

COMMUNITY FOREST RIGHTS AT A GLANCE

: A NEWSLETTER

Issue. 02 | Vol. 01

JUNE
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SPECIAL
FEATURE **13**



Farmers rally against the judgement of the Himachal Pradesh High Court in Rekongpeo.

Photo | [Gaurav Madan](#)

REOPENING THE 'ENCROACHERS' DEBATE

A note on evictions and loss of livelihoods of forest dwelling communities due to plantations and issuing of 'encroachment' notices by the forest department.

INSIDE

EDITORIAL **03**

FROM MoTA'S
DESK **04**

POLICY
UPDATES **06**

NEWS, VIEWS &
REVIEWS FROM
VARIOUS STATES **10**

MEETINGS,
WORKSHOPS &
CONSULTATIONS **12**

TRACKING
MINUTES OF THE
FOREST ADVISORY
COMMITTEE **15**

ABOUT US

The Community Forest Rights-Learning and Advocacy Process was initiated in 2011 to facilitate the exchange of information and experiences and to reinforce national level efforts for evidence-based advocacy on Community Forest Rights (CFRs), as provided by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).

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CORRIGENDUM

In Issue 1 of the newsletter, the last paragraph of the Editorial (page 4) should have read, 'On the other, contradicting its own stand that there can be no exemption to FRA in cases of forest diversion, MoTA has issued a letter, clearly under pressure from various ministries, allowing collectors in north eastern states to submit a letter certifying that processes under FRA are not required to be completed for diversion of forest land in case of 'strategic defense projects; thereby diluting the 2009 circular in the north east.

The word MoEF in the second paragraph in point 5 of the Letters, Circulars, Guidelines and Memorandum section, on page 7, is replaced by MoTA.



COMPILED BY: Meenal Tatpati with inputs from Sanghamitra Dubey for the special feature and Shruti Ajit for MoTA status report.

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The months of June and July 2015 saw a rush of circulars and government resolutions being passed by the Centre (Ministry of Tribal Affairs, MoTA) and circulars, schemes and policies being announced by a few state governments which could have an immediate bearing on the implementation of the Forest Rights Act, 2006. Many of these were direct outcomes of the Prime Minister's review of the progress of FRA during the 'Pro-Active Governance and Timely Implementation' (PRAGATI) meeting on the 22nd of April 2015, during which state governments were instructed to take up implementation of the FRA on a 'campaign mode' and in a 'time-bound' manner.

As a follow up to this, MoTA issued a letter on the 10th of June identifying nine states lagging behind in the implementation of the FRA, especially the Community Forest Rights (CFR) provisions. It also issued a suggestive time-bound mechanism to raise awareness about FRA and to recognize claims. At a consultation organized by MoTA on the 2nd of July with the Chief Secretaries of these states, implementation of FRA in a 'mission mode' was emphasized. Subsequently on the 27th of July, MoTA also issued guidelines directing the district administrations of all states to map all forest rights claims using geo-referencing technology.

The emphasis on time-bound implementation of FRA by MoTA resulted in the Tribal Department of Chhattisgarh issuing a series of circulars to all District Collectors (DCs), drawing out a time-bound action plan towards 'fast-track' implementation of FRA. One of these circulars instructed all DCs to ensure that in gram sabhas to be organized on the 15th of August, each gram sabha give in writing that the final disposal of individual/community forest rights claims have been carried out in their villages; no claim is pending for consideration,

decision or distribution; and no rightful claimant from the gram sabha has been denied his rights. The circular does mention that this has to be done only after the DCs have carried out the process of recognition and vesting of rights. Although well intentioned, these circulars are facing strong opposition from civil society organizations on the ground since complex issues like the determination of land and forest rights cannot be dealt with in a rush. Hurried processes cannot follow appropriate procedures and are likely to lead to further injustice for forest dwelling communities by denying their rights or inappropriately recognizing them. While this newsletter went to print, under strong opposition from civil society, the state government had withdrawn the 15th August deadline¹. It is important to mention here that FRA implementation in Chhattisgarh has been negligible so far and precious little has been done to create awareness and information about the Act. Consequently, there are few CFR claims filed and even fewer titles distributed. It is therefore of paramount importance that FRA implementation is taken up on mission mode, but with reasonable timelines which will allow for processes to address concerns of the rights holders.

Village Forest Rules under the Indian Forest Act, 1927 have now been notified both in Madhya Pradesh and Maharashtra². Both the states are also promoting policies of regeneration of degraded forests through Private- Public-Partnership (PPP). Under this, the forests could be handed over to private investors to carry out plantations through agreements with the state forest departments and the Joint Forest Management Committees (JFMCs). On the other hand, in a policy similar to that of Andhra Pradesh, the Odisha State Level Monitoring Committee (SLMC) has decided that CFR rights can be

¹ See: http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B20579891-b711-4804-a32b-aa20a03480b3%7D_Chhattisgarh%20circular_15th%20Aug%202015.pdf. The analysis of the circular will be done in the next newsletter.

