

NATIONAL CONSULTATION ON COMMUNITY FOREST RIGHTS, NEW DELHI

10-11 MARCH, 2012

(SUMMARY REPORT)¹

A two day National Consultation on Community Forest Rights (CFRs) was held in New Delhi on 10th and 11th March. The consultation was organised by Kalpavriksh and Vasundhara on behalf of the CFR Learning and Advocacy Group in collaboration with Oxfam, FES and GEF-SGP. The objective of the consultation was to raise certain institutional and governance issues being faced in implementation of Community Forest Rights provision of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of forest rights) Act (2006) with the Minister of Tribal Affairs as well as to decide on follow up actions for the various civil society organisations engaged in advocacy for CFRs. The consultation was attended by civil society organisations, independent researchers and conservation NGOs (List of participants annexed).

ISSUES

Information gaps in MoTA status reports: Poor or incorrect reporting of CFR claims and titles information in MoTA monthly reports was a major issue brought up by many participants.

Section 3(1)(i): Provision for claiming rights under Section 3(1)I to protect, conserve and manage forests was missing in MoTA CFR format. This right was also not recognized in many CFR titles and discouraged by improperly recognizing in JFM/VSS areas instead of customary boundaries.

PTGs and Pre-agricultural communities: No clarity on 'habitat' rights and no consideration of their customary boundaries. Recommendations of National Workshop (2010) on PTGs have so far been ignored in implementation of Forest Rights Act.

Traditional resource rights of nomadic communities: No nomadic/seasonal pastoral community has yet received CFR rights. There is no mechanism to assist their claims in multiple gram sabhas

Rights on shifting cultivation lands are mostly being treated as IFRs over *currently* cultivated plots (e.g. Tripura). Due to this rest of jhum lands can then unjustifiably be treated by forest dept as 'encroachment'.

Rights of OTFDs: CFR titles have only been given to very few OTFDs till now. Even claim filing by OTFDs is being discouraged by GS/SDLC in many cases. There have also been problems with interpretation of OTFD eligibility (with some falsely interpreting it as 75 years of occupation of land instead of 75 years of habitation) and getting evidence of 75 years.

Rights in protected areas- There has been no implementation of CFRs in most protected areas. In some cases SC order of 2000 is being used as an excuse to deny rights. The process of notification of Critical Wildlife Habitats or taking out guidelines for the same has also been stuck.

Illegal relocation

WITHOUT FRA IMPLEMENTATION, NOT OFFERING OPTION OF STAYING ON WITH

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RIGHTS

(e.g. Simlipal, Achanakmar, Tadoba, Sariska, Melghat Tiger Reserves)

Forest/ 'invisible villages Conversion of forest villages to revenue villages and recognition of their CFRs remains unclear. In absence of any central guidance, there is poor identification and negligible claims process in such so-called unauthorized settlements.

FRA violation in diversion of forest land for mining, dams, industries, etc.

Post title governance and management- There is a lack of clarity regarding relative powers/roles of Gram Sabha and Forest Department in forest governance, validity of FD working plans and on how to ensure convergence of various schemes in the post-titles scenario.

Conflicting laws, policies, and programmes: Provisions of JFM resolutions in some states, Green India Mission, REDD, LAA, MMA, WLPA, IFA, State Panchayat laws which contradict Forest Rights Act continue to operate in many states.

MFP governance- With the exception of Mendha Lekha, transit permit powers still remain with FD and MFP nationalisation (of some or many species) continues in all states.

RECOMMENDATIONS

Strengthening National, state, district, and village/local level processes of ensuring implementation. This can be achieved through means such as making regular progress reports by districts and state governments publicly available and having a disaggregated CFR claim information format for status reports on MoTA website.

Implementation: pre-claims / claims / recognition phase

MoTA needs to launch into a completely focused mass campaign facilitating CFR awareness and training and proactive facilitation in claim filing. Recommendations for this include production and distribution of simple but accurate guides in local languages, sub divisional level training programmes and use of mass media.

