National Consultation on Community Forest Resource Rights and Governance

11th and 12th December 2015, New Delhi

As part of Community Forest Rights Learning and Advocacy process (CFR-LA), Kalpavriksh and Vasundhara with support from OXFAM organised the annual consultation on Community Forest Resource Rights (CFR) provisions of the Forest Rights Act 2006. The consultation was held in Delhi on the 11th and 12th of December 2015. Over 80 participants from the states of Andhra Pradesh, Himachal Pradesh, Kerala, Chhattisgarh, Uttarakhand, Rajasthan, Gujrat, Goa, Odisha, Maharastra, Karnataka, and Madhya Pradesh involved in the implementation of CFRs directly or indirectly attended the consultation. Participants included community members from tribal communities, nomadic pastoralists, particularly vulnerable tribal groups, other traditional forest dependent communities, in addition to civil society organisations, *jan andolans*, researchers and others.

Three Members of parliament also attended the consultation, namely:

Shri Faggan Singh Kulaste

Shri Binoy Viswam - National Executive Committee Member of CPI and Former Forest Minster of Government of Kerala;

Shri Faggan Singh Kulaste, BJP, representing Mandla district of Madhya Pradesh. He is also the member of the Parliamentary Standing Committee on Welfare of SCs and STs. He has been a patron of Akhil Bharatiya Gond Sangh since 1998.

Ms. Kotapalli Geetha, Yuvajana Sramika Rythu Congress Party, representing Aruku Constituency in Andhra Pradesh.

Shri Hussain Dalwai (represented by his LAMP Fellow Ms Manasi V.), Rajya Sabha Member from the Indian National Congress, Maharashtra, also an ex- Trade Unionist, Journalist and Writer by profession.

From the updates and issues that were shared by the participants it was apparent that even after eight years of implementation of the Act recognition of CFR rights remains slow and tardy, except in a few pockets in the country. Participants collectively observed that this was because of extremely weak political and administrative will and support towards implementing the law. Four major underlying reasons were felt to be the cause of this weak Will to implement the law; **Macro-economic policies in favour of industrial development; Strong push from the forest establishment to retain and reassert their control over the forests; Continuing faith in exclusionary conservation policies; and finally the state nodal agencies financially and human resource wise not strong** enough to deal with the impacts of the above factors.

Following key issues in the implementation of the CFR provisions were brought up by the participants:

1. **Non implementation of CFRs in forest areas proposed for forest diversion for non forestry purposes**: Many examples, presented by the participants show a strong resistance in implementation and even violation of the Act in forest areas proposed for diversion for various projects:
   - Rights recognition processes being delayed and stagnated where development projects are in the pipeline such as in states like Goa, Odisha and Chhattisgarh
   - The mandatory process of completing the recognition and vesting of rights (particularly CFR rights and rights of PVTGs) and obtaining consent from the Gram Sabhas of affected villages has not been complied. Rather certificates and reports have been sent by the district collectors which don't reflect on the FRA implementation for the proposals to be sent to the Central Government by the State Governments for forest diversion
   - Forest Advisory committee (FAC) is still not proactive while recommending forest diversion in taking into account compliance of FRA. Minutes of the FAC indicate that the fact that gram sabha resolutions are attached with the state government proposal is enough to recommend the forest diversion without taking into account whether or the resolutions consented with or rejected the proposal. This was evident from the case of Kalu dam in Maharashtra, among others
   - Many incidents of lands being handed over for industrial and commercial interests were presented such as the example of the Van Panchayat land in Uttarakhand being handed over to a private company by the state government for setting up an international education institution, without the consent or even consultation with the concerned villagers.

2. **Conflicting legal regimes and obstruction by the Forest Department:** The potential of CFRs in changing the overall forest governance in the country is evident already from a small sample of examples where local communities have asserted their rights over their CFRs and are managing them to strengthen local livelihoods, economic growth and biodiversity conservation. Participants from all the states shared experience of how the forest department is obstructing and undermining the CFR rights and authorities of Gram Sabhas through various programmes, schemes, policies and Acts. This is evident from some examples like given below, among many others presented:

   - Participants across the states raised concern regarding the decision taken by the central government and the MoEFCC to open up 40 percent of the forests in India for private sector. The MoEFCC has issued specific guidelines in this regard which require the state

governments to initiate the process of identification of the forest lands which can be handed over to the private companies through MoUs. State governments have already swung into action to actualise this as was reported from Maharashtra, MP and Chhattisgarh. Privatisation of forests is clearly antagonistic and violative of the legal democratic governance and management framework established under the Forest Rights Act which extends to all forest lands accessed and used by tribal and forest dwellers in India.