² For details on VFR in Maharashtra, please see the Citizens' Report 2015. Available at:

<http://fra.org.in/document/CITIZENS%20REPORT%202015%20COMMUNITY%20FOREST%20RIGHTS%20UNDER%20THE%20FOREST%20RIGHTS%20ACT.pdf>

granted to JFMCs based on their record of forest protection and management. Clear instructions against granting CFR rights to JFMCs from MoTA issued in the case of Andhra Pradesh, has neither prevented the Odisha SLMC nor convinced the state of Andhra Pradesh to withdraw their decision. Additionally, in states like Odisha, the SDLCs and DLCs are reportedly rejecting claims under the influence of the forest department. Whether it is sudden efforts at strengthening of JFMCs, or granting CFR rights to JFMCs, or using JFMCs to evict so called “encroachers” or drafting state Village Forest Rules (under an Act which has been in existence since 1927), or downright rejection of CFR claims under the influence of the forest department, these policies are clearly intended to undermine the implementation of the CFR provisions of the FRA. Such systematic promotion of forest department policies and schemes over CFRs is clearly an attempt by the forest department to retain or regain control over forests. The policies of the Madhya Pradesh and Maharashtra governments to allow agreements between the JFMCs and the industry for management of forests, indicates a Forest Department-Corporate-Political nexus to undermine CFRs and privatize forests for the benefit of the industry. Our special feature for this newsletter analyses the effect of various schemes, orders and policies being employed in the states of Jammu and Kashmir, Himachal Pradesh, Odisha and Telangana, on the lives and livelihoods of forest dwelling communities, which aim to increase forest cover on ‘degraded forest land’, and to remove ‘encroachment’ over such lands.

-Meenal Tatpati, Neema Pathak Broome and Tushar Dash.

IMPLEMENTATION UPDATE

As per the FRA Status Report up to the month of May 2015, out of a total 1,11,996 community rights claims filed so far (1,07,182 community claims and 4,814³ CFR claims) across the country, 37,415 titles have been distributed. Of these 35,267 are community rights titles and 2148⁴ are Community Forest Resource titles under Sec 3(1)(i).

Except Odisha, no other state has provided disaggregated data for claims of community rights under Sec 3(2) and developmental rights provided under Sec 3(2) of the Act. This month, Telangana and West Bengal have reported on the status of FRA claims and titles. West Bengal has provided disaggregated data on Community Rights titles and CFR titles, although this disaggregation is missing in data provided for claims filed.

The claims received and titles distributed remains unchanged for the States of Andhra Pradesh, Assam, Kerala, Rajasthan, Tripura and Uttar Pradesh since the last update up to the period ending on 28th Feb 2015 (See: [http://fra.org.in/document/CFR-LA-Newsletter_April-May-15-Final%20\(1\).pdf](http://fra.org.in/document/CFR-LA-Newsletter_April-May-15-Final%20(1).pdf)).

Karnataka has received 1560 new community claims⁵ since February 2015. However the state has distributed only 5 more titles. Maharashtra has received 988 new community claims⁶. Gujarat has recorded 46 new claims and distributed 19 new community titles.

As indicated in the table below, many states have not yet begun reporting the status of CFR implementation, despite MoTAs directions.

³ These claims reflect CFR claims only for the state of Odisha.

⁴ The CFR titles distributed were an aggregate of those received from Odisha and West Bengal (2,090 CFR titles distributed in Odisha and 58 CFR titles distributed in West Bengal).

⁵ The February MoTA Status Report documented 4,575 claims received. This has increased considerably to 6,135 Community Claims in the current MoTA Status report.

⁶ The February MoTA Status Report documented 6,074 Claims which were received by the Maharashtra State Government. This has increased considerably to 7,062 Community Claims.

STATE	NO OF COMMUNITY RIGHTS CLAIMS FILED (at the Gram Sabha level)	NO OF COMMUNITY RIGHTS TITLES DISTRIBUTED	EXTENT OF LAND OVER WHICH COMMUNITY RIGHTS RECOGNISED (acres)
Andhra Pradesh	10,959	2,107	NA
Assam	5,913	860	NA
Gujarat	7,228	3,875	NA
Himachal Pradesh	283	108	NA
Jharkhand	864	494	NA
Karnataka	6,135	101	26,246.57
Kerala	1,395	NA	NA
Madhya Pradesh	40,669	19,491	NA
Maharashtra	7,062	3,277	815,810.70
Odisha	12,502 (7,688-Community and 4814 -CFR Claims)	5,000 (2,910 -Community and 2,090 CFR Titles)	109391.46 Acres for Community and 815810.70 Acres for CFR
Rajasthan	650	65	479.73
Tamil Nadu	3,361	-	-
Telangana	4,814	744	503,082

Source: The Ministry of Tribal Affairs:

(<http://tribal.nic.in/WriteReadData/CMS/Documents/201508100959332745375MPRfortheMonthofMay2015.pdf>)

Further, reports received from civil society organizations of various states show that there is considerable discrepancy in the states reporting of the status of community claims received and titles distributed, to MoTA (See Gujarat, Odisha and Telangana updates in the News, Reviews & Updates section).

Letters, Circulars, Guidelines, Memorandums, Meetings.

1. In a letter dated 10th June 2015, MoTA drew up a 'suggestive roadmap and timeline' for 9 states it identified as 'lagging in implementation', which include Jharkhand, West Bengal, Bihar, Himachal Pradesh, Karnataka, Telangana, Uttar Pradesh, Uttarakhand and Kerala. According to the letter, the states can prepare their own 'time-bound plans' in order to create awareness about the provisions of the Act among the field level government functionaries, identify 'potential areas' under FRA in each district using technologies such as Global Positioning System mapping, and take final decisions regarding the recognition and vesting of claims by the end of the year. The ministry has identified the Tribal Research Institutes of these states to be the resource and training institutions to implement these roadmaps prepared by the states. The Ministry has also decided to monitor and ensure processes are being carried out in a time-bound manner; while clarifying that the roadmap and timelines should not be used to deny rightful claimants their forest rights.

(See: <http://tribal.nic.in/WriteReadData/userfiles/file/FRALettres/letterToCS.pdf>)

2. On the 2nd of July 2015, MoTA held a review meeting and consultation with the Chief Secretaries of 9 states identified as 'lagging behind in the implementation of the FRA'. The state representatives reported on the implementation of the Act in their respective states, and presented proposed Action Plans for implementation in a campaign mode. The key points highlighted by MoTA were:

- The need for training, capacity building and awareness generation about the FRA at all levels.
- Assessing potential areas for FRA implementation through GIS mapping by Scheduled Castes and Scheduled Tribes Research and Training Institute (SCSRTI)⁷, Bhubaneswar for all nine states.