Implementation: titles, post-title management MoTA should issue circular to states for measures such as not excluding any villagers from CFR titles, not imposing conditions outside FRA in titles, including full area in titles as per customary boundaries, registering rights in revenue and forest records, encouraging and facilitating conservation in post-rights scenario and NTFP denationalization with minimum support price.

Special mechanisms for vulnerable groups: PTGs, nomadic/seasonal pastoralists, shifting cultivators and people living in forest villages should be given special attention. MoTA circular on forest villages should be withdrawn. A mechanism needs to be created so that nomadic communities can claim rights to multiple gram sabhas. Recognition of PTG rights should be declared suo moto as per customary boundaries.

Protected areas / Critical Wildlife & Tiger Habitats MoTA should set up an investigation team to look at FRA violations in past/ongoing relocations and recommend action. There should also be a mechanism to monitor FRA implementation in PAs and monitor conservation outcomes. FRA provisions need to be strictly implemented in PAs. Guidelines on CWH should follow knowledge-

based, democratic processes, respecting rights, stressing co-existence and minimising relocation. Ongoing relocation should be stopped until the rights recognition processes in PAs are complete and cash compensation option should be withdrawn.

Comprehensive MoTA G.O. on CFRs to clarify various issues to states There was also a suggestion of *add to GO on CFRs, to respect customary boundaries*

Governance reforms (at landscape/state levels) In order to facilitate planning at landscape and larger levels, monitor forest conservation and use and ensure convergence of schemes, District level agencies, a State level council and Joint management committees for conservation landscapes need to be set up with participation from Forest Department, Gram Sabhas, NGOs and other experts.

Governance reforms (at state/national level) The Indian Forest Act needs to be significantly modified, and other laws like WLPA, FCA, Biodiv. Act, Panchayat Act/PESA need to be harmonized in view of FRA. The National Forest Policy also needs to be revised to include a greater focus on rights and community-based governance (along with conservation). *For governance reforms, MoTA should set up committee to review and recommend specific changes / additions to laws and policies*

SUGGESTED NEXT STEPS FOR MOTA:

1. MoTA to consolidate recommendations and prepare time-bound workplan to ensure follow up.
2. MoTA to host dialogue between central ministries, state govts, and civil society, for concrete ways forward
3. MoTA and civil society to hold public consultations in different states/regions of India

COMMITMENTS IN CFR PROCESS BY MINISTER, MOTA

1. MoTA holding a consultation with other ministries on this issue, and including civil society members in this.
2. A special cell in MoTA to monitor and facilitate implementation of Forest Rights Act.
3. Participation of MoTA in certain regional consultations on CFRs to understand and address context-based local issues (for which we will send you a proposal soon).
4. Addressing specific violations as and when brought to notice.

FOLLOW UP ACTIONS BY PARTICIPANTS

On 11th March, participants discussed among themselves the major points/ issues which need combined or further study or information in order to understand better the nuances of the CFR provision of Forest Rights Act. The actions decided during this discussion are annexed as Annexure 1. The actions were decided with the view to synergise efforts on better documentation and understanding of Community Forest Rights.

Annexure 1

Follow up actions (as decided on 11 March, 2012)

Action	Responsibility	Timeline	
Note on common gram sabha definition (incl. current status, need for /possibility of central PESA rules, need for legal changes)	Mohanbhai, Adv. ND Suryavanshi		
Note on FRA-PESA linkages	Dilip, Tushar, Pratibha, Madhu		Include current processes of PESA rules in states, how PESA is being used to counter FRA / complement FRA
Note on staying all leases/contracts/ outside operations in CFRs/claimed/potential CFRs, using Sec. 4 (use for advocacy; also briefing note for wide circulation)	Tushar		Examine tenability of this argument in areas where claims not made (though process has started); give examples where this has been used to stop ongoing operations
Note on convergence for CFRs	Dilip	8 days	
Specific cases of violation to be sent to MoTA 1. Yawal WLS 2. Forest villages Nandurbar 3. PAs in Chhattisgarh / CFR-mining leases 4. Paper mill Gujarat 5. Chhattisgarh formats 6. Ecotourism Mayurbhanj 7. Melghat	1. Pratibha		
	2. Pratibha		
	3. Gautam		
	4. Trupti		
	5. Kanta		
	6. OJM		
	7. Khoj/KV		
	8. 4 groups		
	9. Subodh		
	10. KV		

