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Issue 5

# TRACKING THE FOREST RIGHTS ACT

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

## Editorial

### Operationalising the Act: The Role of Civil Society

Civil society, whether in the form of NGOs, grassroots campaigns, community-based organizations or individuals has arguably been the most colourful actor in putting to work the Forest Rights Act, right from its inception to implementation.

The exact nature of the role of civil society during the formulation of the Act is still nebulous. Many grassroots campaigns and adivasi movements claim that the Act emerged from an upsurge of public demand for forest rights. The media repeatedly reported a certain 'wildlife lobby's' claim that the Act was more the handiwork of the forest mafia, and its efforts to exclude National Parks and Sanctuaries (particularly Tiger Reserves) from the scope of the Act. How much all this had to do with the final version of the Act, vis-à-vis the role of the government and politicians, or of other more 'hidden' lobbies, is hard to determine. However, what is clear is that the extent of participation of civil society in the form of submissions to government was overwhelming. Over 107 organizations and individuals submitted memoranda to the Joint Parliamentary Committee on the Bill. Later, hundreds engaged with policy-makers during the Rules formulation. Still later, members of civil society filed six petitions in the High Courts and Supreme Court calling for the Act's annulment.

The visibility of civil society continues today in the Act's implementation on-ground. Reports in this newsletter (see ATREE's report on Karnataka) suggest that in many districts, implementation of the Act is being propelled entirely or primarily by civil society groups. Across vast landscapes in the country, implementation has been entertained only because people have demanded it. NGOs have been critical in providing information on the Act to forest-dwelling communities who would have otherwise been caught unaware. While it is indisputable that civil society is playing these roles, there are an equal number of stories about 'back-and-forths' between civil society and the government machinery. In previous issues of this newsletter as well as this one, we have reported numerous incidents where a civil society group has charged government agencies (Tribal Welfare Department, Forest Department etc.) for breaching the Act and then later the government department has responding by refuting the charges. Off the record, we have heard vivid reports from NGOs on violations of the Act and then gone on-ground to find that in reality, the situation is much more complex. In the general fervour, well-meaning civil society organizations have searched for support everywhere and at times incited ineligible individuals to protest against non-implementation of the Act. Many NGOs, including us, are monitoring implementation of the Act or playing watchdog. To top it all, there are even reports of NGOs charging fees for distributing and filling claims forms for forest-dwelling communities. Whether such involvement of civil society is desirable requires well-researched discussion and an examination of actors well beyond civil society itself. One starting step is to raise a few questions...

- What are the stakes (or in some cases, vested interests) of civil society organizations (especially non-community based) in this Act?
- What are different modes of operation employed by civil society (those within and outside the law)?
- How influential has civil society been in this process? Have government agencies heeded civil society's advice in implementation (or lack of implementation)?

## Editorial

[Operationalising the Act:](#)

[The Role of Civil Society](#)

Page 1

## NATIONAL NEWS

Page 2

## NEWS FROM STATES

Page 2

[Special Report:](#) Page 4

[Karnataka Status](#)

[Special Report:](#) Page 6

[Q&A with Govt. of Orissa](#)

## NEWS FROM CRITICAL WILDLIFE HABITATS

Page 10

## UPCOMING EVENTS

Page 10

## READER'S WRITE IN

Page 10

- How has the role of non-local civil society affected the functioning of the local community?
- What has been the relative influence of various shades of opinion within civil society, from strong support of the Act to strong rejection, with various middle-path attempts at integrating the rights and conservation aspects of the Act?

We sincerely hope that you will share with us your take on this issue. We would be delighted to publish your views in our next issue.

## NATIONAL NEWS

### Brief status on implementation

Secretary of the MoTA, G.B. Mukherji stated that MoTA had released Rs. 22.6 crores as a grant to states requiring financial assistance to implement this law. Mukherji mentioned that Andhra Pradesh, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Orissa, Tripura and Rajasthan had received a large number of claims and some had even started distributing title deeds. As of September 30, Andhra Pradesh, Chattisgarh and Madhya Pradesh has distributed 5000, 59,548 and 4186 pattas respectively. However, the states of Arunachal Pradesh, Manipur, Sikkim, Uttarakhand, Andaman and Nicobar Islands and Daman and Diu are yet to even appoint nodal officers, which is a basic requirement of implementation.

