

To  
The Joint Secretary,  
Government of India, Ministry of Tribal Affairs,  
7<sup>th</sup> Floor, "A" Wing, Shashtri Bhawan, New Delhi – 110 001

**Sub: Objections/Suggestions on the Draft Rules- 2007 notified under the ST and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.**

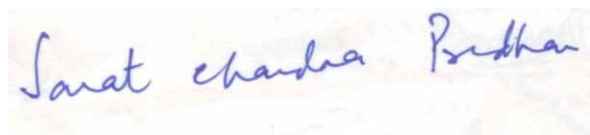
***REF: Ministry of Tribal Affairs, GOI's notification of Draft Rules on the website dated 19 June 2007 seeking objections/suggestions from the members of public.***

Sir/Madam,

With reference to the above mentioned advertisement dated 19<sup>th</sup> June 2007 seeking objections and suggestions in respect of the above draft rules within 45 days of its publication, we on behalf of a civil society network called 'The Banspal NGO Forum' operating in the district of Keonjhar, Orissa like to draw your kind attention to the following objections/suggestions for amending the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 for consideration and incorporation into the final document. For your kind information, a total of 80 social activists belonging to 14 NGOs, most of whom were tribal themselves and working among the tribal and forest dwelling communities had assembled in a two-day brainstorming workshop held at Jana Bikas Kendra, Banspal on 30-31 July 2007 to undertake a clause-wise reading and analysis of the draft rules. As a result of the deliberations of the said workshop, the following objections/suggestions were unanimously arrived at for the purpose of forwarding to your Ministry for consideration at your end.

**You are requested to acknowledge the receipt of this letter.**

Thanking you,



Sarat Chandra Pradhan, Convener

**On behalf of**

**Banspal NGO Forum,**

Contact Address: Jana Bikas Kendra

At/Po- Baragoda, Via- Suakati-758018, Dist- Keonjhar, Orissa

Mobile: 9437219872, Dated 1<sup>st</sup> August 2007

**Objections/Suggestions on Draft Rules-2007 notified under  
'The ST & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act' 06**

- (1) In Chapter 1, under the Rule 2(2), **'minerals' and 'water resources' should be added** to the list of other items mentioned under the definition of "Bonafide livelihood needs".
- (2) In Chapter-2, under Rule 3(2) where the quorum of the Gramsabha meeting is discussed, the attendance of the Tribes has been specified as two third, but the norm for attendance from the **primitive tribal groups and pre-agricultural communities** has been left unspecified by the use of an ambiguous term 'adequately'. It is suggested that **the norm for their presence should be specified as two third too.**
- (3) In Chapter-2, under the Explanation (b) added to Rule 3(2), it is now provided that in non-PESA areas, the Gram Sabha shall be held as per the existing law, which means that the villagers in such areas shall not have the opportunity of organising Gram Sabha on a hamlet basis as available to the villagers in PESA areas. It is therefore proposed that **similar opportunity for organising Gram Sabha on a hamlet basis as and where required should be extended to both PESA and non-PESA areas.**
- (4) In Chapter-2, under Rule 5(c) the **number of non-officials-cum-PRI members in the Subdivisional level Committee should be 4 in place of 3** as proposed.
- (5) In Chapter-2, under Rule-7(c ) the **number of non-officials-cum-PRI members in the District level Committee should be 4 in place of 3** as proposed.
- (6) In Chapter-2, under Rule-9, the State level Monitoring Committee has been proposed to consist mostly of bureaucrats. So in order **to provide for a multi-stake-holder complexion to the composition of the said Committee**, it is now suggested that it should be constituted with the following members,
  - (i) The Minister for Tribal Welfare/Affairs of the concerned State as its Chairperson,
  - (ii) Leader of the opposition of the State Legislative Assembly as the Deputy Chairperson,

- (iii) 8 nos. of MLAs, out of whom four shall be from opposition and remaining four from Treasury Benches, preferably each one from ST or Forest dwelling community and one-third of the total nos. of MLA-members shall be women.
- (iv) Chief Secretary of the State as Rapporteur
- (v) Secretary of Tribal Welfare Department as member-Secretary
- (vi) Secretary of Revenue Department
- (vii) Secretary Forest Department
- (viii) Principal Chief Conservator of Forest of the State
- (ix) 3 nos. of ST Members of Tribal Advisory Council nominated by the Chairperson of the Council.

