

# ADIVASI JANJATI ADHIKAR MANCH (AJAM)



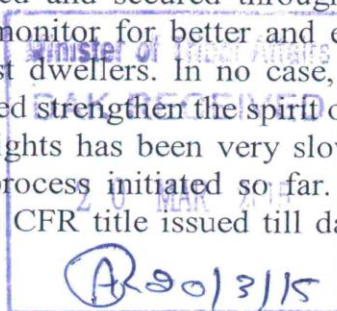
To  
Mr Jual Oram, Hon. Minister of Tribal Affairs,  
Room No 750-A, Shastri Bhawan, A – Wing,  
Dr. Rajendra Prasad Road, New Delhi-110001

Date: 19<sup>th</sup> March 2015

Respected Minister,

Adivasi Janajati Adhikar Mancha (AJAM) is a National level people's organization formed in 2006 by Particularly Vulnerable Tribal Groups (PVTGs) and other tribal/Indigenous people from 14 states of India. It has been regularly organising national level public hearings, meetings and consultations with an aim to bring all adivasis in a common platform at national level to share their concerns and issues, amplify their voice and engage with government seeking solutions to their problems especially proper implementation Forest Rights Act, 2006, PESA, 1996 and other protective legislations in asserting their rights over community forest resources and better management of country's natural resources. This year we have organised a one day "Round Table Discussion" on the issues relating to "Forests and Rights over Natural Resources", on 19<sup>th</sup> March 2015 on the eve of the World Forestry Day. The participants mostly included adivasis community leaders, local tribal *sangathans*, academics, *adivasi* rights activists, forest worker rights, and women's rights across various states like Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Uttarakhand, Uttar Pradesh and West Bengal. The following issues shared and discussed in the roundtable and submit before you a memorandum on behalf of the participants.

1. We the undersigned, on behalf of the tribal and forest dwellers of different states of India extend our heartiest thanks to your esteemed ministry for constantly working and consistently fighting to protect the rights of the adivasis. We strongly admire the stand taken by the Ministry, till date, on the emerging attempts for dilution and amendments of the progressive laws, which enacted for recognition and protection of the rights and livelihood of tribal forest dwellers, like the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Particularly, the role of the Ministry of Environment, Forests and Climate Change, for dilution of FRA 2006 on the decision and power of "consent" of the Gram Sabha on diversion of forestland is highly unconstitutional for interfering and encroaching upon the affairs of MoTA with the sole objective of denying and depriving the rights of adivasis forest dwellers and continue to perpetuate the same age-old injustice on them.
2. AJAM is opposing any such move for dilution of the law in the strongest term and request the ministry to continue to protect such legislation and ensure that the rights of the adivasis forest dwellers are recognized and secured through effective implementation. The government should proactively monitor for better and effective implementation of FRA in recognition of rights of forest dwellers. In no case, the power of Gram Sabha should be curtailed, which would indeed strengthen the spirit of "good governance".
3. The process of recognition of CFR rights has been very slow and in some states not a single CFR title is being issued or process initiated so far. For instance, in Himachal Pradesh and Uttarakhand not a single CFR title issued till date. Besides, the CFR titles





issued in various states have not been prepared following the prescription of FRA and not with the actual involvement and approval of Gram Sabhas. Even diverse methods and process followed in different districts within in a single state. Most of the CFR title issued in Odisha does not have proper map of customary boundary and approval of Gram Sabhas. In Kandhamal district most of the CFR Titles issued are with Provisional Stamp, which is illegal.