Source: *'The centre reviews implementation of the Forest Rights Act: Over 60,000 land Pattas distributed to the Tribals and Traditional Forest Dwellers under Forest Rights Act'*, Press Information Bureau, 11.11.08

<http://pib.nic.in/release/release.asp?relid=44739>

*'Some states lag behind in implementing Forest Act'*, The Hindu Business Line, 18.11.08

<http://www.thehindubusinessline.com/blnus/03181420.htm>

### “Settle forest rights first, industry can wait”

The general secretary of the Congress, Kishore Chandra Deo has written to the PM Manmohan Singh stating that any diversion of forestland for industrial and infrastructural projects before the recognition of forest rights under this Act was illegal. News reports suggest that Deo's statement is in response to the fact that across the country, land is being acquired for industrial projects pending the settlement of land rights under the Act. Deo said, “The objective of the law was to relocate only after claims are settled...It is unfortunate that both the courts as well as the government are flagrantly flouting the provisions of the FRA. Even community forest lands cannot be taken over till the claims of gram sabhas are settled.” Deo pointed out that this differs significantly from diversion of forestland carried out under the Forest Conservation Act, 1980, which does not require the government to consider the existing occupant's rights while acquiring land. If the central government accepts Deo's arguments and operates within this changed legal scenario, then mining and power sectors needing forestland would be required to negotiate with gram sabhas, instead of the MoEF. Deo said that a strict implementation of land could put all clearances on hold till all land rights are settled.

Source: Subodh Ghildiyal, *'Settle forest rights first, industry can wait'*, Times of India, 6.10.08

[http://timesofindia.indiatimes.com/Earth/Settle\\_forest\\_rights\\_first\\_industry\\_can\\_wait/articleshow/3564045.cms](http://timesofindia.indiatimes.com/Earth/Settle_forest_rights_first_industry_can_wait/articleshow/3564045.cms)

## NEWS FROM STATES

### ANDHRA PRADESH

#### Bhadrachalam: 10 lakh acres to be “distributed” in AP

Tribal Minister, Reddy Nayak has said, “Ten lakh acres of forestland will be distributed to three lakh tribal beneficiaries in the state.” He announced that the State Government has budgeted Rs. 20 crores for implementation from which two crores has been allotted to Khammam district. In Khammam, “2,88,490 acres of forestland will be distributed to 67,707 tribal beneficiaries.”

Source: 'Ten lakh acres to be distributed to tribals in AP', *The Hindu*, 23.10.08  
<http://www.hindu.com/thehindu/holnus/004200810231133.htm>

### **Vizianagaram: Jindal aluminium refinery hits hurdle**

Jindal's proposed aluminium refinery with an investment plan of Rs. 9,000 crore to establish 1.4 million tonnes of alumina has run into rough weather. Proposed mining of bauxite in this area (to be carried out by AP Mineral Development Corporation) has been met with opposition by tribal communities on account of the FRA. Panchayats of the tribal villages of Mushidipalli, Kiltampalem, Moola Boddavara, Cheedipalem and Chinakandepalli of S. Kota in Vizianagaram district have all signed a resolution charging the mining is in violation of the FRA and additionally that it will cause extensive damage to the forests. Local NGO, Samata who has been spearheading the protests estimates that around 132 tribal villages in a 10km radius of the mining site will be affected by the projects. Villagers have issued statements saying that they will lose their land, water, coffee plantations, water sources and forests on which they have depended on for generations to earn their livelihood.

Source: Ruhi Kandhari, 'Jindal South's aluminium refinery plan hits hurdle', *Economic Times*, 10.11.08  
<http://economictimes.indiatimes.com/articleshow/msid-3693309,prtpage-1.cms>

## **ARUNACHAL PRADESH**

### **Itanagar: 'Other traditional forest dwellers' is problematic**

Itanagar: Arunachal Citizens Rights (ACR) issued a statement of concern regarding the confrontation between the local people of Arunachal Pradesh and unsolicited settlement of Chakma refugees and resulting encroachment of Namdapha NP. ACR stated that the Congress Govt. in the state has been "unable to confine Chakma settlers to designated camps and that had the encroachers been indigenous people, authorities would have evicted them without thinking twice." Responding to the reported abduction of a local person, ACR said, "While the incident proves the extremities that the Chakma settlers are willing to resort to, inaction on part of the Govt. exposes its weakness in dealing with a situation that has now become only an election issue." Additionally, ACR said that the Central govt. has failed to support the people of Arunachal by passing several Acts and legislations "formulated by people sitting in cosy rooms in Delhi without taking into confidence those who will be affected by the enactments, particularly the indigenous people of Arunachal."

