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Issue 2

TRACKING THE FOREST RIGHTS ACT

STORIES ABOUT THE IMPACT AND IMPLEMENTATION OF THE ACT FROM ACROSS INDIA

Editorial

Exploring Critical Wildlife Habitats

One of the crucial spaces for conservation provided by the Forest Rights Act, is Sections 1(b) and 2 on Critical Wildlife Habitats (CWHs). No CWHs have been declared as yet. But many state governments are constituting relevant committees, consulting scientists and basically prepping up for how this unfamiliar process may unfurl.

Though nascent, some indications of which direction this process could take are emerging. In most states, only PAs are being considered, as that seems to be the predominant interpretation of the legal provision. In the only exceptional case known so far, the Assam govt. has proposed that important forest areas outside PAs be considered as CWH. The implications of this trend are of course, manifold. While a CWH outside a PA could make “ecological sense” and even prevent diversion of that forestland for industrial projects, it could also have serious repercussions for those resident within those areas, unless the process is carried out with due regard for their livelihood rights. Some Kerala forest officers too have argued that this opportunity should be used to identify and secure crucial wildlife habitats outside current PAs, and a national workshop on CWHs held in May this year (see report on pg 11), also recommended such a step.

Another interesting trend is the extent of area being proposed as CWH. Many states are considering proposing that all PAs with their existing extent and boundaries, be declared CWH. But some are using it as an opportunity to ‘rationalise’ or redraw boundaries so that areas with important conservation value are retained or added, while those with significant human presence are deleted. For example, in Orissa, CWH boundaries of Wildlife Sanctuaries (WLS) like Satkosia are being drawn excluding areas occupied by human settlements. Conversely, PAs without human settlements such as Balukhand and Nandankannan or wetland PAs like Gahirmatha are proposed CWHs in their entirety. In such cases, there seems to exist an almost intuitive process of identifying CWHs based on either convenience (therefore the prescription: declare all existing PAs as CWHs), or on predominantly social factors such as human settlements within those areas or the extent of relocation that could be needed (therefore the prescription: leave out heavily human-impacted areas). Ecological criteria for identifying critical wildlife areas are thus sidelined.

Many variations exists in the number and level of Expert Committees required to identify CWHs. As per the FRA and Guidelines issued by the Ministry of Environment and Forests (MoEF), these committees are encouraged to scientifically identify boundaries of CWHs, analyse information about number of human settlements and people that fall within the CWH boundaries, analyse data on human-animal conflict (if any) and analyse studies on the dependence of communities on forest resources within the CWH. In doing the above, the Committee is also

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required to hold detailed consultations with the relevant gram sabhas. Given this voluminous task, it is certain that a seven-member state committee (as required by the MoEF Guidelines) would be heavily stretched for time and capacity. On the other hand, a structure of a state-level committee overseeing a number of PA-level subcommittees (such as in Kerala) could actually result in a more systematic process. These PA-level committees would then be able to comprehensively carry out the full range of tasks required, enabling the CWH process to not only be scientifically rigorous but also democratic and socially just.

A lot is therefore going to depend on each individual state government's legal interpretation of the CWH provisions. But more importantly, the validity of a CWH will depend on how seriously it is being considered as a tool for achieving better conservation.

In light of the above, a timely event was the National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats held recently by Indian Institute of Science and organized by the Centre for Ecological Sciences and the Future of Conservation Network, in collaboration with the Karnataka Forest Department. The workshop discussed various complex issues relating to the CTH and CWH processes (pl. see report on pg. 11), and came up with detailed recommendations on how to streamline them. It is to be hoped that the central and state governments will seriously consider these recommendations.

NATIONAL NEWS

Feb 12th-13th/New Delhi: Proceedings of the Conference of Forest Secretaries, PCCFs, Chief Wildlife Wardens of State/UT Governments

During this two-day meeting organized by the MoEF, one session was dedicated to discussing the Forest Department's role in the implementation of the FRA. V. Sharma (DIG-FP) and Anmol Kumar (DIG-WL) shared that it is a big challenge for the Forest Department to keep balance between recognition of rights and conservation of forests as mandated by the Act. Moreover, the role of the Department is limited to various committees for recognition of rights, such as the sub-divisional and district forest officers on the Sub-Divisional Level Committee (SDLC) and the District Level Committee (DLC). Various states requested clarifications on the Act. Amongst these:

- Arunachal Pradesh sought a clarification regarding whether an area declared as Critical Tiger Habitat (CTH) under the Wild Life Protection Act (WLPA) will have to be CWH under the FRA. To this, Secretary MoEF responded that MoEF would clarify the legal position to States/UT with regards to CTH vis-à-vis- delineation of CWH.
- Tripura asked if shifting cultivation areas, which are presently not specified under the Act, could be given as a right. To this, the MoEF Secretary responded that the MoEF would clarify in consultation with Ministry of Tribal Affairs (MoTA).
- State/UT Forest Departments were requested to assist gram sabhas for recognition of their rights and also to build the capacity of the community for sustainable harvesting of Minor Forest Produce and the conservation of forests.
- State/UT Forest Departments were requested to take proactive steps to train forest officials, particularly the District Forest Officer (DFO), Assistance Conservator of Forests (ACF), Range Forest Officer (RFO) and other frontline staff on the implementation of the Act.
- MoEF stated that it would re-look at the Guidelines for Identifying and Notifying CWH, issued by the Ministry in October 2007.

Note: Although this meeting took place in February, the proceedings were only released in May. Hence, it features in this issue of the newsletter.

