

**National Consultation on Community  
Forest Rights under the Forest  
Rights Act, 16-17 March, 2013**

Organized by Vasundhara and Kalpavriksh

Supported by Oxfam India

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## Executive Summary

A national consultation on community forest rights (CFR) under the Forest Rights Act (FRA) was organized by Vasundhara and Kalpavriksh, in collaboration with the CFR Learning and Advocacy Group, and Oxfam India in the Indian Social Institute, from 16-17 March, 2013 in Delhi. The consultation was attended by 74 participants, hailing from different states, civil society organizations directly working on the FRA implementation process, research institutes focusing on CFR related issues, international organizations and government departments. During two days of substantive deliberations, there was a strong emphasis on how to overcome challenges in the CFR implementation process and how to move forward in the area of post-CFR title governance and management.

The first day of proceedings commenced with an overview on the general state of CFRs under the FRA and a critique of state action plans on implementation of the September 2012 amendment rules, prepared by the state governments during regional consultations. This introductory session was followed by state experiences on best practices, challenges, new developments and future uncertainties, related to the FRA process and its implementation. Some highlights included:

**In Bihar**, FRA implementation has not started as yet. Despite constitution of Forest Rights Committees (FRCs) in 106 villages and high participation from women last October, government response has been low. The state government has recently published a good book on FRA guidelines and its implementation, however, overall political will remains low. The Ministry of Tribal Affairs Minister (MOTA), Kishore Chandra Deo has written to the Chief Minister, about Bihar's low level of implementation, but there has been no response.

**In Karnataka**, CFR claims have been received in the BRT Wildlife Sanctuary, which is declared as a tiger reserve. The claims process has had mixed results as only two blocks out of three, which applied, have received CFR titles so far. This has occurred despite differing levels of state government support. Between 2008 and 2011, there were five District Collector changes and four Forest Department Officer changes. The Soliga community, together with a group of civil society actors, has drawn up a biodiversity and conservation management plan, but has decided to wait for its implementation till the third block also receives its CFR titles. NTFP collection is ongoing in the wildlife sanctuary, however, the Soliga community has not undertaken full ownership rights of the process (as is the case in Gadchiroli, Maharashtra), but continues to have a dependent relationship on LAMPS.

**In Chhattisgarh**, different implementation guidelines were drawn up by the state in which claims had to be submitted to the Sarpanch, instead of to a newly constituted Forest Rights Committee. These claims would then be passed on to

the Forest Guard or Patwari (in the case of revenue land). In addition, each district had set implementation deadlines as per a state action plan, which is against the spirit of the FRA.

**In Gujarat**, the Maldharis, a pastoralist community in the Banni grassland Kutch region, are undergoing a battle with the state government in trying to get their customary grazing rights recognized. In 1955, the Banni grasslands, which spread over 2,400 square kilometers, were declared a protected forest. However, the process of rights settlement was never undertaken. Currently, approximately 25,000 Maldharis live in 48 villages, and are facing the threat of losing their grazing rights due to a 2009 Forest department working plan on Banni grasslands management, which restrict open grazing rights in Banni. Under the FRA, the Maldharis are demanding rights over the Banni grasslands and demanding to stop operation of the working plan in violation of their customary rights. The Gujarat government has issued an order to implement FRA in non-scheduled areas, which has opened up opportunities for rights recognition among pastoralist communities in Kutch.

Some of the key issues which came up during the consultation is illegal diversion of forest land without complying to the Forest Rights Act (as in Madhya Pradesh, Chhatisgarh), improper state action plans imposing impossible deadlines for recognition of forest rights, non recognition of rights of particularly vulnerable tribal groups (PTGs), habitat rights (in Odisha, Maharashtra) of pastoralist communities (in Kutch, Gujarat), imposition of illegal conditions while issuing CFR titles (as in case of Maharashtra, Madhya Pradesh), and non implementation of CFR provisions in states such as Jharkhand.

During the second day of proceedings, participants finished sharing state specific experiences related to the FRA implementation process and concentrated on strategies for post-CFR follow-up actions.

The concluding session of the consultation was attended by Secretary, Ministry of Tribal Affairs, Smt. Vibha Puri Das. Some of the key recommendations shared by consultation participants, included:

- Creation of a National FRA Council, along the same line as the MGNREGA Council. Such a council would be responsible for grievance redressal, perform social audits and have an independent role in monitoring and guiding the FRA implementation process. It was also emphasized that similar social audit and monitoring processes must take place at the state, district and block level as well.
- Immediate review and monitoring of state action plans with involvement of civil society organizations.
- Overall transparency and public disclosure of information on the process of claim and recognition of rights at different levels (the SLC, DLC and SLMC).

