

**FACT FINDING REPORT ON FOREST LAND RIGHTS CONFLICTS AND SEXUAL
HARRASSMENT OF WOMEN-THE CASE OF SANIYA BASTI IN KHATIMA,
UTTARAKHAND**



December 2018

Prepared for Community Forest Rights-Learning and Advocacy Process

Supported by Rights and Resources Initiative

This report is based on a visit to the village on 6th of December 2018 followed by meetings with the ADO Khatima on the 10th of December 2018, During the visit the team spoke with the villagers, particularly women; ADO, Khatima, Inspector in charge, Khatima Police Station. Our attempts to meet the forest staff were not met with success.

This report has been prepared by Meenal Tatpati and Neema Pathak Broome, members of Kalpavriksh and representatives of the Community Forest Rights-Learning and Advocacy process. Other members of the team involved in the investigation included Tarun Joshi and Gopal Lodhiyal from Van Panchayat Sangharsh Morcha; Heera Jangpani Rautela from Mahila Kisan Adhikar Manch, Shafi Muhammad from Van Gujjar Sangathana, Uttarakhand and Munish Kumar from Samajwadi Lok Manch.

I. INTRODUCTION

Saniya Basti is a settlement under the Bilhari Gram Sabha of Chakarpur, Khatima Tehsil, Uddham Singh Nagar District in Uttarakhand. On the 24th of November 2018, a skirmish took place between some women from Saniya Basti and local forest guards. The guards had brought in pillars and wires to fence off land, which was being cultivated by Sania Basti, claiming that it was a Reserved Forest (RF) under the jurisdiction of the forest department. The forest department claimed that these pillars were removed by the women in an attempt to occupy forest land. In the events that followed, cases have been registered against the women for allegedly physically assaulting the forest staff.¹ The villagers claim that they have been facing harassment from the forest department, and politically strong local land mafia, supported by the police department for over a year and half now. This in an attempt to evict them from the land that they claim they have occupied since before 1970s. As is often the case the brunt of this conflict between the government authorities, land mafia and voiceless villagers is being borne by woman of all ages who have been facing regular verbal, psychological and physical sexual abuse in these months.²

1. Land conflict in Saniya Basti

Sania Basti is one of the settlements on the unoccupied land belonging to the irrigation department on either sides of the Sharda irrigation canal. Reviewing various documents available with the villagers and also submitted to the High Court in a petition that they had filed in 2018, it appears that the land conflict over the land that the villagers have been cultivating has been going on for a long time, with the district administration carrying out several joint inspections to determine the legal status of the land in question. A letter dated 02.11.1976 from the Forest Department to the district administration as a response to DC's letter states that a decision was taken on 20.05.1975 as per G.O. No. 3128/14-2 1975 to allocate one acre per person on taungya practice based cultivation for a period of 5 years to the landless, scheduled caste communities which have moved here from the hills. In the letter, the Forest Department denied the allegations made by the villagers about charging Rs 500 – 1000 for issuing lease pattas to the villagers, while stating that, "they are not delaying the process of allocation of acre/person to 150 villages for cultivation as per Taungya practice for a period of 5 years".

Subsequently, there are again exchanges between the forest department and the district administration in 1979 when the villagers registered a complaint that forest department is carrying out tree plantations on the lands which have been leased out to them. Following this, the Kumaon Ayukt carried out a field survey and verification on 04.07.1979 and called for a consultation among all parties. It is not clear from the documents whether or not this consultation took place or if it did what follow up actions were suggested.

¹ See Attachment 1

² See Attachment 2

The next exchange of letters is a letter written by the Land Survey and Settlement office , Terai-Bhabhar, Haldwani-Nainital (as this area fell under Nainital district then), dated 03.02.1981 to the Van Bandobast Adhikari, Nainital, the land on both sides of Sharda canal was occupied by members of the landless Scheduled Caste communities since before 1973. The letter also indicates that a joint survey was done of the forest land being cultivated by the resident villagers and the forest posts were not found where they should have been and hence were brought back to their original place.

In a letter dated 1983, the District Collector of Nainital has written to the Divisional Forest Officer, Terai West Forest Division, Pilibhit; that the land in question (which is cultivated by the villagers) was transferred to the Revenue Department as per the Gazette Notification Letter No. 7941,2333 dated 15th May 1960. The said land according to the letter belongs to the revenue department and not the forest department. Further, the District Collector requested the forest officer to not harass the villagers or attempt to evict them by breaking their huts. This letter also gives reference to the 1981 joint inspection.