⁷ In 2014, MoTA recognized SCSTRTI as the National Resource Centre for FRA. The department is currently preparing various training material on FRA. The department has also studied the State of the Forest Report of 1999 and identified about 1.70 lakh villages all over the country having forests in and around them.

- Suggestive time-lines to be prepared by the states to expedite the process of recognition of rights.

(See:[http://www.tribal.nic.in/WriteReadData/CMS/Documents/201507300429195428159MinutesofReview-cum-consultationmeetingonFRA-2ndJuly2015\(final\).pdf](http://www.tribal.nic.in/WriteReadData/CMS/Documents/201507300429195428159MinutesofReview-cum-consultationmeetingonFRA-2ndJuly2015(final).pdf))

3. On the 14th of July 2015, MoTA held a meeting to review the implementation of the Act in the states of Andhra Pradesh, Chhattisgarh, Gujarat, Madhya Pradesh and Maharashtra, with the Principle Secretaries and Secretaries of these states. MoTA brought up the following issues in the meeting:

- Slow recognition of CFRs in most states
- Conversion of JFM areas into CFR
- Rejection of a large number of claims in Left Wing Extremism Affected areas
- Non-implementation in protected areas and disputed lands
- Non-recognition of habitat rights of PVTGs and nomadic groups, pre-existing rights under Sec 3(1)(j)
- Non-conversion of Forest Villages to Revenue villages.

The status of these issues and steps to be taken for implementation was discussed with the secretaries of the states.

(See:http://tribal.nic.in/WriteReadData/CMS/Documents/201507301119105175071merged_document.pdf)

4. In its efforts to implement the FRA in a campaign mode, MoTA issued a set of guidelines on 27th of July 2015. Addressed to the chief secretaries of all states, these guidelines stress on use of technology, in particular, geo-referencing, for assessment of potential areas and re-examination of rejected claims under the FRA.

(See:http://tribal.nic.in/WriteReadData/CMS/Documents/201507301119105175071merged_document.pdf)

MAHARASHTRA

1. On the 12th of June 2015, the Tribal Development Department of Maharashtra vide Government Resolution No: 2013/272/14, approved the formation of District Level Convergence Committees in 5 districts of Gadchiroli, Gondia, Yavatmal, Amravati and Nagpur which come under the pilot project of MoTA and United Nations Development Programme (UNDP) titled 'Strengthening National Capacities in Tribal Areas'. This programme is currently being implemented in 50 villages of the above mentioned districts⁸. The district committees will look into the implementation of the CFR management plans prepared by these villages. This will be done by providing convergence of all the schemes of various governmental line agencies in each district to implement activities undertaken by the gram sabhas in their management plans. The membership of the committee includes the District Collector as the Chairperson and the Deputy Conservator of Forests as the Member Secretary, the Chief Executive Officer-Zilla Parishad (CEO-ZP); Project Officer-Integrated Tribal Development Programme (PO-ITDA), District Agriculture Officer, District Animal Husbandry Officer and Assistant Commissioner of the Fisheries Division as members, along with 2 members from the concerned gram sabhas on a rotational basis. (See:<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/English/201506151722563724.pdf>).

2. The Tribal Development Department issued guidelines dated 24th of June 2015) for the constitution and functioning of the committee under Rule 4(1)(e) of the FRA. The committee is to be called the CFR Management Committee (CFRMC). According to the GR:

- The Gram Sabha will constitute the CFRMC, which shall be the executive committee of the gram sabha
- The CFRMC should have a minimum of 5 and a maximum of 15 members, of which 1/5th should be women.

⁸ The project supported some non-governmental organizations like KHOJ, Vidarbha Nature Conservation Society (VNCS) and others to implement effective and sustainable management systems of forests and natural resources to help rural communities whose livelihood was dependent on forests, through the CFR provisions of the FRA.

- The CFRMC is to elect three members who will be President, Secretary and Treasurer, from among its members out of which one should be a woman.
- A joint account is to be opened by the CFRMC in the name of the President, Secretary and the Treasurer.
- The CFRMC will be responsible for planning, management and conservation of the CFR forest, the revenue generated from the CFR and funds received from the government, and will carry out all administrative responsibilities related to FRA.

In a petition to the Tribal Secretary of the Government of Maharashtra, civil society groups in the state have expressed a concern about the account of the committee being in the name of the CFRMC instead of the gram sabha. They contend that doing so will undermine the powers of the gram sabha, of which the CFRMC is an executive. They have strongly suggested that the account should be in the name of the gram sabha and that the guidelines should not be implemented till this amendment is made.

(See: <https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/English/201506251654034424.pdf>)

3. The Principal Secretary to the Chief Minister of Maharashtra has set up an eight member state level committee, including forest officials and members of non-governmental organizations to ensure the participation of people in forest conservation and to review the implementation of the FRA, in buffer zones of Protected Areas and areas with significant wildlife. No other details about the committee and its functioning are available.

(See: <http://timesofindia.indiatimes.com/city/nagpur/Committeesetupforbetterforestmanagement/articleshow/48090849.cms>)

4. On the 22nd of July 2015, the Maharashtra forest department announced the revised policy of afforestation of degraded forest land. The original policy had come into effect on the 1st of January 2012. The revised policy is

intended to encourage industrial establishments and Non-Governmental Organisations to undertake afforestation in the vicinity of their working area by entering into tripartite agreements with the Village JFMCs. The policy could not be accessed.