Moreover, **the provision relating to nomination by the State Government of independent experts on forest and wild life, tribal and gender issues as members of the State level Monitoring Committee should be deleted altogether.**

- (7) In Chapter-2, under Rule-10 (d), provision should be made for submission of an annual report on the process of recognition, verification and vesting of forest rights by the State level Monitoring Committee to the Nodal Agency, which in turn shall **cause it to be laid in both houses of Parliament and in the concerned State Legislative Assembly** forthwith.
- (8) In Chapter 3, under Rule- 11 (2), the given provision for a maximum of four hectares land to be vested with the community stands contrary to the provision made under Section 4 (6) of the Act, where the maximum of 4 hectares has been allowed for an individual or a family. So it is suggested that such words as occurring in Rule 11 (2) of the draft Rules **“up to a maximum 4 hectares” for vesting on the community should be deleted.**
- (9) In Chapter-3, under Rule-13(6), the existing provision should be replaced by the following words, **“Gram Sabha shall decide on the nature and mode of transportation of minor forest produces for all purposes”.**
- (10) In Chapter-3, under Rule-19(4), the existing provision should be replaced by the following words, **“The existing statutory boundaries shall be redrawn as and where**

**required under the new Act basing on the customary boundaries as restored by the Gramsabha”.**

- (11) In Chapter-3, under Rule-23, an additional sub-rule is to be provided as follows, **“The community forest land which was taken over by the Forest Dept or any other Department of the State Government in the name of afforestation should be restored to the ownership and control of the Gram Sabha.**
- (12) In Chapter-5, under Rule-25(3), name of **Police and Excise Departments should be inserted** besides other Dept. and agencies of the Govt which already find mention for the purpose of sensitization on the provisions of the Act and Rules.
- (13) In Chapter-5, under Rule-26(3), as regards the membership of the Forest Rights Committee, **no more than one member can hail from a single family.**
- (14) In Chapter-5, under Rule- 26[5(iii)], **NGOs, traditional community heads and religious leaders** are to be included for the purpose of providing assistance to the Gram Sabha.
- (15) In Chapter-5, under Rule-34, any Declaration or Notification on critical wild life habitat or any such matters should follow the procedure as laid down for the category of **“previous publication” in the General Clauses Act.** Such a procedure implies that the **guideline if proposed by the Ministry of Forest and Environment, GOI should be first published in both print and electronic media in the draft form** providing adequate time-period for the members of the public to respond by way of sending objections/suggestions on the said draft. Then, following the receipt such objections/suggestions, the proposed draft guidelines may be amended and finalized.

Secondly, a copy of **the proposed guidelines should be circulated to all the concerned Gram Sabhas through the aegis of District level Committee inviting the objections/suggestions of each Gram Sabha** on the draft guidelines. Further, each District level Committee should prepare a gist of objections/suggestions of the Gramsabhas so received and forward the same to the concerned Ministry that notified the draft guidelines.

- (16) In addition to the monetary fine of Rs.1,000/- as provided under the Section-7 of the Act, the rules should provide for **disciplinary action as per their service rules against the officials** who are found to be guilty of an offence under the Act.
- (17) The Draft Rules is conspicuously deficient in the matter of providing for an appellate authority, which on hearing the complaints and appeals from the aggrieved persons shall pronounce the penalty mentioned under the Act. It is therefore proposed that the Rules should provide for the constitution of a **National Forest Rights Commission as the final appellate-cum-penal authority** under the Act. The Commission shall function as an **independent and autonomous quasi-judicial body** like the Central Information Commission, equipped with adequate powers inter alia to finally adjudicate and settle all disputes and monitor the implementation of the Act by the concerned authorities across the countries.

**The National Forest Rights Commission shall have 4 principal powers:**

- To approve and vet any guidelines/code/regulation etc. to be issued from time to time by various governmental authorities in connection with the implementation of the Act.
- To make final disposal of all appeals and complaints and pass orders of penalty, censure and correction as and when required against the errant officials and agencies.
- To monitor and set aright as and where necessary the functioning of the State level Monitoring Committees as constituted under Section 6(7) and that of the Central Nodal Agency as constituted under Sec. 11 of the Act.
- To inspect any place relevant under the Act and take direct evidence on any matter relating to implementation of the Act as and when necessary and expedient to ensure proper implementation of the Act.

The Chief Commissioner and other members of the National Commission shall be nominated from a panel of names by a **4-member Selection Committee comprising the Prime Minister, Leader of the Opposition, Commissioner for Scheduled Tribes and Chief Justice of India**. The chief and other members of the Commission shall be administered the oath of office by the President of India, who shall also have the power to suspend and dismiss any such member on the grounds of impropriety and misdemeanour after conducting an enquiry by a judge of Supreme Court.