As per the personal conversation with the villagers at the site on 7th December 2018, the villagers have been cultivating the land for more than 25 years. Apart from that, the forests are also being used for collecting firewood, Non timber forest produce and for grazing their animals.

According to the villagers, while the forests department in the past few years, visited the area occasionally, there was no attempt to evict them or to fence off their farm lands till early 2017. Around that time 8-10 politically powerful people from Chakarpur came to the village and started encroaching the land, cutting trees and settling people on the land. Eventually, some of the land already being cultivated by Saina villagers began to be fenced off by these people.

When the villagers, especially the women, started questioning and preventing the fencing of their land, they were abused including sexist and caste-based abuses. The villagers claim that the fencing of their land is being carried out by the forest department which is in collusion with the land mafia and local political goons.

2. The status of claims filed under the FRA

In the meanwhile, the villagers (Bilhari) had filed 101 Individual Forest Rights (IFR) claims in 2014 over the disputed forest land. However, subsequently the Sub Divisional Level Committee (SDLC) claimed that these files have been misplaced and cannot be found. This claim of the SDLC was made in a response of the state government to the High Court, in a petition filed by the villagers in 2018. This petition was filed to establish the legal position of the land in question and to initiate the process of recognition of their rights on the land under the FRA after the clashes with the forest department began in 2017. In its Judgement dt. 31.05.2018, the High Court referred the matter to the State Level Monitoring Committee (SLMC) for the implementation of FRA. The court also directed the forest department and revenue department to jointly verify the area and ascertain the legal position of the disputed land. This verification has not yet happened. The SLMC directed the District administration to take the needful action

towards processing the claims. The DM directed the nodal agency in the state i.e. the Samaj Kalyan Vibhag to take further action. The Samaj Kalyan Vibhag wrote a letter to all concerned agencies on 10.08.2018 about implementation of FRA. To this the response was that no claims from the village were pending at the SDLC or DLC. Villagers on the other hand claimed that in their knowledge the SDLC had already forwarded the claims to the District Level Committee (DLC). Tired of the state's passing the buck game, the villagers from Saniya Basti in the meantime re-submitted 52 of the claims from their village³. These were given to the ADO Khatima on the 27th of October 2018.

3. Proof of being Other Traditional Forest Dwellers (OTFD): a reason the deny rights

In a discussion with the Additional Development Officer (ADO) on the 10th of December 2018, it became very clear that there was little clarity and awareness about the Forest Rights Act within the department. Among the major issues for the claims in this area not moving ahead, like elsewhere in Uttarakhand, was the insistence on the part of the state government on documentary evidence for being resident and dependent on forests for 75 years (a universal misrepresentation of the Act which asks for evidence of 3 generations). Although the 2012 Rules clarify that there should be no such insistence on documentary evidence if any of the 2 mentioned evidences have been attached. In these claims, like elsewhere in the state, oral testimonies of community elders above 75 years of age have been attached to show dependence on forests for three generations. Consequently, the Samaj Kalyan Vibhag, which now has the new set of claims, insists that documentary evidence apart from oral testimonies is necessary to prove existence on forest land for over 75 years prior to 13th December 2005.

4. Sexual Violence against women – Based on testimonies recorded in the village

On the 24th of November 2018 the Forest officer Ashok Kumar Gautam (Van Daroga), Jatendera Bhandari (Forest Guard), Mohan Rana (Navar), Santosh Bhandari (Van Daroga) Girish Chandra Bhatt (Van Daroga), Viredra Singh Bisht (Ranger) came with tractor-trolley and other vehicles and entered the village. They accused the women of removing the boundary wires and fencing, on part of the forest land. The women insisted that they had not removed the wires. The group of men began to threaten the women using abusive sexual and caste-based slurs and made obscene gestures towards them. The villagers went to the police station to file a complaint against the forest staff and their obscene and abusive behavior. At the police station, the forest department staff were already present and humiliated the women again in the presence of the police. The women allege that the police officers did not stop this and refused to file their complaint. On the contrary, an FIR was filed against the women for obstructing government officials from carrying out their duty and for physically attacking forest officials on duty. Already facing harassment the villagers had to then go through additional financial and psychological

