the women.

Bribes: In order to exercise their nistar (collecting forest products for subsistence needs) rights, every household has to supply one cartload of firewood, one chicken, 4.5 kgs of grain and other goods to the forest guard every year. In addition, to collect bamboo for making panels, mats and other household necessities, they have to give the forest guard one tatta and one jhinja (two types of bamboo panels) every year. This seemed uniform across villages.

For cutting timber for house building/repair or agricultural implements, bribes ranging from Rs.500- Rs.5000 have to be paid . 45 impoverished forest villages in Harda Division are paying an estimated minimum of Rs.45 lakhs per year to the forest staff in such bribes for their nistari timber and other requirements.

Shamim Modi want to 'kidnap' members of her own organisation is a question that somehow the concocted story put out by the police fails to explain.

This year July onwards there have been repeated attacks, detention and arrests of SAS activists in both Dhega and Uncharbarari. Both these villages have been strongly opposing the arbitrary practices of the forest administration. On 13 July 2009, Sunita, a resident of Dhega, aged 15 was intimidated and badly beaten and dragged into a vehicle by forest guards while she was working in her field. Her uncle Subedar, who objected, was arrested and is still in jail. Even after one a half months, Sunita is still mentally traumatised and physically very weak to return back to school or lead a normal life. Her mother Phulwati and father Rambharose both activists with

Victimising the SAS

Terror on Sunita and her family

Fifteen year old Sunita is a Korcu tribal schoolgirl enrolled in the ninth standard. Her parents, Phoolwati and Rambharos, are active with the Shramik Adivasi Sangathan. Since this organisation has highlighted many irregularities of the administration, Sunita's family is seen as an irritant by the administration and the forest department.

Around 10 am on 13 July 2009, Sunita was tending to her soyabean field close to her house along with her 11 year old cousin Gita. Deputy Ranger Awadh Narayan Ivne, reached there with forest guards Santram Kalme (Ucharbarari beat) and Ashake Karochi (Dhega beat) and 70-80 forest watchers. They told Sunita that her field was an encroachment on forest land and asked her to stop work. On her reply that she had been cultivating this land for a number of years, Santram held her by the arm, tried to drag her and threatened to take her away. Some women from the village responded to Sunita's cries for help and the forest guard let go of her. The women loudly argued with the forest staff and Sunita's grandfather Sukhram came from a nearby field hearing the noise. Sukhram explained to the forest staff and pacified the villagers and the forest staff left from the spot towards a nearby field. The villagers went back to their work.

However, the forest staff phoned to informed their officers and the police that they had been attacked with sickles and had been taken hostage. By 4 pm the forest staff had left towards Bori village.

The forest staff accompanied by the police returned in 9-10 vehicles around 6 pm. The group included women police as well watchers from nearby villages. They entered Sunita's house and started throwing the belongings. Sunita was badly kicked by the female and male police, her clothes were torn in the scuffle and she was made to sit in the jeep. Subedar was also mercilessly beaten. His daughter Gita fell on him to protect him but she was slapped and dragged away. When Sukhram arrived on hearing the commotion, he was hit on the head with a wooden pole. He fell unconscious and bleeding. The police drove away in their vehicle with Subedar and Sunita. After some distance hearing Sunita's crying and begging and claiming she was a student, the police let her go and went off with Subedar. Around 8 pm Sunita disclosed the happenings to her parents.

The next day, Sunita, Gita and Sukhram went to Bhopal with an activist of the SAS, met the DGP and submitted a written complaint. A copy of the same was

submitted to various officials – the Chief Minister, DIG (Hoshangabad), SP Harda, among others. Sukhram was medically examined and his MLC report specifies the blunt weapon injury on the head. A week later on 21 July, the Additional DIG (SC ST Welfare) instructed the SP (Hoshangabad) to investigate within 4 days and submit a report. Statements of the complainants and the officials were taken and minor differences in the complainants' statements were used to conclude that the complaint was false, that the forest official party was made hostage by the tribals and that Sukhram hit himself repeatedly with a stone.