<p>8. Kumbalgarh</p> <p>9. Paper mill Gadchiroli</p> <p>10. Bhimashankar windmill</p> <p>11. Sariska</p> <p>12. Lavasa</p>	<p>11. Shiba</p> <p>12. Lata</p>		
<p>Status report on CFRs (to use also as monitoring)</p> <p>1. National (based on inputs from groups from states/sites)</p> <p>2. Maharashtra</p> <p>3. Gujarat</p> <p>4. Chhattisgarh</p> <p>5. Rajasthan</p> <p>6. Jharkhand</p> <p>7. W. Bengal</p> <p>8. AP</p> <p>9. Odisha</p> <p>10. Dadra-Nagar Haveli</p>	<p>1. KV</p> <p>2. Subodh</p> <p>3. ARCH-Vahini</p> <p>4. Gautam</p> <p>5. Yash</p> <p>6. Sanjoy</p> <p>7. Swarup</p> <p>8. Suresh (CPF)</p> <p>9. OJM/Vasundhara</p> <p>10. Lata / Vipul</p>		<p>Add to CFR info format, census / FSI records / digital/SOI maps</p>
<p>Information gathering format for ourselves, state nodal agencies, & MoTA</p>			<p>Separate 3(2) from rights</p> <p>Disaggregate subsections of 3(1)</p> <p>(use Odisha format as model?)</p>
<p>Note (Vasundhara) pointing out MoTA circular faults: circulate to groups</p>			
<p>Disc note on NTFP support price / purchase mechanism: review proposed mechanisms by states and GOI, propose our position</p>	<p>SPWD (Viren)</p> <p>Subodh (Gadchiroli case study)</p>	<p>End-April</p>	
<p>Note on myths and realities</p>	<p>Lata</p>	<p>Early April (draft)</p>	

Note on State level monitoring of FRA in Odisha	Vasundhara		
Note on PTG habitat rights process in Odisha	Vasundhara		
State/regional consultations 1. Chhattisgarh 2. Jharkhand 3. N. Mah 4. Melghat 5. Rajasthan 6. Vidarbha	1. Nadi-Ghati etc 2. NFFPFW 3. Pratibha 4. Khoj 5. FES etc 6. VLF etc	1. End-April? 2. End-april? 3. April 4. May 5. ?? 6. 24 March	
Information system: central Website Regular update/newsletter	Vasundhara All other groups to provide info/cases/circulars Link existing websites	Up by 15 th March	
Regional information hub Eastern (Odisha, Jharkhand, W. Bengal) Western (W. Mah, Raj, Guj) Central (E. Mah, MP, Chhattisgarh) Southern Northern North-eastern	Vasundhara KV Paryavaranvigyan.org		
Note on use of maps to generate village data	Vasundhara		

Case on CFRs and waterbodies	Dilip		
Letter on JICA on plantations in forest land and violation of forest rights	Shiba, based on Yash (Raj), Gautam (Chhatt.), Trupti (Guj)		
Letter to Government of India on issues and concerns regarding Green India Mission	Mamata / SPWD to share existing letters; Tushar to send draft letter; frame new draft		
CDB COP11 mobilisation (CFRs, commons, BD Act, etc?)	KV to circulate mail on issues/possibilities	Decide by May on strategies	

CFR Learning/Advocacy process

Core group: Vasundhara, KV, VNCS, SPWD

All members to be put on googlegroup

Subgroups:

- *Post rights management*- Mohan H. H., Vasundhara, Roma (NFFPFW), Yash, Dilip Gode, Subodh Kulkarni, Nitin Rai, Lata, Madegowda, RCDC
- Protected Areas- NFFPFW, Gautam Bandopadhyay, Yash Sethia, Vasundhara, KV, ATREE, Viren Lobo, Pratibha
- Forest Village/Nomadic communities/PTGs/ Jhumias- NFFPFW, Viren Lobo, Vasundhara, RCDC

Annexure 2

List of Participants who attended the March 10-11 Meeting

State	Organization/group	Contact address
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