- Maharashtra and Madhya Pradesh have brought into effect the Village Forest Rules under the Indian Forest Act 1927, thereby undermining the Forest Rights Act and Panchayat Extension to Scheduled Areas Act, by an Act of the colonial government. While the Ministry of Tribal Affairs has asked for withdrawal of the VFR notification by Maharashtra, the VFRs however continue to be implemented with active support from the forest department and the MoEFCC.
- Though CFR is now recognized as a new legal category of forest to be governed and managed by the Gram Sabhas but the forest department continue to carry out forestry operations in the CFR areas in violation with the FRA provisions. This was presented by many villages including Shankarpur in Gadchiroli.
- Massive plantations are being carried out forcefully on lands claimed under CFR or shifting cultivation fields of PVTG in many states. Serious cases of violations are particularly reported from the states of Odisha and Andhra Pradesh and Telangana. Intensive conflicts were reported from the state of Telengana where the state government and the forest department is implementing the Harita Haram project which is a flagship program launched by the state govt to carry out plantation in the individual and community forest lands.
- Continuing interference by the forest department in the claim recognition process at various levels including by stalling the process of claim verification and recognition at SDLC and DLC levels as was reported from Odisha and Chhattisgarh.

3. **Continuing dominance of strictly exclusionary conservation practices and displacement from protected areas:** In complete disregard of the legal provisions under the Forest Rights Act and the Wildlife Protection (Amendment) Act, 2006 tribals and forest dwellers are being relocated from the protected areas particularly from the tiger reserves. This is despite strong emerging evidence that co-existence of people and wildlife is possible as brought out Aby the participants from BRT Tiger Reserve in Karnataka. Indian National Tiger Conservation Authority reported an increase in the number of Tigers in BRT from 35 to 68 between 2010 and 2014, despite the presence of 62 Soliga villages located inside and using the forest. 25 of these villages have also received their CFR titles. The exclusionary conservation mindset and approach is ensuring that:
   - Claims filed under FRA within protected areas are not processed
   - Relocation is taking place forcefully or proposedin violation of FRA from Tiger Reserves such as Panna in Madhya Padesh, Achanakmar in Chhattisgarh, Simlipal in Odisha.In Simlipal Tiger Reserve, local communities have claimed their CFRs with the help of the state administration and civil society, only to be relocated subsequently without any clarity on what happens to the rights which have been claimed and are non-alienable.
   - Not only in tiger reserves but large number of villages are also notified for relocation within the newly identified elephant corridors in Chhatisgarh.
   - Lack of required capacity and adequate resources within the Tribal Development Departments – nodal agencies at the state level: Llack of adequate human and financial resources and training has lead to lack of awareness and limited capacity with the state nodal agencies to support ground level implementation of FRA, this lead to the situations presentedby participants from different states as mentioned below: The provision of CFR rights is still not implemented in many states like Uttarakhand, Rajasthan, Jharkhand, Chhattisgarh, Himachal Pradesh, among others.

- Lack of awareness about the Act and its provisions within the nodal agencies at all levels even after eight years of the Act coming into existence.
- No facilitation and support to the gram sabhas for filing their claims except in a few pockets in the state of Maharashtra and Odisha
- Large scale claims are still pending at SDLC and DLC levels
- Large scale rejection of claims without any information to the gram sabhas and claimants.
- Illegal conversion of unsurveyed settlements and forest villages into revenue villages in the like Chhattisgarh and Uttarakhand without following the prescribed guideline of MoTA.

4. **Lack of adequate human, financial and capacity building support to Tribal Development Departments – nodal agencies at the state level:** Lack of human and financial resources and adequate awareness and capacity within the nodal agencies has lead to inadequate support to the ground level implementation process leading to some of the below mentioned issues:
   - FRA in general and CFR rights provisions in particular are still not being implemented in many states like Uttarakhand, Rajasthan, Jharkhand, Chhattisgarh, and Himachal Pradesh.
   - Despite the Act being in existence for eight years the nodal agencies and various committees at all levels lack awareness about the Act and its provisions.
   - No facilitation and support to the gram sabhas for filing their claims except in a few pockets in the state of Maharashtra and Odisha.
   - Large scale claims are still pending unprocessed at SDLC and DLC levels, many stalled by the forest department.
   - Large scale rejection of claims without any information to the gram sabhas and claimants.
   - Illegal (without following the prescribed guideline of MoTA) conversion of unsurveyed settlements and forest villages into revenue villages like in Chhattisgarh and Uttarakhand.