Sunita was still in shock and ill when the PUDR team met her. Hailed by the administration and the media barely a year ago as the first tribal girl to obtain a first class in the 8th standard exams, she has been unable to attend school

the SAS have also been targeted by forest officials. Similar cases of harassment have been reported by women and men of Uncharbarari as well. Intimidation, registration of false cases and arrests have been frequent in the last two months. On 20th July 2009, Subedar, an activist from Unchebarari was surrounded by forest guards, when he was proceeding to a meeting, beaten and arrested. He is still in jail. In both the cases, their family members are unaware of the charges made against them. Such denial of basic information makes it impossible for any accused to defend themselves.

The SAS has been vocal in its criticism of the flawed process of implementation of the 2006 Forest Act, which explains the antagonistic posture taken by the administration towards its activists. Villagers close to the SAS are often targeted in attacks conducted to remove encroachments. Forest offences registered against SAS activists are never withdrawn or compounded as is done for others. Also those close to the SAS are regularly denied employment in NREGA schemes. While physical repression is one part of the story, there are other dimensions to the attack that seek to indirectly affect the way the organisation conducts its work. For example petty cases are filed against the Sangthan for holding mass meetings, dharnas and demonstrations, on charges as flimsy as the use of a loud speaker or conducting a public meeting beyond permitted time. Charges which even the police and the district administration admitted never to have been brought to bear upon political parties. In addition, numerous FIRs have been used as the basis for the initiation of externment proceedings against Shamim Modi and her husband Anurag Modi. The District Collector and the SDOP when questioned

could not provide even one instance of these two leaders indulging in any crime against the body or property.

The spate of attacks on Shamim Modi this year is a direct fallout of the Sangathan's wide popularity among the poor and the deprived sections of the society. As Vice-President of the Samajwadi Jan Parishad, Shamim has been contesting from the Harda seat, in the last few elections. In the last election, she was placed third in the final round of counting of votes. While the Sangathan is well aware that it cannot possibly compete with the established political parties, it makes use of election campaigns to highlight its issues. The fact that the Shamim has become a direct threat to the existing political elite, shows that the Sangathan's campaign against corruption and exploitation has been relatively successful. Their demand for minimum wages and better working conditions in Harda town have actually started to hurt the factory owners and their businesses.

IV. Main Findings

In the light of the above facts, the main conclusions of the fact finding report are as follows:

- a) The actions of the district, police and forest departments have in many instances been illegal, unfair and arbitrary.
- b) The district administration is attempting to reverse the gains provided to the tribals and other forest dwellers by the 2006 Act.
- c) The forest department is transgressing the rights of tribals by evicting people from their cultivated plots and by destroying their cultivation.
- d) The much-hyped JFM has degenerated into a power structure dominated by the forest officials, flush with funds and with little accountability.
- e) The policy of using residents of the same villages to attack other residents is leading to a volatile situation.
- f) The policy of alienating tribals from forest land will contribute to further malnourishment and deprivation of these communities.
- g) The attack, beating and arrests in villages is targeted against those who sympathise with the SAS.
- h) There is sufficient reason to suspect that the murderous attack on Ms. Shamim Modi at Mumbai is related to the developments in Harda district.

PUDR demands that:

1. Raids on villages, beating and arrests by forest department and terrorizing villagers should be stopped immediately.
 2. The 2006 Act should be implemented in letter and spirit. *Van Adhikhar Samities* should be informed of the provisions of the 2006 Act and the process necessary for its implementation. They should be equipped and trained and provided skilled professionals to verify, survey and prepare land records.
 3. The Forest Department must stop interfering with the implementation process of the 2006 Act and in particular must desist from preventing sowing, destroying planted fields, amenities such as wells and field boundaries.
 4. The role of the forest department in the misuse of JFM funds must be stopped. All decisions on the use of such funds should be in the hands of the village residents and the accounts should be open for public scrutiny.
 5. District administration of Harda should take active cognisance of all labour law violations happening within its jurisdiction.
 6. The murderous attack on Ms. Shamim Modi needs to be investigated by a central agency in the backdrop of the Harda situation.
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