Source: Ministry of Environment & Forests, 'Proceedings of the Conference of Forest Secretaries/PCCFs/Chief Wildlife Wardens of State/UT Governments, held on 12-13 February 2008, at New Delhi'
<http://envfor.nic.in/divisions/fp/FP/Proceedings%2012-13.doc>

Activists write to MoTA demanding that women be given priority while implementing FRA

A coalition of women's groups have written to MoTA demanding that single women, whether widowed, deserted or unmarried be issued deeds for the land in their possession. Pramila Swain, an activist from Orissa comments that the FRA doesn't prevent land rights of single women from getting usurped by other family members at the time of settlement. Nita Hardikar, an expert in rural development argues that single women be given priority in the collection and sale of minor forest produce. She explains that the FRA will end up excluding the most marginalized of tribal people, viz. widows. Hardikar says that in some tribes, it is customary for families to give a widow's share of sales to her husband's relatives. Roma, a lands rights activist from Uttar Pradesh says that women's collectives in Kaimur are taking control of 15,000 acres of forestland. She explains that these women prefer collective control to individual land titles as they know that neither their families nor the state will grant rights to them. The coalition asserts that it is women who have traditionally worked in forests and protected and managed them and have the knowledge about harvesting and regeneration. The letter demands that the FRA should provide for maximum representation of women (but at least 50%) in the authorities for vesting rights such as the gram sabha, Forest Rights Committee (FRC), SDLC and DLC.

Source: Aparna Pallavi, 'India's Forest Law Leaves Women Feeling Cut Out', *Women's News*, 04/20/08
<http://www.womensnews.org/article.cfm?aid=3569>

CII recommends that bamboo extraction not be subject to the FRA

A recent study by the Confederation of Indian Industries (CII) says, "If freed from the laws that govern its use, bamboo can be the new green gold." In India, bamboo is classified both as a tree and as a forest produce, and this significantly inhibits its use. The study calls for three Indian legislations, the Indian Forest Act 1927, Forest Conservation Act 1980 and the Forest Rights Act 2006, to relax controls on the extent of use and movement of bamboo. According to CII, bamboo grown on non-forest private lands should not be subject to these laws and its free, unregulated movement and use should be allowed. The rationale for this recommendation is the Planning Commissions estimate that the bamboo industry can provide 8.6 million new jobs, create a market worth Rs 6,500 crore and lift over five million artisans out of poverty.

Source: Ashok B. Sharma, 'Calling for a bamboo boom', *Indian Express* 1.5.08
<http://www.indianexpress.com/story/301284.html>

MoTA reviews implementation of FRA

MoTA has launched a detailed online monitoring system to continuously review the implementation of the FRA and has also asked States to submit regular feedback in this regard. The website allows a user to check the date and details of constitution of the SLMC, DLC and SDLC in different states. A section on the website also allows a user to check the status of his or her claim, although this is yet to be fully activated. The MoTA through various meetings with the MoEF, Ministry of Panchayati Raj (MoPR), Prime Minister's Office (PMO) and other departments has announced numerous actionable points regarding the Act's implementation:

- Action is being taken for setting up an Implementation and Coordination Cell in MoTA
- A number of writ petitions have been filed in different High Courts/Supreme Court against the Act. MoTA is taking necessary action to defend these cases.
- States/UTs have been addressed to initiate necessary action for conversion of all forest villages into revenue villages. Simultaneously, MoEF has also been requested to initiate action, after individual rights have been vested, for conversion of 2474 forest villages/habitations in 12 States into revenue villages and any other such habitations as per provisions of Section 3(1)(h) of the FRA.

- A Core Group consisting of representatives of MoTA, MoPR, Law & Justice and MoEF has been formed responding to queries from State Governments
- MoEF has suggested to MoTA that a procedure to be followed for seeking prior approval for diversion of forestland for non-forest purposes for facilities under Section 3(2) of the Act. The same is under examination by MoTA

Source: MoTA, 'The Centre Reviews Implementation of Forest Rights Act', Press information Bureau, 16.5.08

<http://pib.nic.in/release/release.asp?relid=38938>

MoTA, 'Forest Rights Committees set up in most of the states for the implementation of the Forest Rights Act', Press Information Bureau, 7.5.08

<http://pib.nic.in/release/release.asp?relid=38938>

MoTA, 'Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006', Press Information Bureau, 7.5.08

<http://www.tribal.nic.in/index1.html>

NEWS FROM STATES

As mentioned above, the MoTA has launched a state wise monitoring system for the implementation of the Act across India. The table below is a summary of the report from each state. Following the table, are more detailed stories describing regional nuances and varying implications of the Act.