These issues presented by the participants were taken note of by the Members of Parliament who attended the consultation at various points in time. The MPs in response assured support in taking up the issues at the government level.

Binoy Viswam of CPI said that CPI has been in total support of the Act from its inception and continues to stay committed to its meaningful implementation. He emphasised that the biggest cause of forest degradation in the country and threat to both the tribals and forests were the national economic and development policies.

Shri. Binoy Viswam

Kotapalli Geetha of Yuvajana Sramika Rythu Congress Party shared her own experience of Eastern Ghats where FRA was being violated to facilitate bauxite mining. She expressed her complete commitment and support to ensure that FRA is not violated for industrial interest at the expense of the local tribal and forest dependent communities.

Ms Kotapalli Geetha

Faggan Singh Kulaste from BJP said there were no two opinions about the need to implement the Act and he will do what he can to ensure that implementation hurdles are removed.
Hussain Dalwai, INC Rajya Sabha, could not attend himself but in a statement that was read out by his LAMP Fellow expressed all possible help towards implementation of the Act.

Future Actions

One of the major concerns and a critical issue raised by nearly all participants and discussed at length was that even after 8 years of FRA being in existence; it is very far from achieving its full potential of undoing the historic injustice on tribal and other traditional forest dwellers. A Rights and Resources study puts the minimum potential for CFRs in the country to 40 million hectares of approx 70 million hectares of forested land (i.e. 57% of the total forest land). However, the maximum estimate of forest land over which CFRs have been recognised so far is not more than 2%. The participants expressed a grave concern about this abysmal record and deliberated upon ways by which atleast the minimum potential of the Act could be reached. Given below are some of the actions that the participants discussed were needed to be taken at the ground level and the policy level.

The participants urged the members of Parliament to take up the issues related to implementation hurdles, in their respective constituencies as well in the Parliament.

Expressing their support to MoTA and the stand that MoTA has so far taken as a nodal agency, the participants appreciated all the guidelines and clarifications that have been issued by MOTA. The participants strong felt however that the state level nodal agencies needed to be urgently strengthened and empowered (including through human and financial resources) to handle the implantation hurdles being faced by the communities on the ground. They also felt that many of the clarifications and guidelines that the MoTA has issued have either not reached the states and DLCs and SDLCs or are being ignored while implementing the Act.

Actions to be taken up by the nodal agencies

MoTA

- MoTA needs to take stronger action to ensure that the implementation of the Act begins in the states where it has not begun or where it is moving very slowly, such as Uttarkhand, Jharkhand, Chhattisgarh, Himachal Pradesh, Rajasthan, among others.

- The ministry needs to coordinate with the state governments to create district wise baseline data on potential CFRs. This data needs to be used as a benchmark to assess and monitor reports being sent by the states on the FRA implementation status.

- MoTA needs to intervene with the MoEFCC to withdraw the guidelines issued for privatization of forests in violation of the FRA. Following the guidelines some states have already planned meetings with the private companies to work out MoUs, e.g Maharashtra and Madhya Pradesh. Considering that these forests for which these MoUs are being drafted are potential of existing CFRs, an intervention is urgent.

- Village Forest Rules are already being implemented in the state of Maharashtra, despite various clarifications and objections raised by MoTA. On the similar lines Madhya Pradesh has also now notified their Village Forest Rules. MoTA needs to have a clear position on this for all states and in line with the letters sent to Maharashtra government on VFR, letters are needed to be sent to all states which have either drafted their own VFR or are in the process of doing so.

- It is clear from the data on MoTA's website that the reporting from the states' is still not in the prescribed format, giving disaggregated information on Community Rights (Section 3 (1)), Community Forest Resource Rights (Section 3 (1)i) and Development Rights (Section 3 (2)). State Level Monitoring Committees are required to be held responsible for ensuring that this data is provided by all districts to the state and state to the centre. This reporting also needs to represent women's participation in the process and data on titles jointly held by men and women.

- MoTA needs to be represented on Forest Advisory Council (FAC) to ensure that FRA requirements are being complied with and gram sabha consent/rejection is being taken into account while recommending forest clearance.