Once such Act that ACR feels will have a major impact on the indigenous people of the Arunachal is the FRA. Objections and recommendations from civil society from the region have not been incorporated into the final version of the Act. In fact, the Arunachal State Govt. itself had hardly any say in its formulation. ACR feels that the State Govt. did not even read the Act before it was finalised. ACR's first objection on the FRA is that it does not define what it means by 'other traditional forest dwellers'. In Arunachal, where all tribes come under the 6<sup>th</sup> Schedule as Scheduled Tribes, the identity of 'other traditional forest dwellers' becomes very vague. ACR feels that the Act will problematically legitimise the rights of Chakmas, Hajongs and others coming from outside the State but settled in forests as rightful traditional forest-dwellers and with rights to forestlands that traditionally belonged to indigenous people.

Secondly, the Act provides rights over forestland occupied before December 13, 2005. Given that 2005 is very recent, this would mean that many people from outside the state residing in the forests of Arunachal, including Chakma and Hajong refugees (which is approx 80% of the total land) would avail rights under this Act. ACR has also pointed out that the FRA is contradictory to the Bengal Eastern Frontier Regulation of 1893, which is currently in force in Arunachal Pradesh. This regulation prohibits the entry of outsiders in tribal areas of Arunachal without an "Inner Line Permit". Additionally, only indigenous people are allowed to participate in various state political processes.

ACR has demanded that the State Government stand up to such regulations and enactments that go against the welfare of the indigenous people of Arunachal Pradesh.

Source: 'ACR raises questions on forest rights and refugee issues', *Arunachal Times*, 7.10.08  
<http://arunachaltimes.com/Oct%207.html>

## GUJARAT

### **Gandhinagar: GPS verification of land occupation**

Global Positioning System (GPS) is to be installed in Dahod, Panchmahal and Sabarkantha districts of Gujarat in October and November. Government officials believe that GPS likely to reduce paperwork and make the process of forestland mapping and allotment under the Act much easier. Earlier in September, twelve officials from the Gujarat Tribal Development Department (TDD) had attended GPS training by the Madhya Pradesh State Government. Through their training, officials will now be able to survey forestland claimed by applicants right from state headquarters in Gandhinagar. T.L. Patel (Joint Director, TDD) stated "as per the Act, tribal land rights will be given to those forest dwellers who occupied forestland between December 13, 2005 and December 31, 2007." He further said, "claims made by forest-dwellers will hold true even if they have not taken possession by December 31, 2007. The allotment would be based on specifications provided by claimants."

Source: Subhalakshmi Shukla, 'GPS to free forestland mapping from long-drawn paperwork', 30.9.08  
<http://www.indianexpress.com/news/GPS-to-free-forestland-mapping-from-long-drawn-paperwork/368122>

***NOTE:** As per the FRA, Mr Patel's statements as reported, are incorrect. Only forestland occupied prior to December 13, 2005 is eligible under the Act; the date of 2007 that is given in Section 4(6) of the Act refers to the fact that all claimants who were in occupation prior to Dec 13 2005, should still have been occupying the land as of December 31, 2007. This is to ensure that people who were earlier occupants but have since then abandoned the land as of the time of the Act coming into force, would not be eligible to be claimants. But in all cases they ought to have been there prior to Dec 2005, and cannot make a claim if they have occupied after that. Also, Kalpavriksh's understanding is that State Governments do not have the legal freedom to interpret this Act in the way Mr. Patel has been reported to have done. However, if readers feel otherwise, please do share with us your understanding.*

## JHARKHAND

### **Ranchi: Act faces shortfall of funds, villagers fear misuse**

Implementation of the Act in the state has hit a major funds hurdle because the State's cabinet has not made any budgetary provisions. Questions regarding funds shortage were raised at a meeting organized by the Jharkhand Jangal Bachao Andolan and Devendra Manjhi Foundation. In response, Welfare Ministry, Joba Manjhi said, "the state cabinet is yet to decide where the money to implement this Act will come from." Earlier, implementation in Jharkhand was delayed since the state did not have any elected panchayats. However, recently the Union Law Ministry has instructed local tribal bodies to carry out the role of panchayats for the purpose of this Act. Additionally, forest-dwelling communities and NGOs participating in the meeting shared their concerns about genuine candidates being left out of implementation while "fake people become beneficiaries".