MoTA reviews state wise implementation of the FRA

STATE	STATUS OF IMPLEMENTATION OF FRA
Assam	<ul style="list-style-type: none"> • SLMC, DLCs and SDLCs have been constituted
Andhra Pradesh	<ul style="list-style-type: none"> • SLMC has been constituted (G.O.Ms.No.4 dated 21.1.2008) • FRCs have received 96,053 claims and of these, 31,000 have already been verified and forwarded to the SDLC for further action
Bihar	SLMC, DLCs and SDLCs have been constituted
Chhatisgarh	<ul style="list-style-type: none"> • FRCs are to complete the claims verification process by end-June • So far, 70,000 claims have been received in the state • The Govt. has developed a time-chart/deadlines, which are to be strictly followed: • Feb 7th: Constitution of SLMC • Feb 25th-28th: Constitution of FRC, SDLC and DLC • Feb 12th-29th: Awareness/training on the Act • Mar 1st: Calling of claims by FRC • Mar 7th: Verification of claims by FRC • Jun 30th: Verification of claims by SDLC • Apr 1st-Jun 30th: Sending of claims to DLC by SDLC • Apr 15th-Jun 30th: Approval of claims by DLC • May 15th onwards: Issuing forest rights
Dadra and Nagar Haveli	<ul style="list-style-type: none"> • SLMC, DLCs and SDLCs have been constituted
Gujarat	<ul style="list-style-type: none"> • Gram sabhas were ordered to meet from Feb 18th onwards • So far, out of 6,024 villages in Scheduled Areas, FRCs have been formed in 4,403 villages • One lakh claims forms have been distributed • SLMC, SDLCs and DLCs have been constituted • Panchayat and Rural Development Department has requested gram sabhas to issue the call for acceptance of claims on Mar 25th • Concerned departments have been instructed to identify their nodal officer at the district level for providing information and documents to the FRCs • A core committee has been formed at the level of the State Govt. to coordinate the implementation of the Act
Haryana	<ul style="list-style-type: none"> • The Govt. of Haryana has intimated MoTA that there are no Scheduled Tribes and traditional forest dwellers living in the forests of Haryana.

	Therefore, the question of the forest rights of such communities on forestlands does not arise.
Karnataka	<ul style="list-style-type: none"> • SLMC, DLCs and SDLCs have been constituted on 24.2.08
Madhya Pradesh	<ul style="list-style-type: none"> • Gram sabhas have been called in 55,000 villages and over 50,000 claims have been received • The verification of claims process is to start by end-June. • Also, a legal interpretation cell is being constituted in the state to deal with queries and questions related to the Act and Rules • A software has been developed with the help of NIC to monitor the progress of the constitution of the SDLC, DLC, FRCs and the meetings of gram sabhas etc.
Maharashtra	<ul style="list-style-type: none"> • State govt. has been investing heavily into awareness and publicity on the Act • The Act and Rules have been printed in Korku, Gondi and Bhilori tribal dialects and distributed • Awareness campaigns on Air India Radio have been initiated March and these jingles being broadcasted are in local languages • Training workshops have been organized in various parts of the state for field staff and officials of Panchayat Raj Institutions, Tribal Development Department, Revenue Department, Forest Department and Rural Development Department • The Act is being publicized by displaying posters on State Transport buses, advertisements in local newspapers and with the use of mobile vans in tribal areas • Gram sabhas are being organized from May 1st to 20th. • DLC, SDLC and SLMC have been constituted and computers for the DLC and SDLC have been procured • The website of the Tribal Research and Training Institute, Pune (TRTI) (http://trti.mah.nic.in) is being constantly updated. It contains all relevant information about the Act with respect to Maharashtra.
Nagaland	<ul style="list-style-type: none"> • The Government of Nagaland has informed MoTA that that the land holding system and the village system of the Naga people is significantly different from other states in India. In Nagaland, people are the landowners. Hence, the FRA in its current form may not be applicable to Nagaland
Orissa	<ul style="list-style-type: none"> • The Act and Rules have been translated into Oriya and 30,000 copies have been distributed. 5,000 copies in English have also been distributed. • So far, 14,000 FRCs have been constituted. • SDLC, DLC and SLMC have been constituted on 1.2.08
Rajasthan	<ul style="list-style-type: none"> • SDLC, DLC and SLMC have been constituted on 14.3.08
Tamilnadu	<ul style="list-style-type: none"> • SLMC has been constituted on 19.2.08 (G.O.(Ms)No.19)
Tripura	<ul style="list-style-type: none"> • Government of Tripura had intimated MoTA on 27.2.08 that because General Elections to the State Legislative Assembly are under progress, action on formation of various committees under the Act, training at State level, District level and Sub-Divisional level shall be undertaken in the 3rd week of March on completion of election process
Uttar Pradesh	<ul style="list-style-type: none"> • SLMC, DLCs and SDLCs have been constituted
West Bengal	<ul style="list-style-type: none"> • SLMC was constituted on 10.3.2008 and SDLCs and DLCs were to be constituted by 31.3.08 • Training programmes on the Act at district, sub-divisional and gram sansad levels would be completed before 31.3.3008
Lakshwadeep	<ul style="list-style-type: none"> • The UT Administration has intimated MoTA that there are no terrestrial forests and no forest tribes or traditional forest dwellers in Lakshadweep. Therefore, it would not be necessary to prepare the operational schedules under the Act with reference to the Union Territory of Lakshadweep.

Reproduced from MoTA, 'Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006', Press Information Bureau, 7.5.08
<http://www.tribal.nic.in/index1.html>

Assam

Karimganj District: Illegal encroachment of forests

Salman Uddin Choudhury, the DFO of Karimganj division expressed concern at the extent of forest encroachment in six Reserved Forests (RFs) under his jurisdiction. According to him, forest-dwellers in 17 Taungiya villages have been inviting their community members from other states, like Meghalaya, Mizoram and Tripura to occupy RF land ever since the 1970s. The DFO claims that this has gained momentum on the enactment of the FRA thereby accentuating encroachments of forestland. The DFO asserted that such encroachments are illegal under Section 2(o) and 3(m) of the Act where Scheduled Tribes and Other Traditional Forest Dwellers have to show occupation prior to December 2005 and for the last 75 years respectively. Choudhury also stated that this was illegal under Section 5 of the Act where rights-holders have duties to sustainably use and conserve forests. However, this has not stopped fresh encroachments and people are still occupying RF land for jhum cultivation, construction of fisheries and houses. The DFO mentioned that the Forest Department of Assam has been trying to stop such illegal activities this has been difficult due to factors such as insurgent activities, remoteness of the area and the political patronage enjoyed by forest-dwelling communities in Karimganj.

