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# SWIKRUTI

Forest Rights Act Update from Orissa

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As per the projections of Ministry of Environment and Forest (MoEF), more than 50,000 ha of forest area will need to be diverted for coal exploration and production in the next seven to eight years, only for Coal India Ltd. Apart from coal there are many more developmental projects that may require diversion of forestland in the near future. This figure is really alarming!!! But in a significant move the ministry (MoEF) has made it mandatory that any such proposals involving diversion of forestland have to be backed by the consent of the corresponding Gram Sabhas. This radical move to involve the Gram Sabha will empower local people and enable them to switch from being mere onlookers to major decision makers in the protection of their forests and environment.

The recent order issued by the Ministry of Environment of Forests is also a welcome step for giving further *teeth* to the Forest Rights Act, 2006 as it also clarifies that forest lands cannot be diverted without first settling the

individual and community rights of tribals and other traditional forest dwellers. The Dongria Kondhs can heave a sigh of relief with the Forest Minister warning the Vedanta group of prosecution if it resorts to illegal mining at Niyamgiri hills of Orissa. Though 'in principle' forest clearance has been given to the group, it is now mandatory that all provisions of the Forest Rights Act 2006 are complied with, and the consent of Gram Sabhas with at least 50% quorum is obtained before final forest clearance will be considered.

Till now, forest clearance did not require public consent for handing over forest land to project proponents. The Forest Conservation Act (FCA) and the Wildlife Protection Act have some checks and balances for the diversion of forestland but these leave out local communities. There are instances of forest land getting diverted for various commercial purposes even inside the Protected Areas, where the rights of local people have been severely infringed.

In Orissa alone forest clearances of 466 projects (90 'in principal' clearances and 376 final clearances) have been approved, of which around 40 projects have been given forest clearance after the notification of FRA, 2006. The pertinent question here is about the legal status of the projects which have got the final approvals after the FRA's notification. Does the recent order of MoEF make it binding for these projects to comply with the Act? If not, how and who is going to ensure that the rights of local people, particularly the tribals and other traditional forest dwellers, are duly recognized under the FRA?

None the less, with the new order of the MoEF in hand, the local communities now have a major role in ensuring that their traditional rights over their habitat and habitation are respected and recognized and that destruction of forests is not at their cost. A long and winding path but a sign of positive change has dawned.

## State High Court vacated the STAY

Orissa State High Court has vacated the interim stay order passed on 23<sup>rd</sup> July 2008 on a Misc. case filed by Society of Retired Forest Officers, Orissa.

Here it needs to be mentioned that Society of Retired Forest Officers, (SoRFO) Orissa filed a Writ Application on 30<sup>th</sup> March 2008 urging the court to quash the Forest Rights Act, 2006.

On 1<sup>st</sup> July 2008 SoRFO filed a Misc. Case No. 4540 praying the court to issue interim stay on the Act which was rejected by the court

After this the SoRFO filed another Misc. case No. 10825 on 27<sup>th</sup> July 2008, where State High Court passed interim order not to issue patta and alienate any forestland or fell any tree particularly from National Parks, Sanctuaries and Biosphere Reserves until further order.

The court further issued clarification on the interim order on 2<sup>nd</sup> Sep 2008 with a modification that the interim order has put a stay only on issuing of titles but not the process of recognition of rights. This modification was in response to the intervention by tribal groups and in view of the fact that the process was affected by the order.

This was followed by counters by the tribal groups and the government. Later intervention petitions were filed by tribal groups and the government of Orissa to vacate the interim order. The vacation petitions were heard by the court on 16<sup>th</sup> July where the court was appraised of vacation of stay order in AP High Court. After the arguments the court reserved the order. Finally the court passed order on 12<sup>th</sup> Aug vacating the stay order and permitting the State Government to issue titles.

(For details pls. log on to [www.fra.org.in](http://www.fra.org.in))

*From Newspaper Desk*

## Gram Sabha nod must for mining proposals

Nitin Sethi, TNN 4 August 2009, 02:23am IST

**"Very Significant Move"**  
*"It is finally an acknowledgment that what has been happening is completely illegal vis-à-vis the forest land diversions without ensuring recognition of rights or consent of the gram sabhas,"*  
**Shankar Gopalakrishnan,**  
**Secretary, NCSD**

NEW DELHI: In a giant leap towards making Forest Rights Act effective, the environment ministry has informed states that it would not approve any forest clearance proposals till the consent of the Gram Sabhas has been sought for the projects.