Source: 'Act hits funds hurdle', *The Telegraph*, October 16, 2008  
[http://www.telegraphindia.com/1081016/jsp/jharkhand/story\\_9975322.jsp](http://www.telegraphindia.com/1081016/jsp/jharkhand/story_9975322.jsp)  
'Villagers fear abuse of the forest rights act', *The Telegraph*, 17.11.08  
[http://www.telegraphindia.com/1081118/jsp/jharkhand/story\\_10126545.jsp#](http://www.telegraphindia.com/1081118/jsp/jharkhand/story_10126545.jsp#)

## KARNATAKA

### **Special Report**

#### **via ATREE: Implementation Status in Karnataka**

ATREE in collaboration with Girijanakiyakuta (Tribal Joint Action), Karnataka Rajya Mulanivasi Budakattu Janara Vedike and Vivekananda Girijana Kalyana Kendra (VGKK) conducted a two-day workshop on Act in Mysore on 13-14th Nov 2008. The aim of the workshop was to assess the implementation of the act in southern Karnataka, understand issues pertaining to community forest rights and deliberate on processes to facilitate claiming of the community forest rights. It was also to provide a platform for sharing information and experiences on implementation so far across the five contiguous southern districts of the state: Mysore, Kodagu, Chamarajanagar, Ramanagara and Chikmagalur. Some key issues regarding implementation are highlighted below:

### **Chamarajanagar**

- Soliga Abhivruddhi Sangha (SAS), who has been actively involved in implementation have adopted a multi-pronged strategy which includes lobbying at all levels of the government and strengthening gram sabhas through dissemination campaigns, training and workshops (including training of Panchayat secretaries).
- At the same time, SAS recognizes that progressive and interested officials are critical to kick-start the implementation process in the district.
- SAS has strategically decided to lobby for one right at a time. To begin with, claims for community forest rights (particularly NTFP rights) have been filed. Community resource use rights have been prioritised over individual claims to ensure getting these rights in time for the Amla season that is to begin soon.
- In Chamarajanagar, gram sabhas are being constituted at the hamlet level in 145 hamlets (podus).

### **Kodagu**

- Implementation in Kodagu has been slow compared to Chamarajanagar.
- Gram sabhas are being convened at the Panchayat level. However, after much lobbying by community-based organizations, the District Collector has recently sent out new orders asking gram sabhas to be convened at the hamlet (haadi) level.
- District Level Committees and Sub-divisional Committees are yet to be formed.
- A major issue has been the presence of estate owners who are lobbying to not get the implemented in the district because a lot of coffee estates have encroached on forestland. Once forest-dwellers start claiming and availing rights, coffee estates may be adversely affected.

### **Mysore**

- SDLCs and DLC has not yet been constituted in the district.
- In all sub-divisions (Hunsur, Nanjangud, H.D. Kote and Piriapatanna) FRCs have been constituted at the gram panchayat level. However, civil society groups like DEED and CORD have been able to obtain fresh orders from the District Collector for the convening of gram sabhas at the hamlet level. Eighty FRCs in H.D. Kote and 25 in Hunsur were already formed at the panchayat level but these are now going to be reconstituted at the hamlet level.
- In all talukas in Mysore district, community-based organizations have ensured that village boundaries, traditional forest resources have been mapped. They intend to use such maps as evidence for community rights.

### **Chikmangalur**

- Coffee estate owners in the district are politically strong and resisting the implementation of the Act. Community-based organizations have written to the District Collector to ascertain how much of estate land is currently under the Forest Department. A response is awaited.

### **Ramanagara**

- The implementation process in the district despite several meetings between community-based organizations and the District Collector.

ATREE concludes that given the lack of implementation in many districts, there has been no state-wide effort to implement the Act. Districts where strong community-based organizations like SAS are active, they have managed to kick-start the claims process with cooperation from the bureaucracy. ATREE recommends that pressure groups have to strategically lobby at multiple levels to achieve results. Additionally, platforms for sharing information and experiences are extremely critical to take the process ahead.

## **MAHARASHTRA**

### **Gadchiroli: Fresh encroachments reported**

News reports suggest that some villagers living close to or inside the forest in Gadchiroli District have been felling trees and clearing forest patches with the intention of occupying the area. They have said that they believe this Act can finally help them own land. Villagers of Kudakwahi (18km from Gadchiroli town) cleared about 50 acres of forest area. Some Forest Department staff are said to have pleaded with villagers to stop but the Range Forest Officer did not take official action. Maharashtra Forest Department had earlier stated that process to regularise pre-1978 encroachments has been halted in view of new regularisation date of December 13, 2005 under this Act.