- Set-up of teams consisting of public officials and civil society members who assist villages in the pre-claims process. It has also been suggested to produce user-friendly training and awareness material in multiple languages, targeting a cross-section of groups.
- Regarding PTGs: There needs to be a special implementation mechanism, mapping by MOTA of PTG areas and demands on the DLC to report PTG aggregated data.
- Regarding protected areas: Relocations from PAs and tiger reserves should be halted till FRA rights recognition is complete and MOTA should set-up an investigation team to address FRA violations in the relocation process.
- An urgent request for MOTA to hold a fresh round of consultations, in coordination with MOEF, MOPR, MORD and state governments, with civil society at a national and regional level.

## Summary of Proceedings

### *Overview of CFR implementation under the FRA*

The Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter called FRA), is in implementation since 2008. Implementation of CFRs continues to be low. As per figures given in MoTA status reports, there has been no change in number of CFRs recognised in Andhra Pradesh, Assam, Chhatisgarh, Tripura, Uttar Pradesh and West Bengal since March 2012 while there has been some increase in numbers for Kerela, Maharashtra, Odisha and Rajasthan. However, it must be noted that the numbers given in MoTA status reports cannot be completely relied on as these depend upon poor and inaccurate reporting by states. In many cases claims and titles for 'development' rights under Section 3(2) are being given and confused for CFRs.

As per the latest (for the period ending on 31-12-2012) progress report on MoTA website, the status of CFRs is given in the following table.

<b>State</b>	<b>Claims for Community Rights</b>	<b>Community Rights Titles distributed</b>
Andhra Pradesh	6714	2106
Assam	5193	860
Chhattisgarh	4736	775
Gujarat	8723	1758
Karnataka	2917	53
Kerela	1395	4
Madhya Pradesh	13125	-
Maharashtra	5041	1033
Orissa	3304	879
Rajasthan	346	53
Tripura	277	55
Uttar Pradesh	1135	814
West Bengal	7824	108

Note: Bihar, Himachal Pradesh, Jharkhand have not provided information on how many of the total claims and titles were CFRs. Madhya Pradesh has not provided segregated information on how many titles distributed were CFRs.

Since FRA implementation in 2008, numerous states, organisations and individuals have sought clarifications on FRA rules and guidance on implementation mechanisms. The September 2012 amendments to FRA rules answered some of these demands by bringing clarity into some of the procedures, removing some key bottlenecks in the implementation process and placing emphasis on provisions of community forest rights. Key provisions in the amended rules include:

- Identification of hamlets or settlements and process of their consolidation: state governments are to ensure that every panchayat prepares a list of hamlets, habitats and unsurveyed or unrecorded land, which is not recorded in current forest or revenue land records. Such a list has to be approved within the Gram Sabha, passed on to the sub-divisional committee for consolidation and finalized by the District Level Committee.
- On the Gram Sabha: Regarding the Gram Sabha's assembly, it is required that at least half of all members are there and that one third are women. If any resolution on forest rights claims is to be passed during Gram Sabha meetings, then at least 50% of the claimants should be present and the decision can be made with a simple majority vote. The composition of FRC is changed from having 1/3<sup>rd</sup> ST members to 2/3<sup>rd</sup>.
- The Gram Sabha needs to ensure that the newly formed committees on protection of wildlife, forest and biodiversity draw up a management plan. This management plan is to be integrated into the Forest department's micro, work or management plans. In addition, it needs to approve committee decisions "pertaining to the issue of transit permits, use of income from sale of produce, or modification of management plans."
- On the functioning of government authorities, the SDLC is to ensure that claim forms are easily available, the DLC is to provide Gram Sabhas with a certified title in case of community rights recognition, and the SLMC is to meet at least once in three months to monitor the process of verification, recognition and rejection of claims.
- On the process of community rights recognition: The DLC is to ensure that PTGs receive habitat rights (as this implementation has been low across all states); that claims are filed by pastoralists and nomadic communities; that traditional practices of protection and conservation are recognized and upheld under clauses related to protection, regeneration, conservation and protection of forest resources.
- On community forest resources (Section 12 of the rules): 'the FRCs are to delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are versed with such boundaries and customary access; prepare a community forest resource map with recognizable landmarks and substantial evidence, which shall be approved by a resolution of the Gram Sabha passed by a

simple majority.'The amendment to the rules further states that 'such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of community forest resources.'