The move, bound to come as a shocker to the infrastructure project proponents, especially the mining lobby, would ensure that the provisions of the Forest Rights Act are not ignored while handing over forest lands to developers.

The Forest Rights Act, the implementation of which is in the hands of the tribal affairs ministry, is meant to hand back traditional rights of the forest-dwellers in a time-bound fashion. It also demands that forest lands cannot be diverted without first settling the individual and community rights of the tribals and others dependent.

Source:

<http://timesofindia.indiatimes.com/news/india/Gram-sabha-nod-must-for-mining-proposals/articleshow/4854386.cms>

## Govt. warns Vedanta against illegal mining in Orissa

New Delhi: Centre on Tuesday warned the Vedanta group that it can be prosecuted if it resorts to "illegal mining" of bauxite at Niyamgiri in Orissa since the Anil Agarwal-controlled firm has been given only in-principle approval.

They have got environmental approval in-principle. They have not got full forest clearance. If mining is taking place in Niyamgiri, then it is illegal," Environment and Forests Minister Jairam Ramesh said in the Rajya Sabha

Replying to a debate on the working of his ministry, he said the 'in principle' nod given to the group would not mean sanction for the mining operations. "They can be prosecuted," he said.

Ramesh said his ministry has now made it mandatory that all

applications for mining in forest areas would require not only the forestry clearances but also evidence that provisions of the Tribals Rights Act have been complied with.

Since the ministry was not insisting on implementation of the Tribal Act earlier, Vedanta received in principle nod.

Ramesh said he was not happy about giving 'in principle' approvals, "give me a little more time and I will get rid of this animal called in principle forest approval. It is not a good animal to have... had the Tribal Acts been in place, the chances are that this project (Vedanta) would not have been cleared in the first place".

The Vedanta group of UK-based Agarwal had announced Rs.70,000 crore India investment plans for its aluminium projects which would significantly hinge upon the Bauxite to be mined at Niyamgiri.

*"illegal mining"*

*'In principle' nod given to the group would not mean sanction for the mining operations. They can be prosecuted."*

**Jairam Ramesh,  
Minister of  
Environment & Forest**

Source:

<http://www.zeenews.com/news552881.html>

### More than 30 projects have got Final Forest Clearance in the State of Odisha after Gazette Notification of Forest Rights Act, 2006

	2008:	2009:
☞ Total Projects got final approval:	<b>26</b>	<b>09</b>
○ Mining Projects:	<b>10</b>	<b>07</b>
○ Irrigation Projects:	<b>05</b>	<b>00</b>
○ Others:	<b>03</b>	<b>02</b>

(to know more details on projects, pls. log on to [www.fra.org.in](http://www.fra.org.in) or click on this link. [http://www.fra.org.in/inf\\_CFR.htm](http://www.fra.org.in/inf_CFR.htm) )

## Implement Forest Rights Act: Dwellers

Express News Service; 04 Aug 2009

**BHUBANESWAR:** Tribal inhabitants and forest-dwellers today pressed for their forest rights through a huge rally in the city.

The Campaign for Survival and Dignity, a national forum for the tribals and forest-dwellers, protested non-implementation of Forest Rights Act by taking out a rally which saw participation of hundreds of tribals from across the State.

Its Orissa convenor Nikunja Bhutia said, a total of 2, 90, 273 individual and 1,616 community claims were filed.

As yet, 1,53,051 individual and 351 community claims have been passed by the gram sabhas, while 37,269 individual and 73 community claims

have been ratified by the sub-divisional-level committees.

The district-level committee has given its nod to 30,749 individual and 45 community claims.

Just 78 claims have been rejected. `Pattas' should be handed over to the tribals in this regard at the earliest, he demanded.

Meanwhile, apprehending damage to Niyamgiri, Lok Shakti Abhiyan today said a team from Ministry of Environment and Forests must visit the home of the Dongria Kandh to assess the extent of vulnerability.

A team of activists visited the region and said the Niyamgiri hill should be declared a National Ecological Heritage so that abode of the Dongria Kandhs is protected.