Source: Vivek Deshpande, 'Villagers encroach upon Gadchiroli forest, cite Tribal Act', Indian Express, 20.11.08  
<http://www.indianexpress.com/news/villagers-encroach-upon-gadchiroli-forest-cite-tribal-act/387864/>

## ORISSA

### **Bhubaneswar: Status of implementation and stumbling blocks**

Chief Minister, Naveen Patnaik has instructed officials to settle 1.91 lakh cases and grant relevant forest rights by December 15, 2008.

Total claims received: 1,91,460
Total claims "dealt with": 400
Area of land to which rights have been claimed: 4 lakh acres
Total number of forest hamlets: 191
Total number of ST families estimated to benefit from Act: 2,897
Total number of OTFD families estimated to benefit from Act: 857
Total number of people estimated to benefit from Act: 17,727

At a review meeting, Chief Secretary of State, Ajit Tripathy discussed the main stumbling blocks in the path of this Act's implementation. Firstly, Tripathy commented that approximately 40% of forestland in Orissa was unsurveyed which was proving to be a hindrance while planning to verify land rights. Secondly, District Collectors who are key to implementation are too busy with other tasks. Tripathy suggested that a special district level officer was needed for this purpose. Additionally, he advised officials to see to it that each Village Forest Protection Committee (VFPC) was engaged in implementation.

Source: 'Order to implement tribal's land rights act', Times of India, 13.11.08  
<http://www.fra.org.in/Order%20to%20implement%20tribals%20Land%20rights%20Act.pdf>  
'40 per cent of forest land yet to be surveyed', The Hindu, 14.11.08  
<http://www.hinduonnet.com/2008/11/14/stories/2008111453800300.htm>

### **Rayagada District Administration expedites claims**

As follow-up to the CM's declaration to settle claims under this Act by December 15<sup>th</sup>, the Rayagada district administration has decided to expedite the claims process via a number of proactive steps. For instance, the Rayagada District Level Committee has not rejected any claims on technical grounds. The Administration has said that it is well understood that many eligible forest-dwellers, especially in unsurveyed villages do not possess documents such as caste certificates or land maps. In contrast, in districts like Malkangiri, claims submitted by the Forest Rights Committees are being rejected because certificates and maps have not been attached to the form. In addition, the Administration has decided that for each claim, a case record will be opened at the Sub-Divisional Level Committee, which will forward the claims to the Tehsildars. Tehsildars are in turn required to attach the relevant caste certificate to the claimant's form. As of November 15<sup>th</sup>, about 17,500 claims had been submitted to the Forest Rights Committees of which 16,300 have been forwarded to the Sub-Divisional Committee after verification. Some forms have also been forwarded to the District Level Committee.

Source: Pradeep Baisakh, 'Rayagada administration expedites settlement of forest land claims', Daily Pioneer, 20.11.08  
<http://www.dailypioneer.com/135580/Rayagada-administration-expedites-settlement-of-forest-land-claims.html>

## **Special Report**

### **via Vasundhara: Q&A with the Govt. of Orissa**

The ST & SC Department of the Government of Orissa has issued a circular in which they try to address a number of grey areas regarding the Act's implementation. While this initiative was taken by the Govt. of Orissa, the issues are applicable across many state contexts. Some of the issues discussed are as follows:

- ***If the palli sabha could not meet on 16/3/08 and 23/3/08, can they meet now to constitute the FRC and start the claims process?***

Yes. The Act does not prescribe any dates for holding palli sabha meetings. These meetings can be convened whenever required. It must be noted that initial time permitted as per Rule 11 (1) (a) for the claims to be made before the palli sabha is three months. But the same rule has a proviso to the effect that the palli sabha can extend this period for reasons to be recorded in writing.

- ***Is there a stay order by the High Court on the implementation of the Act?***

There is an interim order of the High Court barring issue of final patta (title as per the Act) and barring felling of trees, particularly in Reserved Forests, Protected Forests and Wildlife Sanctuary areas. The State Government is taking steps to get the interim order vacated. However, for all other steps in the Act. The steps that should proceed as is are holding of the first palli sabha meeting to elect FRC, submission of individual and community claims to FRC, verification of claims by FRC, holding of second palli sabha meeting to forward claims to SDLC and holding of SDLC and DLC meetings. The DLC is required to finalize validity of claims within the stipulated period so that titles can be handed over to claimants as soon as litigation pending in the High Court is decided. Any delay or negligent action on part of any government officer of any department is an offence under the Act. The State Government will not hesitate to invoke provisions of Section 7 of the Act, which involves a fine of Rs 1000, as well as disciplinary proceedings.