The National Commission shall **consist of a total of 11 members** including the Chief Commissioner, each below 65 years of age and one third of them being women. At least 5 of the 11 members should belong either to ST or to other traditional forest dwelling communities. So far the qualification of the members is concerned, each should have a rich experience and knowledge on tribal and forest related matters. In order to avoid the preponderance of former bureaucrats as members in the Commission, at least 6 out of 11 members should be drawn from the background of social work and civil society reform movement.

- (18) Last but not the least, there are some typographical errors in the Forms attached to the Draft Rules. For instance, read the columns 11 and 12 of the Form under Annex-II (TITLE FOR FOREST LAND UNDER OCCUPATION). These are in fact not two columns, but should be combined into one column. Then read the columns 10 and 11 of the Form (TITLE TO COMMUNITY FOREST RIGHTS), which should be combined into one too.

**Resolution of the two-day Workshop on Draft Rules-2007 under  
‘The ST and Other Traditional Forest Dwellers  
(Recognition of Forest Rights) Act, 2006’**

*By Banspal NGO Forum, Kendujhar, Orissa on 30-31 July 2007*

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List of Participants attended workshop on Forest Land Right Act- 2006 held at Jana Bikas Kendra, Dhangadi, Banspal, Dist: Keonjhar on 30-31 July 2007.

<b>S.L.</b>	<b>Name of Participants</b>	<b>Address</b>	<b>Block</b>
1	Andhari Juanga	At/PO:Bayakumutia, Dist: Keonjhar	Banspal
2	Menjari Munda	At/PO: Rayagada, Dist: Keonjhar	Banspal
3	Balma Munda	At/PO: Rayagada, Dist: Keonjhar	Banspal
4	Nahamani Soren	At/PO-Nauudani Dist: Mayurbhanj	Jasipur
5	Tulasi Naik	At/PO: Kuskala Dist: Keonjhar	Banspal
6	Narangi Naik	At/PO: Kuskala Dist: Keonjhar	Banspal
7	Sunia Dehury	CACD, At/PO:Bayapandadhar Dist: Keonjhar	Banspal

8	Ramsankar Prasad Mishra	CACD, At/PO-Kumundi Dist: Keonjhar	Banspal
9	Nisit Ranjan Sahu	CACD, Dist: Keonjhar	Sadar
10	Digamber Mahanta	CACD, Dist: Keonjhar	Sadar
11	Dipti Ranjan Behera	LWS, At/PO-Chamundia Dist-Mayurbhanj	Jasipur
12	Saroj Pattanaik	LWS, At/PO-Gonasika Dist: Keonjhar	Banspal
13	Guru Charan Parida	At/PO-Gonasika Dist: Keonjhar	Banspal
14	Sudip Rout	At-Katarapali PO-Oriya Dist: Keonjhar	Telkoi
15	Sekhar Upadhya	CACD, Dist: Keonjhar	Sadar
16	Paresh Kunar	CACD, Dist: Keonjhar	Sadar
17	Ghasiram Panda	CACD, Dist: Keonjhar	Sadar
18	Sarat Chandra Pradhan	JBK,At/PO- Baragoda(Dhanagadi) Dist: Keonjhar	Banspal
19	Suresh Chandra Barik	LWS, At/Po-Kumundi Dist: Keonjhar	Banspal
20	Pandu Munda	At/PO-Kamanga Dist: Keonjhar	Banspal
21	Mahanty Jirai	LWS, At/Po-Kumundi Dist: Keonjhar	Banspal
22	Kali Charan Birua	At/PO-Jasipur Dist- Mayurbhanj	Jasipur
23	Jaisingh Soe	At-Jaladiha, Po-Baragoda Dist: Keonjhar	Banspal
24	Chanda Baradi	At-Ambadali, PO-Singhpur Dist: Keonjhar	Banspal
25	Mangal singh Hemram	LWS, At/PO-Kusukala Dist: Keonjhar	Banspal
26	Mayadhra Juanga	At/PO-Gonasika	Banspal