³ It appears that these claims were re-submitted by the FRC, and not through the gram sabha as the Gram Pradhan is in cohorts with the land mafia and local political interest groups who want possession of the land. These were claims of the villagers who do not want to give up the land under cultivation.

harassment of approaching the High Court through a lawyer to get anticipatory bail and prevent arrest of the 20 women against whom the FIR was filed. Since then however the harassment by the forest staff continues creating an environment of fear and gloom in the village. As narrated by the women on the 3rd of December 2018, forest staff along with the police forcefully entered some houses, threatened women and children and asked them to give them their Adhar cards and other identity cards, which was taken and has not yet been returned, without any information or explanation about why it has been taken. ⁴

After meeting the villagers, our team visited Khatima Police Station and met the Prabhari Nirikshak (Inspector in charge). Unfortunately his response to the question on why complaint from the women against the forest staff was not registered, were dismissive and disappointing. He said since the forest staff had already filed a complaint against the women” and the police cannot start filing FIR for everyone who comes to file a complaint”! When pointed out that it was the responsibility of the police to file complaints of sexual harassment, he claimed that no reference to any sexual harassment had been made till then and it was the first time he was hearing that this was the case! Although he reassured the group that he would make sure that no harassment takes place, all in all there has been little impact of this meeting on the lives of the villagers. The FIR remains not filed and even as this report is being written villagers report continuation of harassment and threats.

⁴ See Attachment 3

ATTACHMENT 1: Photograph of the FIR against the women

N.C.R.B (एन.सी.आर.बी)
I.F.-1 (एकीकृत नॉच कार्म - I)

FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C.)
प्रथम सूचना रिपोर्ट
(धारा 154 दंड प्रक्रिया संहिता के तहत)

CIVIL JUDGE (S.D.) JAC J.M
KHAJURA
26/11/18

Year (वर्ष): 2018

P.S. (थाना): बटौमा
Date (दिनांक): 24/11/2018

S. No. (क्र.सं.)	Acts (अपराध)	Sections (अनुच्छेद)
1	भा द स 1860	147
2	भा द स 1860	186
3	भा द स 1860	332
4	भा द स 1860	353
5	भा द स 1860	427
6	भा द स 1860	506

1. District (जिला): उधम सिंह नगर
FIR No. (अ.सं. क्र.सं.) 0083

2. (a) Occurrence of offence (अपराध की घटना):
1. Day (दिन): शनिवार Date From (दिनांक से): 24/11/2018 Date To (दिनांक तक): 24/11/2018
Time Period: पहर 1 Time From (समय से): 00:00 बजे Time To (समय तक): 00:00 बजे
(समय अवधि)

(b) Information received at P.S. (थाना जहां सूचना प्राप्त हुई): Date (दिनांक): 24/11/2018 Time (समय): 18:45 बजे

(c) General Diary Reference (रोजनामचा संदर्भ): Entry No. (प्रविष्टि सं.): 047 Date (दिनांक): 24/11/2018 18:45

4. Type of Information (सूचना का प्रकार): लिखित

5. Place of Occurrence (घटनास्थल):
1. (a) Direction and distance from P.S. (थाना से दूरी और दिशा): पूर्वोत्तर, 9 किमी Beat No. (बीट सं.):
(b) Address (पता): आरक्षित यन क्षेत्र उत्तरी, बनवसा कक्ष सं-0-5, चकरपुर बटौमा

(c) In case, outside the limit of this Police Station, then (यदि थाना सीमा के बाहर है तो):
Name of P.S. (थाना का नाम): District (State) (जिला (राज्य)):

6. Complainant / Informant (शिकायतकर्ता/सूचनाकर्ता):
(a) Name (नाम): अशोक कुमार गोतम वन दरोगा
(b) Father's/Husband's Name (पिता/पति का नाम):
(c) Date/Year of Birth (जन्म तिथि / वर्ष):
(d) Nationality (राष्ट्रियता): भारत
(e) UID No. (यूआईडी सं.):
(f) Passport No. (पासपोर्ट सं.):
(g) Occupation (व्यवसाय):
(h) Address (पता):
(i) Place of Issue (जारी करने का स्थान):
(j) Date of Issue (जारी करने की तिथि):