- ***Is the caste certificate mandatory to accompany every claim under the Act?***

Form A in the Annexure 1 stipulates for individual claims in respect of members of Scheduled Tribes that the authenticated copy of the certificate should be attached. This matter was discussed in the SLMC meeting on 24/10/2008 and the decision communicated in Revenue Department letter No. 47923 dated 12/11/2008. The palli sabha, with two third or more presence, can pass a resolution affirming the names of the members of ST and that can be accepted by the SDLC and DLC. However, if SDLC or DLC has reasons to re verify, they can get it done through the concerned Tehesildar in doubtful cases.

- ***It has just been ordered to procure GPS equipment. How can maps be prepared without GPS instrument?***

The use GPS equipment is a welcome step, which will help in long-term objectives of preparing error free digitized maps for both revenue and forest lands. However, for the purpose of this Act, we do not require 100% precision that may be essential for launching a missile for other space applications. For implementation of this act, usage of GPS devices is not mandatory. The title for individual land as well as for community forest rights, as per Annexure II and III of the Rules, requires the extent of the area and 'description of boundaries by prominent land marks including Khata No / Plot No.' Therefore, preparation of an error free exact map is not required under this Act. However, for practical reasons and to see the need to enhance the law enforcement machinery to deal with land disputes, if any, in future, it is necessary to prepare the maps to the best of our ability using traditional methods. The SDLC can adopt the basic checks to see that (a) the individual land parcels do not overlap or that same portion of any land is not shown to two or more individual claimants and (b) the sum of individual or community lands in a village, for which title is being recommended, will not exceed the total geographical area of the village. Therefore, any delay with the excuse of procurement of GPS for implementation of this Act will not be accepted.

- ***The maps at the field level are not available. What can be done?***

If revenue land is involved, the maps can be obtained by placing indent with Joint Director, Survey and Map Publications under intimation to the Revenue Board. However, even for such lands, the trace map of the existing working copy is available at the Tehsil office. This should suffice for this Act. In respect of forestland, the scale of maps is very small i.e. 1:50,000 because traditionally large areas of forest blocks were envisaged and small habitations were not considered. In such cases also, it should not be difficult to prepare rough maps by indicating relevant landmarks and other essential data, to fulfill the requirements of this Act. It needs to be seen that for booking forest encroachment cases, the forest machinery has been using rough maps in the past. The same maps can be used even now for examining the claims under this Act.

- **What about forest habitations that are not within any revenue village?**  
The Revenue Department has made available to each of the Collectors the data of forest villages as per 2001 Census. Each of these habitations, even without enabling notification by Panchayati Raj Department, can serve the purpose of the Act, as per Section 2 (g) read with 2(p) of the Act. Therefore, village assembly meetings of such habitations will also have the same legal validity as palli sabha for all practical purposes. However, Panchayati Raj Department is going to issue a detailed notification in this regard very soon.
- **Should the work for second stage clearance of identified pre-1980 habitations under Forest Conservation Act continue?**  
The State Government has made the necessary budget provision and deposited the required amount in pursuance of the Supreme Court clearance obtained for Orissa in the TN Godavarman case. Therefore, the work is in pipeline and hence it should be continued to its logical end without any further delay. The lease documents and other formalities under the Forest Conservation Act are distinct from those under this Act. This Act provides heritable, but non transferable rights. The dispensation under the Forest Rights Act is different.
- **What will be role of Van Samrakshan Samitis (VSS) and other organizations or individuals who have been protecting the forests all along?**  
The JFM policy guidelines are executive instructions whereas the present provisions are part of an Act. Therefore, the members of the VSS should be encouraged to participate in the meetings of the gram sabha / palli sabha so that the correct resolutions are passed by it.
- **Who will decide recognition and vesting of community right versus individual right?**  
Gram Sabha shall decide this. In case of dispute appeal to higher committees, SDLC and DLC is possible.

**For more information on this circular and its full version, check [www.fra.org.in](http://www.fra.org.in)**

Source: Government of Orissa, ST & SC Development Department, 'Frequently asked questions on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and their replies.' No 40373/SSD, Bhubaneswar, 21.11.08

## **UTTARAKHAND**

### **Dehradun: Rally to protest non-implementation of the Act**

The National Forum for Forest People and Forest Workers (NFFPFW) called for a mass rally on November 3, 2008 in Dehradun to demand implementation of the Act in Uttarakhand. NFFPFW has also filed a Mandamus in the High Court of Nainital directing the State Government to begin immediate implementation of the Act. On 29th September, an order was issued by the Court to initiate implementation within 60 days. An additional focus of the rally was to decry the reported recent evictions of vangunjar families from Rajaji National Park.