*Source: The Assam Tribune 'Encroachers posing threat to reserve forests in Karimganj', 03.05.08
<http://www.assamtribune.com/scripts/details.asp?id=apr0308\State10>*

Gujarat

Gandhinagar: Governor asks for effective implementation of FRA

Governor, Nawal Kishore Sharma directed the state govt. to ensure effective implementation of the FRA to immediately set up a State Tribal Advisory Council to protect the interests of tribal communities across Gujarat. The meeting was to take stock of the compensatory measures given by the govt. in lieu of the recent Polo forest incident in Sabarkantha. The P.K. Laheri Committee Report had recommended compensation of the family of Sanjaji, a tribal killed in the police firing and also to implement the FRA effectively in the state. The Report also suggested that the State Forest Department “actively cooperate with tribals and resolve their problems rather than adopt a traditional approach.” The meeting was attended by State Ministers for Home, Tribal Welfare, Forest and Environment amongst other senior officials from the government.

*Source: Indian Express, 'Governor asks state govt. to effectively implement provisions of new Forest Act' 3.06.08
<http://www.expressindia.com/latest-news/Governor-asks-state-govt-to-effectively-implement-provisions-of-new-Forest-Act/318866/>*

Jharkhand

Ranchi: State Govt. seeks clarifications from Centre

Jharkhand State Govt. has written to MoTA seeking clarifications regarding some provisions of the FRA. The Govt. says that the Act cannot be implemented since there is an absence of panchayats in the state and elections are yet to be held. However, Rameshwar Oraon, Union Minister of State for Tribal Affairs has responded that the State need not wait for panchayat elections since Chapter 1(g) of the Act allows for implementation in regions without panchayats. In these cases, podus, todas and other traditional village institutions should be to assume the role of gram sabhas. Sanjay Basumullick, activist has been pressing the state on this issue. “We have been asking the government to invoke provision (g) and implement it”, he says.

*Source: Santosh K. Kiro, 'Forest Act row hits 90,000', The Telegraph, 08.05.08
http://www.telegraphindia.com/1080509/jsp/frontpage/story_9246305.jsp*

Madhya Pradesh

MP implements the Act with alacrity

The State Govt. of Madhya Pradesh has sought to undertake active and systematic implementation of the Act through a number of training sessions and review meetings since earlier this year. There have been many village-level trainings on the Act and its provisions, including the organizing of over 1000 street plays in over 80 tribal blocks in the state, such as Mandla, Dhar, Ratlam, Burhanpur and many more. In a recent meeting organized by the Tribal Welfare Department (TWD), the MP Govt. issued a number of announcements on state-specific strategies, such as the following:

- The deadline for completing the recognition of rights and claims process is September 2008
- Forest Department must actively provide relevant information regarding evidence of resource use to all authorities. In particular, the Beat Guard will be responsible for providing the concerned gram sabha with information, and the Range Office will provide information to the SDLC.
- FRA should be implemented in at least one “model” gram panchayat in the each district. This task should be completed by June.
- Hoardings publicising the Act and ensuring that all eligible people are informed are to be put in every gram panchayat
- To ensure that only eligible forest-dwellers avail of rights under this Act, the name of the husband and wife will be inscribed on the land patta which will in turn be printed from a computer
- Print and electronic media can play an important role in implementation and with that view, a media workshop is to be held on May 15th
- District Collectors (DCs) have been asked provide caste certificates to members of Scheduled Tribes in all the sub-divisions by launching a campaign in June
- DCs have been directed to provide claim forms free of cost.
- District authorities have been asked to initiate penal action against any person who demands price or charge for providing forms claims forms

O.P. Rawat, Principle Secretary of the TWD also announced that the MP govt. had already been praised by the Centre of its innovative implementation strategies and asked to share this information with other State Governments.

Sources: *Central Chronicle*, ‘One model Gram Panchayat in every district’, 26.5.08

<http://www.centralchronicle.com/20080527/2705022.htm>

Central Chronicle, ‘MP alive to forest-dweller’s welfare’, 27.5.08

<http://www.centralchronicle.com/20080527/2705302.htm>

Pervaz Bari, ‘Eligible forest-dwellers in MP to get benefits of Forest Rights Act’ *Prativad*, 27.5.08

<http://www.prativad.com/MPDailyNews/Giant-leap-in-improvement-of-power-transmission-in-MP.htm>

Business Standard, ‘Govt. issues directives for Forest Act’, 2.06.08

<http://www.business->

[standard.com/common/storypage_c_online.php?leftnm=10&bKeyFlag=IN&autono= 38793](http://www.business-standard.com/common/storypage_c_online.php?leftnm=10&bKeyFlag=IN&autono= 38793)

Maharashtra

Jawhar Taluka: Padyatra to popularise conservation provisions of FRA

Vayam, an NGO working on forest issues has completed the first phase of their campaign, ‘*Ran Raakhu, bes raahu*’ (Save forests, enjoy life) in numerous tribal villages in Jawhar Taluka, Thane District. Vayam undertook a padyatra where they walked from village to village covering a total of 17 villages in nine days. During this yatra, discussions were held in each village about how to earn prosperity by conserving forests rather than cutting them down. In particular, the focus was on Section 3(i) of the FRA, ‘the right to conserve and protect forests’ and thereby discuss management plans for community forest management. Members of FRCs were active participants

during these meetings. Two villages in this region are considering a 'kurhad-bandi' or a self-ban on the felling of trees.