Alleging dumping of toxic waste in Vansadhara river, the activists demanded a probe into the matter. A commission of inquiry must be constituted so as to investigate corporate crimes and violation of established laws of the land, Prafulla Samantray, one of the activists said.

The Lok Shakti Abhiyan also demanded distribution of `pattas' to the tribals who come under forest-dwellers rights.

**Source:**

<http://www.expressbuzz.com/edition/story.aspx?Title=Implement+Forest+Rights+Act:+Dwellers&artid=M4VmsbU2VNo=&SectionID=mvKkT3vj5ZA=&MainSectionID=fyV9T2jIa4A=&SectionName=nUFeEOBkuKw=&SEO=>

### STATUS OF FRA IMPLEMENTATION IN ORISSA

As on 31<sup>st</sup> July 2009

No of claims verified by FRC and submitted to Gram Sabha (Palli Sabha)	No of claims approved by Gram Sabha (Palli Sabha) and forwarded to SDLC	No of claims approved by SDLC and sent to DLC	No of claims approved by DLC for titles
<b>Individual Claims</b>			
291156	158480	44567	36792
<b>Community Claims</b>			
1656	589	116	100

Source: Ministry of Tribal Affairs, Govt. of India ([www.tribal.nic.in](http://www.tribal.nic.in))

## High number of claims returned in Deogarh district

*“As per the letter of Chief Secretary issued on 4<sup>th</sup> Feb 2009, SDLC is supposed to inform the decision to concerned Gram Sabhas, so that the aggrieved person can appeal to DLC against the decision of SDLC. But, SDLC is not intimating.”*  
**-Ranjan Sahu, Jungle O Jami Adhikar Kriyanustan Committee**

The situation with regard to implementation of the FRA is grim in the district of Deogarh. In a recent meeting of local NGOs and people's organization the status of implementation was discussed. As per the discussion, in the district of the total 744 villages claims have come from 152 villages. It is interesting to note that

out of the total of 5296 individual claim and 23 community claims, 4819 individual claims and 23 community claims are reported to have been returned by the SDLC after primary verification. Local organizations have taken up the issue with the district authorities in an interface held in the first week of August where

action plan has been drawn up to address the procedural gaps in the process of implementation with support of people's organizations.

To know more on this, pls. contact Mr. Ranjan Sahu, Conveynor, *Jungle O Jami Adhikar Kriyanustan Committee*  
 Ph. No. – 94386 40919

## Network of Forest Dwelling Communities submitted memorandum to DLC

Jungle Adhikar Surakhya Mancha, a network of forest dwelling communities in Kandhamal district has submitted a charter of demand to DLC for expediting the process of implementation of FRA in Kandhamal district.

The major demands are

- Appointment of Special Officer at SDLC for regular monitoring
- Sensitization programs for FRC & Verification Team members on FRA
- Sensitization program on PTGs' rights to implementing bodies
- Supply of village maps and other required documents
- Cooperation of Forest Department in verification
- Verification of CFR
- Written acknowledgement by

SDLC on receipt of claims from FRCs

- Toll Free Telephone
- Formats should be in accordance with the Rule
- Sharing of field visit plan with concerned Gram Sabhas

The demand submitted by the network has been discussed in the DLC meeting & following decisions are taken:

- Constitution of Forest Rights Cell at SDLC level for coordination, guidance and monitoring of FRA
- 3 blocks are selected as 'focused block' where entire process would be completed
- DFO would supply required maps to respective Tahasildars
- 1000 claims would be forwarded to DLC from two Sub-Divisions
- ITDA would release Rs. 5000/- to

each Tahasildar for carrying out planned activities

- Concern BDOs and Tahasildars would ensure the approval of claims by holding Gram Sabhas

Besides these decisions in DLC meeting, a time plan also developed for the month of August for completion of the processes in 54 GPs of 12 Blocks.

Surprisingly, none of the Zila Parishad members, those nominated to DLC, has attended the meeting. This is not happening only in Kandhamal district, the scenario is more or less same in across the State. Entire SDLC and DLC meetings are mostly attended by the Government Officers.