- While dealing the claims of the OTFDs, much confusion exists regarding the evidence to be produced for "living in and dependent on forests" for 75 years. In the states like Uttarakhand evidences are being asked from individuals claiming forests rights for proof of 75 years, even in case of communities such as Van Gujjars and others who are traditionally known to be dependent on forests. There is an urgent need to clarify (as per the definition of OTFD in the Act) that, if there is an evidence that a community has traditionally been forest dwelling, then evidence of 75 years will not be required. It would be sufficient for such communities to provide evidence of being in possession of land as on 13th December 2005.

For nodal agencies of the State government:

- The state nodal agencies must translate and make available to all FRCs, SDLCs and DLCs all the clarifications and guidelines that the MoTA has issued for the implementation of FRA. This includes clarifications on seeming contradictions on other laws. Nodal agencies must ensure that these clarifications are adhered to by all concerned departments of the state government.

- On the similar lines nodal agencies need to ensure that all MoTA guidelines are being followed while implementing the Act. Particular emphasis needs to be given to reinforce that Gram sabha is the final authority for recognition of rights and their assertion. No agencies government or private should be allowed to violate gram sabhas rights and responsibilities.

- More training and awareness programs at the village level, SDLC level and DLC levels are needed to be conducted. Such programmes should include as participants a mix of actors including local people, local PRI representatives, SDLC, DLC members, FD staff among others.

- Training of Trainers are needed to be conducted at the District Level and review and stock taking of what the trainers have been able to achieve is needs to be conducted at regular intervals and communicated to the SLMC.

- Nodal agencies need to support facilitators who can help gram sabhas in the filing claim. These facilitators need to be well trained and well versed with the provisions and processes under the Act. They must have an experience of having worked with gram sabhas and need to work closely with the local people's movements and/or civil society groups also engaged in facilitating CFRs in their region or other regions in the state.

- District wise data on claims filed and rights recognised needs to be collated and provided to MoTA in the prescribed format. This data must provide separate information on individual rights and community rights under Section 3 (1), rights under 3 (1) i and development facilities being provided under 3 (2) of FRA.

- Separate data needs to be maintained and reported on women's participation in the processes related to FRA. Separate data also needs to be maintained on whether or not the titles granted under FRA are joint held by men and women in a family.

- Regular Meetings and experience sharing need to be organised to review the implementation process. Such meetings must include FRC members, local people's movements and civil society groups, in addition to government agencies responsible for implementation of the Act.

For the Collective Action of the participants and other civil society actors

- Civil society groups need to generate a Community Forest Resources Movement by coordinating all our efforts at the local, regional and national levels. A greater coordination between local people, people's movements, civil society groups, academics, researchers, etc is the need of the hour. Different people with different capacities and different strengthens need to come together for the Movement.

- There is a need to increasing the network of actors to support CFR initiatives. Currently, a few groups and individuals are being asked to help in all regions. Local people, civil society groups and individuals in each state need to be trained by organising district level and state level meetings and developing district level and state level expertise.

- Regular meetings of all concerned actors and sharing of experiences among them is needed at district and state level. Meetings at the national level also need to continue to be organised.

- Support to civil society groups in a sustained manner to help facilitate process where needed.

- Developing new alliances, particularly with people's representatives at all levels is needed.

- The concern that the gram sabha consent is not being sought either for forest diversion for development project of while relocating people from protected areas needs to be brought out and more clearly and strongly with clear case examples.

- Round table on FRA needs to be organised for MPs during the budget session through Centre for Policy Research.

At local sites by participants and others

- Information about the Act and its provisions relating to CFRs still need to be spread more efficiently using methods such as "community radio" and by facilitating people to people learning. Local people who have filed claims and whose rights have been recognised could help facilitate similar processes in other villages. More exchange visits for one community to anther need to be facilitated. Such exchanges seem to have maximum impact in spreading the message and communities taking up claim filing as well as CFR management.

- Developing a clear understanding and approach among civil society actors that process of assertion of CFR rights is not merely an administrative procedure to get "*pattas*" over land but is a political process which requires the entire process of claiming rights, mapping and recognition of rights to lead towards developing a political consciousness.

- Where CFR rights are not being recognised despite many efforts at all levels, taking in consideration the spirit of FRA CFR rights need to be asserted by demarcation and declaration of the CFR rights by the gram sabhas.

- Stories, issues, successes, related to CFRs are still very few and confined to limited networks and constituencies. It is important to create strong, diverse and many narratives about these to disseminate extensively to a large network of people at all levels. Such narrative however, must come from the people themselves and conveyed by them, in their own ways.

- Various means can be used to disseminate these narratives, including through effective and constructive use of social media.

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