(See: http://articles.economicstimes.indiatimes.com/20150622/news/63708536_1_afforestationdegradedforestngos)

5. The Revenue and Forest Department of the government of Maharashtra through a government resolution dated 24th July 2015 has constituted a Committee for the effective implementation of the New Bamboo Policy⁹ adopted by the state in December 2014, which aims to increase the production of bamboo in government owned as well as private areas and to promote industries based on bamboo.

The committee has been formed under the chairmanship of the Chief Secretary of Village Development and has forest officials along with civil society representatives who are experts in bamboo management, as its members. The committee seeks to:

- Integrate traditional knowledge and technology on bamboo and emerging scientific technology, to increase the area under plantation of high-yielding bamboo, develop solutions towards value addition of bamboo and to establish markets for bamboo and bamboo products
- Amend various laws related to transit of bamboo and bamboo products and make it easier for bamboo artisans to secure bamboo
- Develop skills of rural and tribal youth to scientifically harvest bamboo and garner employment

(See: <https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/English/201509021507514719..pdf>)

The committee has had two meetings so far.

(Update by Mohan Hirabai Hiralal (mohanhh@gmail.com) of Vrikshamitra, Gadchiroli).

⁹ See: <http://timesofindia.indiatimes.com/india/Maharashtra-govt-to-end-bamboo-monopoly/articleshow/31757025.cms>

MADHYA PRADESH

The Madhya Pradesh Forest Department has notified the Madhya Pradesh Protected Forest Rules, 2015 and the Madhya Pradesh Village Forest Rules, 2015 under the Indian Forest Act of 1927, on the 4th of June 2014.

(See: <http://www.govtpressmp.nic.in/pdf/extra/2015-06-04-210.pdf> and <http://www.govtpressmp.nic.in/pdf/extra/2015-06-04-211.pdf>). Following this, on the 20th of June 2015, the Chief Minister of Madhya Pradesh in a meeting with bamboo investors announced that 36,000 sq km of degraded forests in the state would be made available for investors to grow bamboo.

(See: <http://www.downtoearth.org.in/coverage/madhya-pradesh-s-call-to-bamboo-investors-reignites-debate-over-forest-access-50506>)

An analysis of these rules shows that while the definition of bonafide livelihood needs, community rights and minor forest produce are as in the FRA, the rules are completely contradictory to the spirit and letter of the FRA. While FRA seeks to do away with the FDs monopoly over forests by democratizing forests governance while granting management rights, these rules intend to bring all forest lands under the jurisdiction of the Forest Department. This will be done through JFMCs which will manage forests in accordance with the detailed prescriptions of the FD. Further, both set of rules provide for the JFMCs to be able to enter into agreements with industrial establishments. These rules have come under strong criticism by civil society groups, who are concerned about the direct conflict that will be played out on ground between the implementation of these rules and that of the CFRs under FRA.

CHHATTISGARH

After the meeting organised by Secretary, MoTA on implementation of FRA on 14th July 2015, the Department of Tribal Welfare organised a follow up meeting on 17th July 2015 for taking up implementation of FRA a campaign mode. Subsequently, a series of letters were issued on the 27th and 31st of July

2015 by the Principal Secretary, Department of Tribal Welfare (GoCG) to put this into effect.

The first letter prescribes a time bound action plan instructing District Collectors to complete all processes under FRA by the 15th of August 2015 and completing the entry in Record of Rights (RoR) by 31st August 2015.

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B99db5fe4-1505-47bc-a28f-5210069b9ca8%7D_Time%20bound%20Action%20Plan.pdf)

The second letter directs the District Collectors, after having completed processes under the FRA as mentioned above, to pass resolutions in the forthcoming gram sabhas of 15th August, declaring that the final disposal of individual/community forest rights claims have been carried out; no claim is pending for consideration, decision and distribution, and that no rightful claimant from the gram sabha has been denied his rights. In case the situation does not allow passing of such resolutions, the district collectors are directed to review the reasons and devise another time bound action plan for resolving the issues.

Serious concerns have been expressed by civil society groups not only in Chhattisgarh but across the country on such hurried completion of FRA processes which they perceive as likely to add to an existing high number of rejected claims, or depriving a large number of claimants from being able to claim rights.

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B08de7ce8-4769-4646-8202-af5af508f138%7D_Gram%20Sabha-FRA.pdf)

Another letter also acknowledges that there are large scale wrongful rejection of claims and directs the district collectors to take note of this and establish district level FRA Cells (to include assistant collectors and Deputy Conservator of Forests), to help create awareness about the Act at the village level.

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B6f7cf352-5b87-4544-9764-1bd639e3ae51%7D_Identification_wrongful%20rejection.pdf)

A letter issued to the Additional Principal Chief Conservator Forests (APCCF) directs the forest department to use geo-reference data base for verification of disputed and rejected claims. Balrampur district has been taken up as a pilot for this where the APCCF has been directed to use this technology and inform the Tribal Welfare Department about its progress.

Civil society groups have raised concerns that this letter does not mention that the process needs to be carried out in consultation with the gram sabhas and the Forest Right Committees (FRCs).

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B795c9901-3816-413f-9157-64992315ee88%7D_GPS%20based%20verification_balrampur.pdf)

A letter dated 31st July 2015, issued by the Revenue Department asks all District Collectors to create awareness in the villages about filing community rights claims (although it erroneously mentions that these rights are to be filed through the Gram Panchayats). The letter also shows concern about large scale wrongful rejection and asks for review of all rejected claims. Finally, the letter asks for distribution of land record pass books to the title holders

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B0c77511f-e2fb-4564-b736-d6a6ef032084%7D_Record%20of%20Rights%20letter31stJuly15.pdf)

(Update by Vijendra Ajnabi on the CFR-LA e-list serve (vijendra@oxfamindia.org))

ODISHA

In Nilagiri sub-division of Balasore district, the SDLC in its meeting on the 10th of June 2015 rejected 82 CFR claims. These claims have been rejected because according to the Assistant Conservator of Forests (ACF), all these claims are non-eligible for recognition as the claimants 'reside outside the area claimed as CFR.