Source: Vayam, 'Report of the first phase of the awareness campaign by Vayam: "Ran raakhu, bes raakhu".'

Orissa

CPI Secretary writes to PM that POSCO is in violation of FRA

D. Raja, National Secretary of the Communist Party of India (CPI) has written to the Prime Minister stating that the POSCO steel plant in Orissa that requires 3,200ha of forestland to be cleared, is in clear violation of the FRA. This same forest area is currently under cultivation by communities in Dhinkia, Nuagaon and Gadkujang villages, who are ready to file claims for individual and community rights of this forest. On March 23rd, the palli sabha in Dhinkia (equivalent to gram sabha under the Act) passed a resolution declaring that the claims process as specified by the FRA including the recognition and vesting of rights had begun. In this same meeting, the palli sabha also passed a resolution announcing the boundaries of the village's community forest resource and the intention to protect it under Section 3(i) and 5 of the Act. Raja stated that given the above situation, evicting the villagers at this stage is contradictory of Section 4(5) which bars eviction of forest-dwellers till the recognition of rights is complete and Section 3(i) and 5 of the Act which allows the community to conserve and manage forests and protect biodiversity. He also requests that since the POSCO project and required forestland cannot proceed without violating the following sections, the Central Government must immediately direct the Orissa Government to abide by the FRA and the MoEF must withdraw any clearance for diversion of forestland in this region.

Source: D.Raja, 'POSCO project and imminent violation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006: Letter to the Prime Minister of India', 16.5.08

Paralakhemundi: First claims submitted

184 claimants from four tribal villages, Kurlanda, Pullikota, Banguruba Nuasahi and Hatiamba, submitted their claims for forest rights under the FRA before the Sub-Collector of Paralakhemundi. These claims had already been verified by the relevant FRCs. The Sub-Collector accepted the submissions along with maps of community forest use, palli sabha resolution and all other necessary documents. In the past months, Campaign for Survival and Dignity (CSD) and Regional Centre for Development Cooperation (RCDC), two NGOs working in the region, had extended support with regard to collection of claims, demarcation of community forest use boundaries, physical verification of legitimate claims and preparation of maps to be used as evidence.

Source: Kalinga Times, 'Orissa tribals submit forest right claims', 3.6.08

http://www.kalingatimes.com/orissa_news/news3/20080603_Orissa_tribals_submit_forest_rights_claims.htm

Practical problems mar the submission of claims

Forest dwellers in several districts of the state have been facing difficulties when submitting their claims application forms. In Kalahandi, when Dhansingh Majhi reached the sub-collector's office to submit the application, he was told that his application was incomplete due to the absence of a caste certificate. In similar cases in Keonjhar, Badal Naik said that many of his community members did not have caste certificates since they had no existing record of rights. Naik also expressed concern that many did not know how to measure the area and boundaries of land that was in their possession for years, but yet it was mandatory to mention the extend of land in the claims application form. Y.Giri Rao, an activist working with Vasundhara reflected over the first round of palli sabha meetings, held in the state on March 16th and 23rd, "the State Govt. has approached the implementation of the Act hastily. All residents should have been informed about

the conduct of the palli sabha at least 15 days in advance, but this was not followed. As a result, many forest dwellers know nothing about the process and yet they are required to submit claims within 90 days of the palli sabha.” Moreover, claims forms are not freely available and the SDLC which is responsible for this has been silent on this issue. Activists speculate whether the silence of the SDLC and DLC is because there is budgetary provision for implementing the FRA. The current deadlines for submitting claims is June 16th and 23rd. However, activists are demanding that the State Govt. take appropriate steps to extend these deadlines for the final submission of claims forms.

*Source: The Hindu/ 'Forest dwellers feel let down', 4.06.08
<http://www.hindu.com/2008/06/04/stories/2008060459200300.htm>*

Tamilnadu

Chennai: Madras High Court clarifies stay-order

The Madurai Bench of the Madras High Court (HC) allows the state to implement the Act but with some caveats. The HC has allowed processing of claims but the issuing of rights to people will be stayed till the court resolves the two petitions in its custody. The HC has also ordered that no trees should be cut for any development activities (under the Act) in forestlands till further notice. The court said, “A balance should be struck between the implementation of the policy and the rights of the Scheduled Tribes, on the one hand, and the ecological balance and the issue of sustainable development, on the other. We are also not very confident of how strong a check the gram sabhas will provide if a claim is made by the government that felling of trees is required for the construction of certain facilities.”

*Source: Nitin Sethi, 'Madras HC's go-ahead to Forest Act with caveats', Times of India, 09.05.08
http://timesofindia.indiatimes.com/India/Madras_HCs_go-ahead_to_Forest_Act_with_caveats/articleshow/3023326.cms*

West Bengal

North Bengal: Agitation about non-implementation of FRA

Forest-dwellers in the Darjeeling Hills with support from the Gorkha Janmukti Morcha and the National Forum for Forest People and Forest Workers (NFFPFW) have stopped the movement of timber and shut down 34 depots in the region. Earlier in April, forest villagers from Kurseong subdivision had closed the Forest Department's central depot near Siliguri. Since the initial agitation, the Forest Department has lost proceeds from timber sales over five crores. The protestors have announced that they will continue with the agitation till the FRA is implemented in the region. Shibu Sunowar from NFFPFW said "We want the forest department to follow the legislation by introducing the sharing of revenues. The refusal to part with the sales proceeds of timber has prompted dwellers to close the depots." By June, the agitators hope to close down govt. depots in Buxa Tiger Reserve. S.B. Mondol from the West Bengal Forest Development Corporation (WBFDC) accused the Gorkha Janmukti Morcha of cashing in on the existing political turmoil in the region and reviving the movement for Gorkhaland. While some Morcha members vehemently denied this allegation, others commented, “We have stopped transport of timber from depots because the trees felled in the hills belong to the people there.” The CCF (North Bengal) said his department had forwarded the demands to the govt. but also that dialogue between actors is necessary instead of shutting down depots. Govind Roka from NFFPFW insists that depots would not be allowed to operate still the FRA is implemented immediately, namely the mobilisation of gram sabhas under the Act.