		Dist: Keonjhar	
27	Sanjaya Juanga	At/PO-Gonasika Dist: Keonjhar	Banspal
28	Sugriba Juanga	At/PO-Gonasika Dist: Keonjhar	Banspal
29	Dinabandhu Juanga	At/PO-Gonasika Dist: Keonjhar	Banspal
30	Jitendra Kumar Ratha	OSAA, Bhubaneswar	
31	Chaturbhuja Mahanta	Ekjut, Dist: Keonjhar	Sadar
32	Chandan Panigrahi	Ekjut, Dist: Keonjhar	Sadar
33	Parsuram Mantri	AT/PO-Balibeda Dist: Keonjhar	Banspal
34	Nilandri Pradhan	At/PO-Bhaliadal Dist: Keonjhar	Telkoi
35	Hitabandhu Juanga	At/Po-Sapalanji Dist: Keonjhar	Telkoi
36	Prafulla Mahanta	At/Po-Pitanali Dist: Keonjhar	Telkoi
37	Purundar Mantri	At/Po-Pitanali Dist: Keonjhar	Telkoi
38	Pravas Chandra Khuntia	At-Benidihi PO-Tana Dist: Keonjhar	Banspal
39	Pitamber Juanga	JJSC, At/PO-Budhakanan Dist: Keonjhar	Harichandanpur
40	Manjari Munda	At/PO-Cheliabeda Raygada Dist: Keonjhar	Banspal
41	Swapana Sundari Dehury	At-Saharpur, PO-Banspal Dist: Keonjhar	Banspal
42	Niranjan Sanangi	At-Sankarei, PO-Banspal Dist: Keonjhar	Banspal
43	Birakishore Naik	At/PO-Baragoda Dist: Keonjhar	Banspal
44	Abhimanyu Panda	CACD,At/PO/Dist: Keonjhar	Sadar
45	Anirudha Patra	At/PO-Taramakanta Dist: Keonjhar	Banspal
46	Bijaya Krishna Biswal	JBK, At/PO-Baragoda	Banspal

		Dist: Keonjhar	
47	Chintamani Dehury	At-Sankarei, PO-Banspal Dist: Keonjhar	Banspal
48	Bishnu Charan Naik	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
49	Jayani Nayak	At-Gajpur, PO-Singhpur Dist: Keonjhar	Banspal
50	Tamala Pradhan	LAA, At/Po-Banspal Dist: Keonjhar	Banspal
51	Ramesh Chandra Barik	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
52	Rabindra Kumar Giri	At/Po-Tana Dist: Keonjhar	Banspal
53	Hrusikesh Naik	At-Talagundula, PO-Tana Dist: Keonjhar	Banspal
54	Pitamber Mishra	VARASA, At/PO-Bhagamunda, Dist:Keonjhar	Harichandanpur
55	Ranjan Pattanaik	KIRDTI, At/PO-Harichandanpur Dist: Keonjhar	Harichandanpur
56	Ajaya Kumar Panda	VARASA, At/PO-Bhagamunda, Dist:Keonjhar	Harichandanpur
57	Bidyadhara Dehury	At/PO-Banspal Dist: Keonjhar	Banspal
58	Ranjulata Mallik	SJS, At/PO-Mahadeijoda Dist: Keonjhar	Sadar
59	Naresh Chandra Pattanaik	Media Reporter Dist: Keonjhar	Sadar
60	Sudhir Kumar Nanda	Media Reporter Dist: Keonjhar	Sadar
61	Bhakta Bachala Mahanta	SANJOG, Dist: Keonjhar	Sadar
62	Gyansingh Purty	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
63	Prakash Sahoo	CYSD, Dist: Keonjhar	Sadar
64	Kumuda Kumari Dangua	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal

65	Biranchi Dehury	At-Baradihi, PO-Banspal Dist: Keonjhar	Banspal
66	Puspalata Dehury	At/PO-Banspal Dist: Keonjhar	Banspal
67	Jemamani Pradhan	At-Podadihi, PO-Rayagada Dist: Keonjhar	Banspal
68	Jadumani Patra	At-Jaladiha, PO-Taramakanta Dist: Keonjhar	Banspal
69	Krupasindhu Das	SURYA, At-Malda Po-Basantapur Dist: Keonjhar	Banspal
70	Dulari Soren	LWS, At/PO-Chamundia Dist-Mayurbhanj	Jasipur
71	Santosh Kumar Behera	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
72	Ganeswar Lenka	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
73	Taranisen Pradhan	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
74	Ghanashyam Mahanta	SJS, At/PO-Mahadeijoda Dist: Keonjhar	Sadar
75	Barika Behera	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
76	Beenapani Pradhan	JBK, At/PO-Baragoda Dist: Keonjhar	Banspal
77	Dayanidhi Mahapatra	Media Reporter At/PO-Banspal Dist: Keonjhar	Banspal
78	Budhadev Mahanta	KIRDTI, At/PO-Harichandanpur Dist: Keonjhar	Banspal
79	Tarini Prasad Nanda	Media Reporter At/PO-Banspal Dist: Keonjhar	Banspal
80	Lalmohan Parihal	At-Temera PO-Kunar Dist: Keonjhar	Banspal