To know more on this, pls. contact Mr. Jeetendra Sahu  
 Ph. No. – 949938 208090

(Copy of the Proceedings & Memorandum is available in the [www.fra.org.in](http://www.fra.org.in) web site or click on this link: [http://www.fra.org.in/member\\_list.htm](http://www.fra.org.in/member_list.htm) )

## Community Rights Confused with Development Facilities

Serious confusion prevails among communities in regards to the community claims which are substantiated by the fact that major community claims are for rights over community centers, schools, playground and the like. To cite an example, in Kuchinda sub division of Sambalpur district the Sub Divisional Level Committee (SDLC) has recommended community claims from 13 villages of which only one claim is for community rights on protection of forest, Minor Forest Produces and water bodies but all other claims are

for playground, community centers etc . The state figure is that out of 1656 community claims, 100 claims have been approved by the District Level Committee (DLC) and all approved claims follow the similar trend. What is interesting is that the authorities at the SDLC and DLC are also approving such claims because the information system used for making entry of the claims provides interesting options in the entry to the community claims section which include among other things Road, Electricity, Playground, Primary

School, Panchayat Bhavan, Religious centers, Community center etc. This confusion on community rights and development facilities seems to have arisen because of lack of awareness of the authorities on the procedure issued by the MOTA for diversion of forest land for development facilities under section 3 (2) of the Act.

To know more on this, pls. contact Mr. Dushmanta Pradhan of Badrama Avayaranya Vikas Parishad, Ph. No. - 94375 88429

## Community Rights for sale in Kotgarh

One of the villages in Kotgarh, Jharighati has reported that during the verification of claims in the village the technical support team consisting of person from revenue and forest department has offered to increase the boundary of the community forest resource reflected in the community claim and has demanded money for

doing this. Thankfully the Gram Sabha has rejected the offer and has clarified to the officials that they are not supposed to interfere in the process of determination of rights including determination of CFR which is a prerogative of the Gram Sabha.

To know more on this, pls. contact Ms. Bibinika Pradhan of Kothagarh Avayaranya Surakhya Samiti, Ph. No. – 94380 40965

## Plantation in Protected Areas

Floating court strictures and the Wildlife Protection Act against plantation in protected areas a massive plantation drive is underway in Kotgarh sanctuary.

There is widespread resentment in the local community as these plantations cover forest land occupied and claimed by the community under Forest Rights Act.

## Forest Dwellers fined for collecting bamboos in Satkosia

Even after the implementation of Forest Rights Act people living in the sanctuary area are asked to dole out money for collecting minor forest produce for their use. Recently community members from one of the forest village, Madhapur, have

brought out a case where the FD has asked money from the people collecting bamboo even though it is one of community rights claimed under the Forest Rights Act.

To know more on this, pls. contact Mr. Arun Prasad Dihudi, Padmatola Satkosia Mukti Mancha Ph. No. – 94370 16502

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## 2<sup>nd</sup> National Level Consultation on "Critical Wildlife Habitat and Community Forests Rights"

- Review the implementation of Critical Wildlife Habitats and Critical Tiger Habitats.
- Review the

## State Level Workshop on Forest Rights Act – "CFR – Scope, Challenges and Prospect"

### Objective of the Workshop:

- a. to provide a forum for cross sharing and learning among communities as well as state representatives
- b. to facilitate improved understanding of the

## Forthcoming Events

countrywide status of the Community Forest Rights provision (Sec. 3(1)i) of STOTFDA and discuss the potential of this provision for conservation of biodiversity

- Discuss key issues and concerns regarding the application of Critical Wildlife Habitats

and Community Forests Rights and work out actions towards effective implementation.

**Date:**  
17<sup>th</sup> to 19<sup>th</sup> August 2009

**Venue:**  
WWF-India, New Delhi

**Organized by**  
Future of Conservation

different provisions of FRA with a particular focus on community rights and CFR and their potential

- c. to assess the status of implementation of FRA in the state with a focus on identifying operational bottlenecks, problems, constraints and best practices

- d. to develop strategies and action plans for addressing the identified problems for effective implementation of FRA in the state

**Date**  
28<sup>th</sup> to 30<sup>th</sup> August 2009

**Venue**  
DRTC, Bhubaneswar

**Organized by**  
Vasundhara

## CARTOON OF THE MONTH



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