Source: NFFPFW, 'Invitation for a mass rally and convention on the implementation of Forest Rights Act 2006 at Dehradun on 3rd November 2008' (contact author for more details)



## WEST BENGAL

### **Midnapore: CM hands out pattas at a function**

Five tribals from Midnapore West were given pattas for forestland by the Chief Minister, Buddhadeb Bhattacharjee at a function organized by the district Forest Department in Midnapore town on November 2<sup>nd</sup>, 2008. The CM announced that the recipients, Uday Besra, Biren Murmu, Chunuram Sabhar, Jaba Sabas and Rakhal Sabar would henceforth be allowed to live on forestland and collect forest products for their livelihoods. The Divisional Forest Officer, Ashish Samanta said that so far "41,600 claims applications from individuals and 744 applications from schools and other organizations have been received to claim pattas for forest land." The State Government plans to finalize these claims by January 2009. At the function, the CM also handed over a cheque of Rs 19 crore to 1,115 Forest Protection Committees (FPC) of Midnapore West, Bankura, Purulia and Birbhum as reward for their effort to protect forests in southern Bengal. Of these, Midnapore's FPC received the highest share (9.18 crores).

Source: 'Tribals finally benefit from tribal's rights', *The Statesman*, 6.11.08

<http://www.thestatesman.net/page.news.php?clid=22&theme=&usrsess=1&id=230017>

### **Jalpaiguri: NFFPFW objects to improper implementation of Act**

The North Bengal Regional Committee of the National Forum for Forest People and Forest Workers (NFFPFW) has issued a public statement pointing out the irregularities accompanying the State Government's implementation of the in North Bengal, particularly Jalpaiguri District. NFFPFW feels the following incidents of implementation are improper given the content of the Act:

- While the Rules state that a Forest Rights Committee (FRC) will be constituted from within the gram sabha and have a maximum of 15 members, many of the FRCs in North Bengal have 19 members, including 4 government officers. According to the Sub-Divisional Officers of Alipurduar, Jalpaiguri and Malbazaar, this has been done to ensure that the Act is implemented properly.
- The District Administration of Jalpaiguri has stated that claims under this Act should be submitted to the Range Officer. NFFPFW says that the Tribal Welfare Officer in Dhupgiri Block (a subdivision in Jalpaiguri Dist.) refused to accept claims from the forest villagers under the Moraghat Range of Jalpaiguri Forest Division because they were not certified by the Range Officer.
- NFFPFW has stated that the State Government has been continuously announcing arbitrary cut-off dates for submission of claims. Currently, there is a rush to meet the State Government's deadline of January for issuing titles under this Act.
- Many Sub-Divisional Officers are refusing to recognize the hamlet level FRCs which have been formed in Jalpaiguri. According to the officers, only FRCs constituted at the gram sansad level will be recognized.
- According to NFFPFW, no gram sabha meetings have been held to discuss the Act and FRCs have not been able to verify claims. In its statement, NFFPFW has raised concerns regarding the lack of participation of forest-dependent people in the implementation of this Act.
- NFFPFW asserts that the claims process was not preceded by any village-level awareness programmes on the Act. Claimants are not aware of the full range of claims they can make under this Act. NFFPFW says that the only thing mentioned by political parties and government officers is that pattas are available under this Act. No one has mentioned community claims, especially over community forest resource.

The Statement by NFFPFW states that the Forum (along with the North East Society for the Protection of Nature [NESPON]) has started a "parallel process of people's implementation, the thrust of which is to create a string of community managed forests." The Statement says "we reaffirm our pledge to reclaim the forest commons, and to continue with our campaign to establish community forest governance in North Bengal. We believe that the unity of the people of North Bengal will defeat the anti-people government machinery and the mafia."

Source: *Shibu Sunuwar and Soumitra Ghosh, 'Denounce the false implementation of the FRA in North Bengal', via email communication. 15.11.08. Email soumitrag@gmail.com for more information.*

## **Siliguri: D.M. denies allegations of improper implementation**

The District Magistrate (DM) of Jalpaiguri, Vandana Yadav has refuted charges by NFFPFW that the District Administration has violated the Act in the course of implementation in North Bengal. Regarding NFFPFW's claim about improper FRCs, Yadav said, "A FRC is required to verify claims. Since government department's have the relevant records pertaining to forest properties, how could the FRC have performed its task without the concerned government officials being a part of the body?" Yadav also refuted charges that forest-dwellers in the Duars were being compelled to submit claims forms to the Range Forest Officer. Yadav said, "As per the FRA, the claims forms should be received by the secretary of the FRC as we are strictly adhering to that." She added, "A particular NGO was misleading the forest dwellers in the Duars over the implementation of the FRA and was trying to instigate confrontation with the administration." She refused to name the NGO in question.