4. In some states, district administration (DLC) have been violating the clarification order of the MoTA to the PCCF, Andhra Pradesh Government on dated 6.08.2013, which directed to withdraw the CFR Title issued to JFM Committee, which was not prepared in accordance with law. Despite the fact, in Odisha the district administration (DLC) of Rayagada, Gajapati and others are insisting to convert VSS into CFR e.g. the DLC Rayagada district issued letter to Welfare Extension Officers (WEO) to prepare claim of CFRs of the existing VSS as a gross violation of FRA 2006 and ignorance of the above order of the MoTA. A strict instruction should be issued to all the states (SLMC) to direct all its district or local administration as mandatory to share a copy of any official letter/order they issue relating to FRA in the district to SLMC for better monitoring. The letter issued by DLC or SDLC sometime does not confirm under the framework of FRA.
5. There has been conflicting situations arising in various states relating to the forcible implementation of JFM/ VSS in community forest resource areas of the villages. Forest department has been constantly pushing for JFM without any support and cooperation for recognition of CFR rights. The MOEFCC, Govt of India should be instructed to take proper steps to stop promoting VSS within the area of CFRs and should issue strict instruction to its officials for proactive cooperation in the implementation of FRA. Particularly, in Scheduled Fifth area the forestry sector development activities of MOEFCC should be regulated as per Fifth Scheduled of the Constitution with due approval of MoTA considering the special legislative safeguard and protection given to Scheduled Tribes in Schedule areas.
6. There has been massive plantation in community forest lands of PVTGs in micro projects areas of Kandhamal, Keonjhar, Gajapati and Rayagada districts of Odisha and Madhya Pradesh and Chhattisgarh, which deprive the community rights over land and Community forest resources. We demand an independent assessment by MoTA to assess the plantation in community lands in PVTGs areas. Besides, plantation in PVTGs area should be completely banned.
7. *Rights of the nomadic pastoralists:* The process of recognition of the rights of the nomadic pastoralists' communities is being ignored in most states. There have been operational and practical difficulties in documentation of resources, claim filing and verification of grazing rights of nomadic pastoralists' and their seasonal resource access that involve multiple gram sabhas, which spread across multiple districts and states boundaries. The difficulties of vastness and operational complexities caused non-initiating or very slow process of recognition of rights of nomadic pastoralists' in the states like Himachal Pradesh, Gujarat, Rajasthan, Maharashtra, Madhya Pradesh, Uttarakhand and the like. They are facing serious challenge in recognition of community forest rights besides restrictions from forest officials on access to their traditional grazing lands. In Himachal Pradesh, Rajasthan, Gujarat the nomadic pastoralists are prohibited access to grazing of their animals due to fencing and harassment caused by forest officials in protected areas, which they were traditionally using. We urge the ministry to issue a community friendly simple guidelines for the process of claim making, verification and recognition of the rights of nomadic pastoralists, which would help to speed up the process.



8. To protect and safeguard the ancestral territories, resource base and habitat of PVTGs, law has made a special provision to recognize the “rights over community tenures of habitat and habitation for PVTGs and pre-agricultural communities”. However, after more than 7 years of implementation of FRA, there have been inherent challenges and operational difficulties in the process of recognition of such rights, which needs to be addressed by MoTA on top priority. Understanding the concept of habitat and what basically forms the habitat with a clear workable procedure to prepare and submit the claim of rights over customary community habitat and habitations. Considering the floating nature of the gram sabhas there is no clarity on the process of preparing the map of customary habitat and claims by an individual FRCs/ gram sabhas. Confusion still persists whether large number of villages lying outside the micro-projects boundary can claim habitat rights. Also the whole politics of non-responsiveness and non-implementation of habitat rights of PVTGs is to keep the mineral rich territory of PVTGs reserved for the corporate interests so that the vulnerable communities can easily be thrown out from their ancestral territories, without creating further legal constraint for the government and evidence in favour of the communities. The most prior need before preparation of habitat claim is to understand the exact nature of habitat rights. We demand the ministry to first issue a clarification on the nature of habitat rights and clear guidelines for preparation and processing of claim.
9. Involvement of Gram Sabha and their empowerment in the process of recognition of rights has been largely a failure. No serious planning for imparting effective training and orientations to the Forest Rights Committees and Gram Sabhas have been organised by the states. The rights recognized under FRA have been rarely known or approved by the Gram Sabha. That is why the nature and quality of claims are very poor and mess. Many states are not engaging its institutions seriously. The role and power of Gram Sabha has been largely suppressed with dominance of officials in manipulating the decisions and extent of claims. A campaign mode strategy should be taken by the States for proper qualitative orientation to the FRCs and Gram Sabhas.
10. The recognition of rights of Gram Sabha over Management, Conservation and Protection of Community Forest Resources has been largely a non-starter after seven years of implementation of FRA. Urgent priority should be given by the states to take recognition of such rights seriously and proactively to vest the power with community to manage the CFR and assert their rights. The state should engage in facilitation of preparation of management plan for community forest resources.
11. The states and its institutions are not functioning in coordinated manner and not taking the implementation process seriously in the ground. Therefore, it is necessary to establish a monitoring cell by Ministry of Tribal Affairs (MOTA) in each state for effective and proper oversight of FRA implementation process.
12. The recognition of forest rights in sanctuary areas and national parks have been a serious challenge in the country. There has been continued harassment of PVTGS and forest dwellers living within sanctuary areas by Forest officials through falsely implicating in offence, burning their houses and destroying growing crops. The Saharis PVTGs of Sivpuri district, Madhya Pradesh has been facing serious harassment by forest officials and by setting their huts in fire. Similar is the situation in some places of Odisha and Rajasthan, Gujarat and Himachal Pradesh. The ministry should issue strict instruction to the states for such occurrence very often without recognition of forest rights.