(Shared by Laxmidhar Balia of the Odisha Jungle Manch (odishajunglemancha@yahoo.in) on CFR-LA).

In the SLMC meeting of Odisha on the 21st of July, the committee observed that 5990 community claims have been pending at gram sabha, SDLC and DLC levels while 301 community claims have been rejected.

The SLMC has decided that by the 30th of September, 2015, district collectors are to make comprehensive lists of the pending and rejected claims along with the reasons of why they remain pending or have been rejected. Further all pending claims are to be distributed by the 30th of November 2015 and all the appeals for review of rejected claims are to be disposed off by the 31st of March 2016.

The SLMC had also decided that in those villages where conflicts do not exist between the Joint Forest Management Committee (JFMC) and the gram sabha, CFR titles should be given to the JFMC.

(Shared by Manohar Chauhan (chauhanmanohar@gmail.com) on Campaign for Survival and Dignity e-list)

Both these decisions have been taken in violation of the FRA. The Act does not specify actual physical residence on forest land as a pre requisite to claim rights, but emphasizes dependence on forest land for bona-fide livelihood needs in Sec 2(c) and 2 (o) of the Act. MoTA has released clarifications about this in the past.

(See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B18fa806c-77f2-4986-ac5e-63dee35c0239%7D_Ministry%20of%20Tribal%20Affairs%20clarification.pdf and <http://www.tribal.nic.in/WriteReadData/CMS/Documents/201303010546387158203File1539.pdf>).

Similarly, in a directive issued by the Ministry of Tribal Affairs to the Principal Chief Conservator of Forests (PCCF) and Principal Secretary (PS) of Tribal Development Department, Andhra Pradesh dated 6th August 2013 (See: http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B4b8e5213-2e04-4369-8a71-7b8fbe2b9858%7D_AP_JFM_MoTA_06.08.2013.pdf), MoTA clarified that JFMCs are not covered under the definition of either Scheduled Tribes (ST) or Other Traditional Forest Dwellers under the FRA, hence they cannot be considered as "claimant" under the Act and thus, cannot be issued titles.

NEWS, VIEWS & REVIEWS FROM VARIOUS STATES

GUJARAT

As per the status report of the government of Gujarat (till the 30th of April 2015) accessed by ARCH Vahini, 3979 claims were approved over an area of 10, 81, 538 acres for this period.

(Shared by Ambrish Mehta, ARCH Vahini, as excerpted from the Government of Gujarat status reports up to the period ending on 30th April 2015. Contact m_ambrish@hotmail.com for details).

HIMACHAL PRADESH

While hearing an appeal against encroachment on forest land in Himachal Pradesh, the High Court (HC) on the 6th of April 2015, ruled that all 'encroachments' on government forest land should be removed within the next six months (Also see Special Feature).

Without losing much time the state Forest Department has started uprooting apple trees and cutting off electricity and water connections in many villages in several districts of the state.

(See: <http://indianexpress.com/article/explained/why-himachals-forest-officials-were-hacking-at-fruit-laden-apple-trees/> and http://zeenews.india.com/news/eco-news/himachal-hc-refuses-to-modify-forest-encroachment-order_1637369.html)

This is being done without following the process of recognition of rights under the FRA. Local communities in several parts of the state are resisting this order as also the action of the department. Rallies against the move have been held in several parts of the state by the Himalaya Niti Abiyan (HNA).

(Information shared by Guman Singh of HNA, gumanhna@gmail.com).

MAHARASHTRA

1. According to the status report of the Commissionerate of Tribal Development of Maharashtra, for the month of June 2015, a total of 899 CFR titles have been distributed in Gadchiroli district.

(See: http://trti.maharashtra.gov.in/forest/static_pages/frm_formain.php)

In some of these villages, bamboo harvesting and sale by the gram sabhas continued in this season also. This was done, either individually or through the facilitation of civil society organizations. These gram sabhas include Temali village in Korachi taluka; Yerandi, Bhimanpayali, Bortola and Lavari villages in Kurkheda taluka; Darachi and Bhapada villages in Dhanora Taluka; Nagveli, Jangao, Jaller and Marada villages in Gadchiroli taluka; Puser and Mutnur villages in Chamorshi taluka; and three villages in Etapally taluka.

Most of the gram sabhas have received transit permits (TPs) from the forest department and managed to sell the bamboo to Ballarpur Industries Ltd. (BILT) or other contractors through open auction. Some villages however have still not received TPs, despite continuous follow up with the department. In Garanji village of Mulchera taluka, the forest department harvested about 5000 bamboo poles from the CFR area of the village without seeking prior consent of the gram sabha. The bamboo was seized by the village and the villagers decided to auction it themselves.

(Shared by Mahesh Raut, maheshraut.work@gmail.com)

2. 12 gram sabhas in Gondia (facilitated by VNCS) and 2 in Melghat (facilitated by KHOJ) collected, processed and sold tendu leaves through the village gram sabhas. Collectively they harvested more than 850 standard bags¹⁰ of tendu leaves in May 2015¹¹.

The gram sabhas in Gondia offered Rs. 175/- per 100 bundles to tendu leaf collectors. For this, the financial capital was provided by the Maharashtra Tribal Development Association (MTDA). For last three seasons these villages have been collecting tendu leaves without the use of fire and bush cutting (often employed by contractors for increasing the tendu leaf production). However, VNCS and KHOJ have encouraged the villagers to stop use of fire and bush-cutting which they by believe arrest tendu fruiting and regeneration.