Ar. Distt. & Sessions
KHAJURA
Court Khajura

बटौमा, जनपद उधम सिंह नगर

26/11/18
CORONA

ATTACHEMENT 2:

Testimony of a mother whose 13 year old daughter was molested by the forest staff:

“In early 2018 they (locally powerful people with political affiliation) brought in tractors and bull dozers when our wheat crop was standing in the fields. They were with the forest department and the police force. They put the pillars and wire fencing on the land. We women all gathered and begged them not to do so but we were beaten up. I fainted during this incident and was taken to Khatima by some people. They claimed I was pretending to faint. They took over the cultivated fields, planted bamboo and other trees. They also put some people as watchmen over the plantation. Within three months of these watchmen being there, my 13 year old daughter was molested by them. She was coming back from school one afternoon when it was raining heavily. The watchmen caught hold of her, covered her mouth and took her to the jungle. They threw away her school bag and shoes. She tried to run away but they overpowered her. Afterwards, they dropped her to the ground and caught her neck and also tried to drown her in the pool of water which had formed because of heavy rains. She somehow managed to escape...I don't know how she got that strength...my poor childshe came home frightened, shaken and hating herself. She told us there were two of them one of them wanted to kill her so she will not go and tell what has happened, while the other let her escape. She somehow managed to cross the wires these people had put up. My husband and elder daughter reached by then and asked her what had happened. We also took her to the police station. But instead of writing a complaint they asked us to find the culprits. Where will we find the culprits? We stayed quiet after that because our daughter was alive, and we are poor people, who do we blame? We were scared that they would come to the house and beat up the other children, or even kill the daughter.

This has not stopped with my daughter, this is continuing, a few days back, a young girl was returning from a marriage in the evening and she was also followed by some people on four motorcycles. She had to run home to safety. Recently an old woman had gone to the forest to collect her buffaloes and one of the forest staff unzipped his pants, she was nervous and ran back to the village. It was only when we all went in a group that she could bring her buffaloes back”.

Sania Basti, Khatima, 7th December 2018

ATTACHMENT 3:

Letter of complaint from women to National Commission for Women

To,
The Chairperson
National Commission for Women
Delhi

Sub: Complaint against forest officers for obscene and abusive behaviour towards women

Dear Madam

I, Panu Devi, along with other residents of village Bihairi are settled on the land adjacent to Sharda Canal near Dam, over which we have claimed our rights under the Forest Rights Act, including both individual and community forest resource rights. These claims are still pending.

On 24th November 2018 in afternoon at 12 o clock Forest Department officer Ashok Kumar Gautam (Van Daroga), Jatendera Bhandari (Forest Guard), Mohan Rana (Navar), Santosh Bhandari (Van Daroga) Girish Chandra Bhatt (Van Daroga), Viredra Singh Bisht (Ranger) came by tractor trolley and other vehicles and entered in the front yard of my house. They were shouting loudly and using very abusive language for me. They blamed me for removing the barbed wire boundary. I, along with few other women who had joined me by then, explained that forest department staff have constructed the barbed wire boundary and it was them who had removed it and that me or other women had not done anything. I questioned them for blaming us. We poor residents have not done anything, they were making false allegation on us. After listening our responses, they started using abusive language like - Madarchod, Randi, also other derogatory words like- Chamar, Bhangi, ...ubhra etc. They threatened us and said that they would take us in their vehicle and then only we would speak up the truth.

In most of the house, men had gone out for work only a few women and children were at home. We women asked them not to enter in our house. Then Santosh Bhandari, Ashok Gautam and Mohan Rana unzipped their pants and started showing their penis to all the women. They were doing very obscene actions and shouting in abusive language (Randi) shouted on us that they would take us to brothels in Delhi then only we would learn the lesson and that is the only way to vacate this place.

After that all the villagers went to Police station to file complaint against them on their obscene and abusive behaviour towards us. We shared all the misconduct of forest department staff and humiliation we faced to Sub Inspector Pankaj Kumar. Forest officers followed us to Police station also and Santosh Bhandari shouted on us that he would teach us a lesson if we would come to him by one by one. Then once again Santosh Bhandari started obscene act by unzipping and zipping his pant. Police officer also joined them in the humiliation and started laughing at us. Police became just spectator and they denied to file any complaint against forest officers. No one came forward in support of the women. Later SI Pankaj Kumar, Constable Ramesh Goswami, Forest officers- Ashok Kumar Gautam, Mohan Rana and Santosh Bhandari kept on visiting our village to threaten us.