Source: 'DM denies Forest Rights Act violation', *The Statesman*, 19.11.08

<http://www.thestatesman.net/page.news.php?clid=10&theme=&usrsess=1&id=231688>

## **NEWS FROM CRITICAL WILDLIFE HABITATS**

### **Tripura: Eviction threat due to Critical Wildlife Habitat**

Fear of relocation has triggered resentment amongst forest-dwellers living in West Tripura where a survey has been ordered to identify Critical Wildlife Habitats. On July 15<sup>th</sup>, the sub-divisional magistrate of Teliamura constituted a committee for conducting a survey for the proposed Baramura Bird Sanctuary and an elephant conservation reserve in Atharamura Reserved Forest. This committee comprised of a revenue inspecotor, tribal welfare office and range forest officer. According to reports, the Tripura Forest Department plans to declare part of this forest region as a Critical Wildlife and resettle forest-dwellers to colonies along National Highway 44. According to the political party, Indigenous Nationalist Party of Tripura (INPT) this plan will evict about 1 lakh people from Athamura, Deotamura and Kalajhari hill ranges. INPT General Secretary, Rabindra Debbamma stated that the INPT "will not entertain any activity other than the Forest Rights Act to the people." However, PCCF, R.P. Tangwan has clarified that until the Act is implemented, no relocation can be done.

Source: *Biswendu Bhattacharjee*, 'Eviction threat', *Down to Earth*, September 30th, 2008

[http://www.downtoearth.org.in/full6.asp?foldername=20080930&filename=news&sec\\_id=4&sid=17](http://www.downtoearth.org.in/full6.asp?foldername=20080930&filename=news&sec_id=4&sid=17)

## **UPCOMING EVENTS**

### **Jaipur: Workshop on the Operationalisation of the Act**

Seva Mandir is anchoring a workshop titled the 'Operationalisation of the Forest Rights Act', which aims to chalk out best practices for capacity building and develop a roadmap for negotiation and conflict resolution that may arise during the implementation of the Forest Rights Act. The workshop is to be held on December 22<sup>nd</sup> and 23<sup>rd</sup> in Jaipur. Please contact Vivek Vyas at 09784184641 for more details.

## **READER'S WRITE IN**

### **Forest Rights Act inspires conservation efforts**

*from Y. Giri Rao, Vasundhara in Orissa*

Over the last few months, we have been witnessing many examples across Orissa where the Forest Rights Act has changed the discourse of forest governance as well as the self-governance systems among forest-dependent people.

One such case is from Karlapat WLS, which was once regarded as a hub of poachers and timber mafia. But, the scenario in Karlapat has been changing ever since the people living in and around the sanctuary started ascertaining their rights over the forest under the Act. For

example, a few months ago, villagers seized three truckloads of timber from the residence of Karlapat's Range Officer. Earlier, villagers had failed to curb timber smuggling since they didn't have any right or say in the management of resources inside the sanctuary. However, today, people are saying that the forest is their resource. The Secretary of the Forest Rights Committee of Mundguda village said, in conversation, "Nobody can stop us from protecting and conserving our resource. We will not allow anybody to touch our forest. We do not have faith in the Forest Department. They have ruined our resource and supported the timber mafia. The Forest Rights Act has entrusted us with the responsibility of conserving forests. We will try our level best to ensure this happens. " In Karlapat, 19 tribal hamlets have filed claims under this Act.

In another such incident, I was going to attend a palli sabha in Tentulipadar village. Suddenly, I saw a group of fifty people, male, female and even children, rushing to douse a forest fire. The women began to frantically sweep the land and drawing a fire line to stop the fire from spreading deep into the forest. The men were busy beating the fire down with sticks. For a moment, I was surprised but soon I was coaxed into helping fight the forest fire. It took three hours to control the fire. Later, the villagers told me that they used to be employed by the Forest Department to control fire, receiving meager wages. However, since their community has claimed rights to conserve the forest under this Act, they feel it is their duty to protect the forest. They expressed that they were now owners of the forest and not simply labourers.

In these ways, the promise of tenurial and livelihood security promised by this Act has inspired new conservation efforts in Orissa as well as strengthened existing ones.

**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?

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