(Shared by Dilip Gode of Vidharbha Nature Conservation Society, vncs.ngp5@gmail.com).

¹⁰ One standard bag contains 1000 bundles of tendu leaves and each bundle contains 50 leaves.

¹¹ See: http://fra.org.in/document/Community%20Forest%20Rights%20At%20a%20Glance_May%202015%20newsletter%20final.pdf, Pg 10.

3. The district administration of Nandurbar and Jalgaon have begun reviewing rejected claims under FRA. This follows after months of agitation and rallies by members of Lok Sangharsha Morcha (LSM). The rejected claims are currently being reviewed using a format which has been jointly prepared by LSM and the Department of Tribal Development. The format includes provision for inputs from all concerned departments during the review and is to be signed by all concerned officials present at the time of the review.

(Shared by Pratibha Shinde, Lok Sangharsh Morcha over a telephonic conversation. For a copy of the format, please write to Neema Pathak Broome, Kalpavriksh at neema.pb@gmail.com).

ODISHA

1. The Kandhmal district administration has reported that 1848 villages have received CFR titles. However, civil society organizations and local people report that not all of these titles have been handed over to the villagers yet. The district administration has reported that 16 villages of Tudipaju and some of Dadaki gram panchayats have received titles but local groups claim that not a single village in these gram panchayats has received CFR titles yet. The FRC members of many villages have written to the district collector to hand over the title to the community and are demanding that the State Government investigate the irregularities in titles and strong action is taken against concerned officers.

(Shared by Sricharan Behera, Odisha (sricharan.vasu@gmail.com) on CFR-LA list serve).

2. In June 2015, Priedi village in Odisha's Kandhmal district has received transit permits from the state to harvest and sell bamboo. It is the third village in the state to harvest bamboo after Jamguda and Tarkabahali villages of Kalahandi District.

(Shared by Sricharan Behera (sricharan.vasu@gmail.com) on the CFR-LA e-list).



Transit permit being handed over to members of the Priedi gram sabha

Photo: Sricharan Behera

TELANGANA

1. In Bandarugumpu hamlet of the Tirumalakunta gram panchayat, Aswaraopeta mandal in Khammam district the members of Koya tribe community were stopped by the forest department while carrying out podu (shifting cultivation). This led to physical clashes between the officials and the local people.

(<http://www.bmyqtg.com/news/national/telangana/tensionastribalpeopleandforeststaffclash/article7324159.ece>).

A similar situation was seen in Marrigudem village in Chandrugonda mandal of Khammam district. Forest officials tried to demarcate podu lands falling under Gubbagurthi forest area of Tummalapalli beat in Konijerla mandal for plantations under the *Haritha Haaram*¹² afforestation programme. The forest officials dug up trenches on podu land to separate forest land from the revenue land.

(See: <http://innlive.blogspot.com/2015/03/telanganasflagshipprogrammeharita.html>).

¹² See: http://fra.org.in/document/Community%20Forest%20Rights%20At%20a%20Glance_May%202015%20newsletter%20final.pdf, Pg 12.

MEETINGS, WORKSHOPS & CONSULTATIONS

1. On the 6th of June, Vasundhara and Centre for World Solidarity organized a meeting on rights of women under the FRA in Bhubaneswar. Deliberations brought out that although FRA specifically provides for the land rights for women and their involvement in decision-making processes related to forests and forest rights, yet this aspect of the FRA has not been focused upon by the civil society or government agencies. Several civil society organizations within Odisha have thus decided on follow-up actions to highlight issues that women face in FRA implementation. As an outcome of the meeting a set of recommendations was submitted to the State Level Monitoring Committee asking them to monitor and ensure that rights and powers of women provided under the FRA are respected and upheld during implementation processes.

(For more information, contact Sonali Pattnaik, Vasundhara sonali@vasundharaorissa.org).

2. On the 22nd of July 2015, Rights and Resources Initiative along with Vasundhara and Natural Resource Management Consultants (NRMC) released a report on the potential for Recognition of Community Forest Resource Rights under the FRA. The report is based on a study which examined, among others, the 1999 data of the Forest Survey of India, and the 1991 and 2001 census data to assess forests that are already listed as a land-use category within revenue village boundaries. One of the key findings of the study was that at least 40 million hectares of forest lands are eligible for CFR rights recognition across the country. This does not include the forest areas customarily used by

The forest dwelling communities but is located outside the revenue boundaries of a village and hence is a conservative estimate, according to the report. 170,000 villages (1/4th of villages in the country) will be eligible to file CFR claims benefitting minimum of 150 million people (including about 90 million tribals).

For more information about the study and the state wise/ district wise/village wise data of forest area within village boundaries, contact Kundan Kumar of Rights and Resources Initiative (kumarkun@gmail.com) or Y Giri Rao of Vasundhara (ygirirao@vasundharaorissa.org).

(The report is available at: http://www.rightsandresources.org/wp-content/uploads/CommunityForest_July-20.pdf).

The year 2015 has seen a spate in raking up of the 'encroachment' debate on forest land in several states. Forest dwellers in Himachal Pradesh, nomadic pastoralists in Jammu Kashmir and particularly vulnerable tribal groups (PVTG) in Odisha and Telangana have been at the receiving end of the resurgence of this debate. The effects are widespread, ranging from eviction of forest dwellers, to severe damage to the vital livelihood practices of these communities, to willful non-recognition of rights.

The evictions and curtailment of use of forest land in many cases is being pushed in the name of 'afforestation of degraded forest land'.