*Source: Avijit Sinha, 'Crores lost in timber protests', The Telegraph, 14.05.08
http://www.telegraphindia.com/1080513/jsp/siliguri/story_9261893.jsp*

Darjeeling Hills: Workshop on Community Forest Governance

The North Bengal Regional Committee of the NFFPFW, Himalaya Forest Villagers Association and North Eastern Society for the Protection of Nature (NESPON) recently organized a two-day workshop on community forest governance. Forest-dwellers from all over North Bengal participated in the workshop where they discussed how to establish community rights over forests as specified by the FRA. The consensus was to start this practice in select areas instead of waiting for the West Bengal Govt. to initiate implementation of the Act in this region, so far nothing has happened. The workshop outlined some tasks that could begin immediately:

- Forest-dwellers must form the gram sabha and FRC. Where there are already gram sabhas, FRCs could be formed involving the panchayat. If the panchayat does not get involved, the gram sabha could communicate in writing the intent and date of formation of FRC.
- Forest-dwellers to start listing claims and processing through the FRC
- Forest-dwellers to begin demarcating boundaries of community forest use at a landscape level, including agricultural lands, grazing areas and water bodies
- Forest-dwellers to produce a map of community forest use and publicly proclaim control of this area
- Forest-dwellers to prepare a management plan of the area under community use
- Forest-dwellers, FRC and gram sabha to initiate the formation of necessary institutions as per the Act, SDLC, DLC, gram sabha committees for the protection of biodiversity etc.

Six sites were selected for the immediate practice of establishing community forest governance:

- Darjeeling: 4 gramsabhas adjoining/inside Senchal Wild Life Sanctuary.
- Kalimpong: 5 gramsabhas adjoining Neora Valley National Park.
- Kurseong: 5 gramsabhas adjoining/inside Mahanada Wild Life Sanctuary
- Jalpiguri: 5 Gramsabhas adjoining Gorumara National Park.
- Coochbehar: 2 Gramsabhas inside Jaldapara Wild Life Sanctuary.
- Buxa: 2 Gramsabhas inside Buxa Tiger Reserve.

The workshop concluded that the only way to stop the privatisation of forests and natural resources is to reclaim the area as under community commons and establish social control. The participants stated that this would be the only way to ensure forest conservation. The FRA was seen as one legal space to facilitate this process.

Source: NFFPFW, NESPON & Himalaya Forest Villagers Association, 'Reclaim the Forest Commons: The Call by NFFPFW North Bengal Regional Committee: Statement of the Workshop' 29.05.08

NEWS FROM CRITICAL WILDLIFE HABITATS

STATE WISE STATUS REPORT ON CWHs AND REQUIRED NOTIFICATION PROCESS	
At present, no CWH has been notified and MoEF has communicated that State Governments should aim to complete this process by September 2008. The information below is official information from State Forest Departments about the process through which these areas will be notified.	
STATE	STATUS OF IMPLEMENTATION OF CWH
Assam	<ul style="list-style-type: none"> • Assam Forest Department has submitted the CWH application form to the State Government recommending all PAs as well as some Reserved Forest (RF) sites as potential CWHs. • The PAs include 5 National Parks (NPs), 17 Wildlife Sanctuaries (WLS), 3 Potential WLS and 6 Elephant Reserves. • A 78.5km and Govt. approved Elephant Corridor has also been identified as a potential CWH (Notification of Elephant Corridor: FRW.54/2004/15, date 17.08.2006) • A total of 157 RFs mainly in Digboi Division (48,680ha), Eastern Assam; Silchar