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13. The process of conversion of forest villages into revenue villages is very slow. The number of forest and survey villages identified casually and covered by district administrations is very less than the actual numbers exists in the ground.

We urge you that Ministry to take necessary steps to protect the progressive laws and secure the rights of tribal forest dwellers with appropriate measures to protect these communities from the age-old deprivation and continued exploitation.

Yours sincerely,

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| <p>1. Harabhai...</p> <p>2. J.K. Vela Ramu</p> <p>3. Alistair B... (Ruhnti) Jharkhand</p> <p>4. Sudhir K... (Jharkhand) Simdega</p> <p>5. SURESH &amp; CHAU DHARI</p> <p>6. DEVI &amp; GAMIT</p> <p>7. POPATBHAI M.</p> <p>8. Madhab Swain</p> <p>9. Hanymant R. ...</p> <p>10. Lalubhai Babu</p> <p>11. Jitendra ...</p> <p>12. Melissa Schliebs</p> <p>13. Gemma Nagy</p> <p>14. Priyabrata Satapathy</p> <p>15. Sinamati Huika</p> <p>16. Pawan Kumar</p> <p>17. Sadai Huika</p> <p>18. Ramsing Jawarkar</p> <p>19. Chintaman Kale</p> | <p>AJAM, president</p> <p>ETTP, Rajsthan - JUNGAPUR</p> <p>Shark Lund Jungle Bakhoo</p> <p>J. J. BH Andolan</p> <p>DEVS-VYARA DI. TAPU - GUJARAT</p> <p>GUJARAT Seva - EAKALA</p> <p>Odisha (Nabarangpur) SEVA</p> <p>Lokpanchayat Maharashtra, ...</p> <p>GUJARAT ...</p> <p>Action Aid Chennai</p> <p>Action Aid Chennai</p> <p>NRCA Hus, ActionAid, Bhubaneswar, odisha</p> <p>Panchu Rayagada</p> <p>Odisha Kisan Sabha (H.P.)</p> <p>Noyemagiri Samiti</p> <p>Apeksha Homeo Society Maharashtra</p> <p>Madhat Janhit Sanghad na Jharkhand</p> |
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- 42) Abhivam Roy - Delhi - PWESCR - flu
- 43) Jeno Varghese - Delhi - PWESCR - Jo
- 44) Ranhi Sengal - Delhi - P.S.A.C. RS
- 45) MATT BIRKINSHAW - Delhi - LSE - M.B. \_\_\_\_\_  
(London)
- 46) Zakir Hossain - W.B. G.B.P.S.S. - Zakir Hossain
- 47) Goutam Choudhury - West Bengal G.B.P.S.S. - Ass (ind)
- 48) Xavier Ryzin - Thailand - TJBA - Jimmy  
มนตรี ธีร
- 49) Laknaji Rajasthan
- 50) Somadji - Delhi. So