It is important to recall that the immediate trigger for the enactment of the FRA to address the long standing demand of forest dwelling communities to recognize their rights over forest land, was a circular (passed by the MoEF in 2002) ordering the time-bound eviction of 'encroachments' to all State Governments which resulted in the eviction of nearly 300,000 families from about 150000 ha of forest land between 2002-2004¹³, accompanied by brutalities like burning houses, trampling of standing crops by elephants, among others¹⁴. The FRA *emerged out of the necessity to record the rights of forest dwelling communities whose rights were not recorded during the consolidation of state forests in the colonial regime and during the post-independence period, thereby rendering them 'encroachers' according to forest laws.* Sec 4(5) of the Act, states that *no member of the forest dwelling schedule tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete.* The process of recognition and verification laid out in the rules of the FRA is thus currently the only legal process to recognize the rights of the genuine rights holders, in letter and spirit.

However, despite the clear procedure laid out in the law, the Himachal Pradesh High Court, while hearing an ongoing case against encroachment on forest land in Himachal Pradesh, on the 6th of April 2015 ruled that all all encroachments on government forest land should be removed by the forest department within six months.

The judgement was passed on the premise that 'pristine forests' were being degraded due to unchecked encroachments (CWPII No. 17 of 2014, dated 6th April 2015). Following this judgement, the forest department started uprooting apple trees, cutting off electricity and water connections and issuing eviction notices to several thousand farmers cultivating forest land in Upper Simla district, Gohar, Kangra district and Kinnaur districts. Despite appeals against this order to the Chief Minister from various grass-root organizations like the Himalaya Niti Abhiyan, Him Lok Jagriti Manch, Renuka Dam Sangharsh Samiti and others, evictions continue. The state is yet to start the implementation of the FRA and has not distributed a single title.

In Jammu and Kashmir, the General Administration Department has ordered the constitution of a committee under the chairmanship of the Chief Conservator of Forests, Jammu to delineate forest land from other lands and to demarcate forest land in Sunjwan, Bathindi, Raika and Sidra areas of Jammu District.¹⁵ This was to be done in consonance with the Jammu and Kashmir Forest (Conservation) Act, 1997, within two months from April 2015 following a communication by the Forest Department. Subsequently, several settlements belonging to the Gujjar and Bakarwal nomadic tribal community have been destroyed and the families evicted from their traditional migratory routes. Owing to the special Constitutional status under Article 370 (providing for central laws to be applicable to the state only through their ratification in the state's assembly) of the state of Jammu Kashmir, the FRA has not yet been implemented in the state. The Gujjar-Bakarwal community has been demanding the extension of the FRA to Jammu and Kashmir, so that their cultural, traditional and forest rights could be recognized under the Act and rights pertaining to forest are secured.

In Odisha, the state government is carrying out afforestation drives on forest land to be claimed, already claimed and even recognized under the FRA. These include teak plantations on shifting cultivation fields of the Kutia Kondh, a PVTG community in Kandhamal district. The drive is being carried out in Rangapar, Pandamaska, Kusumunda, Madalkuna, Deogada, Guchuka,

¹³ Kothari, A., Pathak, N., & Bose, A. (2009). Forests, Rights and Conservation: FRA Act 2006, India. *Critical Review of Selected Forest-Related Regulatory Initiatives: Applying a Rights Perspective*, 19-50. (H. Scheyvens, Ed.). Japan: 2011 Institute for Global Environmental Strategies.

¹⁴ Springate-Baginski, O., Sarin, M., Gosh, S., Dasgupta, P., Bose, I., Banerjee, A., et al. (2009). Redressing 'Historical Injustice' through the Indian Forest Rights Act 2006: A Historical Institutional Analysis of a Contemporary Forest Rights Reforms. Improving Institutions for Pro-Poor Growth, Discussion Paper Series 27.

¹⁵ See: <http://jkgad.nic.in/common/showOrder.aspx?actCode=011917>

Tidipadar, Kadapana and Burlubaru villages in Belghar gram panchayat which fall under the Tumudibandh block, of Baliguda sub-division¹⁶. A recent news report pointed out that plantations were carried out on paddy and cotton land coming under unsurveyed villages of Turekela and Khaprakhol Block of Bolangir District. In some of these cases, individual land pattas had already been granted to the land owners under the FRA¹⁷. This was done with the help of Joint Forest Management Committees (JFMCs) of surrounding villages, thereby fuelling inter village conflicts.



Plantation over podu land carried out by the Forest Dept. in Desughati village, Kandhamal District, Odisha **Photo: Sonali Pattnaik**

Even as the flagship 'Haritha Haraam'¹⁸ programme was inaugurated in Telangana, the preparations underway for the massive afforestation to be taken up under this programme took away the livelihoods of nearly 5000 farmers. These belong to the Koya, Konda Reddy and Lambadi tribal farmers in Karepali, Yellundu, Tekulapalli, Bayyaram, Garla, Mulakalapalli, Dammamet,

Aswaraopet, Chandragonda, Enkur, Julurpadu, Dummugudem, Konijerla mandals in the schedule five Khammam District.¹⁹ To prepare for the massive afforestation programme, the government had prioritized the joint survey of forest land by Forest Officials and Revenue officials²⁰. During the survey itself, the forest department began digging trenches on podu fields, to demarcate what they consider forest land. Any opposition to this operation from the local people is being countered through seizure of tractors and ploughs, arrests, and filing of forest offence cases²¹. A farmer in Vepalagadda village on Yellandu mandal has recently committed suicide to prevent the forest department from digging a trench near his podu field²².