Again on 3rd December 2018 in afternoon roughly around at 3 o clock, they forcefully entered in our houses and threatened women and children and asked us to show our Adhar cards and other identity cards and they took all our IDs along with them. They are continuously visiting our village and threatening us to leave the village. They terrorised us that they might kill us and our family members and would throw our bodies in near by canal.

The forest officers have been attempting to mark my land and other villager land as forest land and to earn money by joining hands with land mafia. Due to villagers solidarity and joint action, they could not succeed in this act thus they are angry with the villagers. They have taken money from land mafia want to alienate us from our habitation. Forest department persons brought cement polls and barbed wire for fencing to demarcate our land.

Earlier also on our land, forest department tried to plan tress and also constructed water tanks for elephants by using JCB machine.

Forest department officials are putting false accusation on us of encroachment and trying to alientate us from the land we have been living for last so many years. Neither local authority nor police have made any enquiry nor they have come forward to support us. We are threatened and are very fearful. Thus we request you to take strict and prompt action against such an obscene and indecent behaviour towards women by the forest officers, which are offences under the Indian Penal Code, SC/ST Atrocities Act and the Forest Rights Act. I appeal you to support us in getting the justice.

Looking forward for immediate action.
Sincerely

Panu Devi
Sanya Basti, Village: Billaury,
Police Station: Khatima, District: Udham Singh Nagar
Uttrakhand

ATTACHMENT 4

प्रेषण : जिलाधिकारी नैनीताल,
जनपद - नैनीताल।

47/25
1

सेवा में,
प्रभागिय जनाधिकारी
तीराई पश्चिमी जन प्रभाग
पीलीभीत।

महोदय,

उपरोक्त विषयक परगनाधिकारी खटीमा के पत्र संख्या - जगम/स-सत0टी0/883 दिनांक-13-5-83 का अवलोकन करने की कृपा करें। जितकी प्रतीत इस कार्यालय को पृष्ठानिंकत है।

इस संघ में मुझे यह निवेदन करता है कि जन बन्दोबस्त - अधिकाारी नैनीताल के दिनांक-3-6-81 में इस विषय पर मौके की जांच और अपनी जांच में उन्होंने यह रिपोर्ट दी थी कि मैं खटीमा राजि के उत्तर बनस्ता कम्पाट नम्बर-5 में जो श्री जीतराम पुत्र श्री नर राम ब्रह्म द्वारा पर्वतीय भूमिहान शिाल्पकार समिति की बैल्पडी बनाई है। पैमाइश की जो कि उत्तरी बनस्ता गजट नोटिफिकेशन पत्र संख्या-7-9-4-1 की विज्ञपीत वी-2333/14 दिनांक-15 मई 1960 द्वारा बन्दोबस्त अधिकाारी के प्रमा-पिणत मानचित्र के अनुसार उक्त तीमा पत्थर एक तक के लिये डबलक बन्द करने हेतु विज्ञपीत में उपरोक्त एरिया जन विभाग के कार्य क्षेत्र से बाहर तथा - राजस्व विभाग के क्षेत्र में आता है।

अतः उपरोक्त स्थिति को देखते हुये उक्त भूमिहानों को इस भूमि पर से न हटाने के लिये अपने अधिनस्त कर्म-चारियों को निर्देशित करने की कृपा करें कि वे इन लोगों को इञ्जलो को तोड-फोड न करें तथा आये दिन इन्हें परेस्तान न करें।

भवदीय

कृते जिलाधिकारी नैनीताल।

प्रतीतली परगनाधिकारी, खटीमा को इस आशय से प्रेषित

कि वे तबईधत निम्न समय समय करते रहे परेस्तानियों को देखते रहे एवं अपने - स्वर से कार्यवाही सुनिश्चित करवाये।

2:- श्री जीत राम अध्यक्ष, पर्वतीय भूमिहान शिाल्पकार समिति खटीमा जिला नैनीताल।

कृते जिलाधिकारी, नैनीताल।

ATTESTED
PHOTO COPY

C.S. KANYAL

CHATTISGARH S Nagar
Bilaspur (India)