	<p>(62,933ha) and Hailakandi (61,663ha) Divisions in Southern Assam and Chirang/Aic Valley (97,088ha), Kachugaon (60,569ha) Divisions in Western Assam. District Council RFs of area 64,169ha in Karbi-Anglong and N.C. Hills are also proposed.</p> <ul style="list-style-type: none"> • Total area recommended as CWH = 967366,436ha • On Dec 26th, a 7-member in-house CWH Committee was constituted to identify and recommend the above areas as potential CWH • The committee comprised of the CWLW (M.C. Malakar) as Chairman, CCF (Wildlife) (B.S. Bonal), CCF (Territorial) (S. Chand), CCF (Biodiversity) (O.P. Pandey) as Member Secretary, Research Officer from the Office of the CCF (WL) (Gopal Chetri) and Bibhab Talukdar (Aaranyak) and Amit Sharma (WWF India) as ex-officio members. • On Feb 5th, an official CWH State level Committee was constituted • It comprised of Chief Wildlife Warden (CWLW) (M.C. Malakar) as Chairman; Y.V. Jhala (WII) as a representative of the MoEF; J.P. Mona (Commissioner and Secretary to Govt. of Assam Department of Welfare of Plains Tribes and Backward Classes) as representative of MoTA; H.K. Choudhury (Retd. PCCF) and Goutam Narayan (Ecosystems Inc) as State Experts in Wildlife; Prof. P.C. Bhattacharjee as a representative in the field of conservation/sociology/gram sabha; 3 PA Managers for a) Manas NP, Ripu-Chirang ER b). Kaziranga NP, Kaziranga-Karbi-Anglong ER c). Nambor-Doigrung WLS, Gibbon WLS, Panidihing Bird Sanctuary, Dihing Patkai WLS and ER.
Maharashtra	<ul style="list-style-type: none"> • Maharashtra Forest Department plans to present the CWH application for scrutiny to the Central Expert Committee • As of now, the plan is to declare all 6 NPs and 35 WLS as CWH • Collectors are to complete enquiries of the 74 villages within these PAs. This has already begun in Malvan and Akola villages within Melghat TR. • These enquiry reports by the Collectors will be considered for determining rights of people within CWH
Orissa	<ul style="list-style-type: none"> • CWH Committee was constituted as per MoEF Guidelines on Apr 25th 2008 • Members of the CWH Committee are as follows: B.K. Patnaik (CWLW) as Chairman; B. K. Mishra (WII) as MoEF representative; Commissioner-cum-Secretary to Govt., S.T. & S.C. Development Department, Govt. of Orissa as representative of MoTA; S.K. Patnaik (Ex-CWLW & Addl. PCCF (WL), Orissa, Retd.) and S.K. Mishra (IFS, Retd.) as local experts in wildlife; Chairman of the committee to nominate one local representative in the field of Sociology/ Conservation or a representative from Gram Sabha; and DFOs of the concerned Wildlife/Forest Division involving the concerned NP or WLS as Member Secretaries • As per the Terms of Reference, the State Expert Committee will examine all CWH proposals • Although there are important wildlife corridors, Orissa Forest Department concluded that these could not be identified as CWH because the corridors are “changing in their size and usage.” So, only Orissa’s 18 PAs are being considered as CWHs. • The CWH process (identification of area, recognition of rights etc) will probably not consider Simlipal and Satkosia since they are already CTH • Gahirmatha and Chilika are wetland PAs without habitation and therefore the entire PA is a proposed CWH • Nandankanan is within zoo premises without habitation. Therefore, the entire area is a proposed CWH. • Balukhand has no habitation, therefore the entire PA is a proposed CWH • 4 PAs (Kuldiha, Hadgarh, Lakhari, Debrigad) have already submitted their proposals for CWH • 7 PAs (Badrama, Khalasuni, Kotagarh, Karlapat, Sunabeda, Chandaka, Bhitarkanika) are yet to submit their proposals for CWH. • As of 8.05.08, all DFOs have been asked to identify CWH areas within their PAs • B.K. Patnaik (PCCF-WL, Orissa) reported that the Department’s opinion is that entire PA should be notified as CWH but that this process is still nascent and there is still insufficient data regarding details. • The determination of rights within CWH is to follow the provisions of WLPA and the

	<p>Collector's Enquiry Report.</p> <ul style="list-style-type: none"> • Patnaik reported that there are a number of concerns coming up in the CWH process, such as: <ul style="list-style-type: none"> a). A CWH will effectively reduce the area of conservation inside PAs b). The provisions of the FRA c). Baseline data required by Govt. of India for the CWH application is not available for all areas.
Kerala	<ul style="list-style-type: none"> • V.S. Varughese (CWLW, Kerala) stated that as gram sabhas have a crucial role in determining the rights of Scheduled Tribes and Other Traditional Forest Dwellers, therefore the representation of gram sabhas in CWH Committees is essential • Kerala is planning to constitute CWH Expert Committees for each of the PAs that are proposed CWH • CWH Committees for the following 6 PAs have already been constituted as per MoEF Guidelines: Neyyar Wildlife Sanctuary, Peppara Wildlife Sanctuary, Shendurney Wildlife Sanctuary, Aralam Wildlife Sanctuary, Wayanad Wildlife Sanctuary and Silent Valley National Park. • Action is being taken to constitute CWH Committees in the remaining 14 PAs • The Terms of Reference of the Committee states that it will resolve inter-alia the right of the Forest Dwellers regarding the collection of Non-Timber Forest Produce from the CWH and the possibilities, if any, of resettling inhabitants from these areas.
Sikkim	<ul style="list-style-type: none"> • The Government of Sikkim has issued a notification dated 28.1.2008 regarding constitution of an Expert Committee for identification of CWHs in PAs

Source: Presentations made by Forest Officers during the National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats held on May 8th and 9th at IISc.

MoTA, 'Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006', Press Information Bureau, 7.5.08

<http://www.tribal.nic.in/index1.html>

New Delhi: Privilege Motion against Forest Secretary

The Rajya Sabha has recently accepted a breach of privilege motion against the MoEF, Meena Gupta. The motion was filed in November 2007 by Rajya Sabha member and CPI(M) leader, Brinda Karat "against the arbitrary manner in which the MoEF was going ahead with the identification of Critical Wildlife Habitats and Critical Tiger Habitats." In October 2007, the MoEF had asked Chief Minister's of States and Union Territories to notify CWH under the FRA and had issued guidelines in this respect. The Act was only notified on January 1st 2008. Karat stated that the MoEF does not have the right to implement any provision of the Act before it was notified. She alleged that the MoEF subverted the rigorous scientific process mandated by the Act and instead simply called states to declare all PAs as critical habitats. She said that the clause in the Act which demands that 'no forest-dwelling communities can be relocated until scientific evidence shows their detrimental impact on wildlife' was not applied when initiating the process of notification of CWH. Karat also referred to the unscientific manner in which Critical Tiger Habitats were notified. However, sources in the MoEF have clarified that issuing such guidelines beforehand is legally permissible.