It is important to note that the afforestation programmes like *Haritha Haraam*, are being funded through the Green India Mission²³ (GIM) which in turn receives funds through the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and the Compensatory Afforestation Management and Planning Authority (CAMPA). The irony of the situation is that a fund set up for compensatory afforestation, has funds received from diversion of forest land for 'developmental' activities leading to displacement of forest dependent communities and their livelihoods is being used to evict more forest dependent communities and destroy their livelihoods in the name of guaranteeing their employment.²⁴

Since its announcement, GIM has faced objections from civil society organizations and tribal groups who have expressed concerns about its impact on land and forest rights of tribal and non tribal forest dwellers.²⁵

These updates emerging from the ground clearly reveal that forest rights have been severely violated and the FRA has been completely bypassed while taking over lands under these programs. In the coming months, we will be looking closely at such interventions of the Forest Department to analyse the illegalities involved in these issues.

¹⁶ Behera, S. Documentation on deprivation of forest rights through plantations on Kutia Kondh (PTG) villages of Tumdibandh Block, Kandhamal District. Bhubaneswar: Unpublished. Contact Sricharan Behera (sricharan.vasu@gamil.com) for the report.

¹⁷ News shared by Campaign for Survival and Dignity (CSD) Odisha (csdorissa@gmail.com) on the 27th of July 2015.

¹⁸ This is a massive afforestation drive planned across the state, aimed at improving the forest cover of the state from 25% at present to 33%. An estimated Rs 500 crore is required for demarcation of forest land itself.

¹⁹ See: <http://www.deccanchronicle.com/150616/nationcurrentaffairs/article/foreststafffarmersareoddsverpodu>

²⁰ See: <http://www.thehindu.com/news/national/telangana/tskeenonresolvingforestlandownershipdispute/article6890685.ece>

²¹ See: http://m.newshunt.com/india/english-newspapers/thehansindia/latestnews/tribals-police-clash-over-podu-land_41083396/c-in-l-english-n-hans-ncat-latestnews

²² See: <http://www.thehindu.com/news/national/telangana/farmers-death-triggers-protest/article7349050.ece>

²³ See: http://www.moef.gov.in/sites/default/files/GIM_Mission%20Document-1.pdf

²⁴ See: http://zeenews.india.com/news/sci-tech/green-india-mission-converged-with-mgnrega-to-reclaim-forest_1561829.html; <http://www.moef.nic.in/sites/default/files/MGNREGS-GIM.pdf> and <http://www.moef.nic.in/sites/default/files/GIM-CAMPA%20Convergence%20Guidelines.pdf>

²⁵ <http://www.forestrightsact.com/statements-and-news/90-dangers-of-the-green-india-mission>

TRACKING THE FOREST ADVISORY COMMITTEE (FAC) MINUTES

In the meeting held on 3rd June 2015, the Forest Advisory Committee (FAC)²⁶ deliberated on eleven proposals for forest diversion from the states of Odisha, Maharashtra, Andhra Pradesh, Gujarat, Rajasthan, Uttarakhand and Assam. Out of these, four were mining projects, three were irrigation projects, two were road projects and two were wind energy projects.

The FAC recommended approval for three of these projects. These include the diversion of 60.63 ha of forest land for a wind energy project in West Nasik forest division in Maharashtra, 51.68 ha for a wind energy project in Rajkot taluka of Gujarat, and 71.54 ha of forest land for the Owk Reservoir in Kurnool District of Andhra Pradesh. We have tried to analyse whether the FAC has taken into account FRA compliance as required under Sec 4(5) and Sec 5 of the FRA as well as the circular of August 2009 issued by the MoEFCC and Sec 6 of the Forest (Conservation) Act, 1980 for these projects. For the diversion of forest land for the wind energy project in Maharashtra, the FAC has mentioned that the state government had already submitted the report of FRA compliance in 2012. However, it could not be ascertained whether the compliance report was in accordance to all the provisions of the Acts and circular mentioned above. For the wind energy project in Gujarat, the FAC reviewed documents including the certificates from district collectors (DC) and gram sabha resolutions for FRA compliance that the state government had submitted. However, for the diversion of forest land for the reservoir in Andhra Pradesh, the FAC noted that the district collector of Kurnool had issued a certificate under the FRA and had provided gram sabha resolutions, but copies of documentary evidences in support of settlement of rights under FRA were not provided. However, the FAC recommended diversion of forest land for the project while at the same time asking the state government to submit documents related to FRA compliance.

Out of the 8 projects not recommended for diversion by the FAC, it has asked for documents related to FRA compliance for 4 projects. These projects include, the diversion of 1060 ha of forest land for Somasila irrigation project in Nellore district of Andhra Pradesh, diversion of 52.245 ha of forest land for the lignite mining in Bikaner district of Rajasthan, diversion of 47.417 ha in Raigad and Thane Districts of Maharashtra for the six-laning of the Mumbai trans-harbour link road, and diversion of 517.888 ha of forest land for the Kurmitar Iron and Manganese coal mines of Sundergarh district, Odisha. For the harbor link road in Raigad and Thane, the FAC has noted that no documents have been submitted by the state government towards FRA compliance and has asked for these to be submitted. For the diversion of forest land in Sundergarh, the FAC has asked for legible copies of the original vernacular gram sabha resolutions. The minutes indicate that the state government has submitted all other documentary evidences pertaining to FRA compliance.

From these minutes (available at: http://forestsclearance.nic.in/FAC_Report.aspx) it is clear that the FAC has ensured that all proposals include all documentary evidences related to the FRA compliance. However, it is not clear from the minutes as to what extent the gram sabha's will (consent or rejection) for diversion of forest land is being taken into consideration while recommending forest clearance, since copies of the FRA compliance reports are not available in the public domain.

²⁶ The FAC has been set up under Sec 3 of the FCA to advise the central government on forest clearances to be given under FCA and in other matters related to conservation which the central government will bring to its notice. For a detailed analysis of the status of FRA implementation of in the process of forest diversion, see: http://fra.org.in/document/Community%20Forest%20Rights%20At%20a%20Glance_May%202015%20newsletter%20final.pdf