Source: Kirtiman Awasthi, 'Privilege Motion Against Forest Secretary', *Down to Earth*, May 2008

http://www.downtoearth.org.in/full6.asp?foldername=20080430&filename=news&sec_id=4&sid=18

May 8th-9th/Bangalore: National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats

A two-day National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats was held at Indian Institute of Science on 8th and 9th May 2008. This workshop was organized by the Centre for Ecological Sciences, Karnataka State Forest Department and the Future of Conservation Network (FoC)¹. It was attended by officers from State Forest Departments, scientists, academics, social activists and a number of groups working on wildlife issues.

¹ The Future of Conservation in India (FoC) is a network of ecological and social organizations and individuals

The workshop was an attempt to understand the legal provisions relating to CTH and CWH as given in the WLPA and the FRA. Participants gathered to gain clarity on the countrywide status of their implementation, discuss key issues and concerns regarding their application and work out actions towards effective implementation including the use of better science/knowledge and consultative methods. Through dialogue, we hoped to arrive at a common process to secure these habitats in the interest of wildlife while ensuring the livelihood rights of forest-dwellers.

During the Workshop, participants discussed at length the various implications and interpretations of CTH/CWH and the practical difficulties with their implementation. At the end of the workshop, most were in agreement that in spite of the extensive diversity that exists state-to-state, these areas could be used as a tool to secure wildlife from serious threats. Equally significant was that for various reasons, including effective conservation itself, the livelihoods concerns of forest-dwelling communities have to be integral to the PA management process.

An important outcome of the workshop, was a set of Recommendations on the themes of

- a) Criteria for identifying critical habitats
- b) Process for notifying critical habitats
- c) Constitution of committees for CWH
- d) Institutions for facilitating co-management of PAs
- e) Strategies for achieving coexistence
- f) Strategies for relocation.

These have been issued to the MoEF, NTCA, MoTA and PMO urging them to incorporate the above recommendations into existing CTH and CWH Guidelines and all future material on these critical habitats.

Recommendations in brief² (Please contact us for a full comprehension of these points)
<ol style="list-style-type: none"> 1. Identification and management of Critical Tiger Habitats (CTH) and Critical Wildlife Habitats (CWH) needs to be based on sound knowledge and democratic processes. 2. The process should not be hurried; it should be time-bound, but with at least one year to take into account the complexities involved. 3. The criteria for identifying CTH and CWH should involve a number of factors relating to ecosystems and species, and be based on the Precautionary Principle. Areas important for wildlife outside current protected areas (PAs) should also be considered for CWH or other similar status. 4. The process for identifying such areas, must involve knowledgeable people from all sectors including those with traditional knowledge; and the feasibility of protection, and relevant socio-economic factors should also be considered. 5. Committees for identification of CWHs should be set up both at the level of the state and of the PA and its landscape, and involve local experts including from local communities (the MoEF Guidelines on CWH need to be changed to involve more than one local expert). 6. All further processes including impact assessment, assessment of co-existence possibilities, and of relocation, must be in full consultation with the people to be affected. 7. In the process of determining continuation or modification of rights within a CTH or CWH, appropriate

committed to effective and equitable conservation of biodiversity. FoC 's objective is to foster dialogue and engagement in complex conservation issues, and help tackle the increasing threats that both biodiversity and people's livelihoods face. This includes joint action on areas of agreement, and attempts at evolving common understanding on issues where there are differences. FoC is not an organization, but a forum where organizations and individuals can meet, dialogue, and take joint actions.

² Not all participants were in agreement with each of the recommendations. However, these recommendations represent the views of the majority of the participants.

methods need to be employed including thumb-rules acceptable to all those involved, that indicate impacts of human use on the conservation values of the proposed areas.

8. The CTH/CWH process should be used as an opportunity to move towards co-management, which includes all relevant rights-holders and stakeholders in decision-making, starting with a few pilot sites where the capacity exists and conditions are appropriate, and keeping in mind that this may not be an appropriate strategy for all PAs.
9. Given that in many or most PAs including within CWHs, there will continue to be human presence including in many cases settlements, strategies for co-existence need to be urgently developed; these would include encouraging activities that are beneficial or neutral for the relevant conservation values of the area, and alternatives for those that are detrimental.
10. Where it is determined that co-existence is not possible, relocation options need to be considered with appropriate processes of consultation and consent. Both the process and package of relocation need considerable enhancement.

UPCOMING EVENTS

No events are reported

READER'S WRITE IN

In next month's newsletter, we hope to introduce a new column, 'Reader's Write In' where we will feature experiences of those who are currently working in the field on the Act. This section could include anecdotal experiences or reflections about the implications of the FRA in a given region. If you are interested to write for this section, please contact us at the address given below.

*

Some questions that we're asking:

- How is the Act being interpreted in its implementation?
- Which are best and worst cases of its implementation?
- What are the implications of 'Critical Wildlife Habitats' and how are they being implemented on the ground?
- What are the implications of Section 3(i) and how are forest-dwelling communities claiming the right to protect and conserve forests?
- How are the provisions of the Act being misused?
- Are fresh encroachments occurring as a result of the Act?
- What is the impact of tenure and livelihoods security of forest-dwelling communities on biodiversity?

Contact us!

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