Success stories in CFR implementation have mainly taken place in areas where there has been consistent and substantive facilitation by civil society organisations; where there has been pro-active help and involvement from revenue and forest officials; where effective government circulars at either the district or state level have been issued ; and where exchange of experiences either among the CFR learning and advocacy network or state networks has been implemented.

Despite Maharashtra and Odisha being cited as “success stories” for FRA implementation in the area of CFR recognition, it is important to note that the majority of CFR claims in Maharashtra have been issued in two districts (Gadchiroli and Gondia) and that they are often conditional. Some of the conditions mentioned in title certificates<sup>1</sup> include that “community rights are only for bonafide livelihood purpose,” other traditional rights do not include construction of dams,” “decision of DLC is final regarding conflicts on community rights,” and “state government/UT approved/sanctioned works under working plans cannot be stopped by the community.”

In protected areas, there lies a partial success story in the Biligiri Rangaswamy Temple (BRT) Sanctuary (now considered to be a Tiger reserve area), where 25 CFR titles have been given to the Soliga community. With the help of civil society actors, the Soliga community has also drawn up a biodiversity and conservation management plan for post-CFR. However, the majority of these CFR titles were distributed before BRT Wildlife sanctuary became a tiger reserve area. The Soliga community is awaiting approval of further CFR titles in order to start implementation of the management plan. Interestingly, there are no guidelines on co-existence. Looking at other state examples, CFRs are recognized in few protected areas. In numerous tiger reserve areas, including Simplipal, Achanakmar, Tadoba, Sariska and Melghat, illegal relocations have been taking place, leaving whole communities displaced and without relocation packages.

One of the most challenging developments in the debate over protected areas was the Ajay Dubey case, a public interest litigation (PIL) filed in 2011, asking for implementation of the Tiger Conservation Plan. The PIL went to the Supreme Court, resulting in a temporary ban on tourism in numerous tiger reserves. The PIL and subsequent intervention by the Supreme Court has a significant impact on the governance of tiger reserves, rights of local communities, and on the Forest Rights Act. The interventions led to arbitrary notification of buffer areas in

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<sup>1</sup> Taken from English translation of community title issued to Ghati village in Gadchiroli, Maharashtra

many of the states leading to encroachment of local communities' rights, thereby violating the FRA. Besides no direction from the Supreme Court, guidelines, conflicting with FRA provisions, were hurriedly prepared by the MOEF and NTCA with support from a committee. Notes of objections from some committee members have been sent to MoEF. The Supreme Court made an interim decision to lift the tourism ban, however, it has repeatedly delayed a final decision, leaving the future situation uncertain.

Overall, implementation remains weak. There is a total, potential area of 75 million acres of forestland which could be claimed, however, just a little over one million acres have been claimed under the FRA so far.<sup>2</sup> When analyzing the CFR claims process, some of the issues that surface in states across India include:

- Inadequate training and awareness among stakeholders in the CFR process (whether it be government officials, members of civil society or communities submitting the actual claims), resulting in lack of clarity in the verification and mapping process.
- Usage of different formats, rules and guidelines for the CFR claims process (see Chhatisgarh). Similarly, decision-making power is being given to institutions such as the VSS, which is legally not entitled to do so.
- State application of placing a deadline for claims implementation, resulting in many states wanting certificates from Gram Sabhas and Collectors, expressing that there are no remaining or pending claims.
- Despite clear provisions in the FRA for the protection, conservation and management of resources by the community, both management and protection rights are often not recognized in the majority of CFR titles issued.
- Regarding PTGs, it remains unclear what the definition of "habitat rights" includes. For instance are non-forest lands being included? The 2012 amended FRA rules are quite clear that PTG claims have to be filed before Gram Sabhas, however, there are few states which go as far as even accepting claims from PTG groups. Similarly, no nomadic/shifting cultivator group has received CFR titles as yet and there exists no mechanism to facilitate their claims process with the assistance of multiple Gram Sabhas.
- For other forest dwellers (OTFDs), very few claims have been accepted in Maharashtra, in other states some have been submitted but not accepted. In Andhra Pradesh and Gujarat, the claims process for OTFDs has not even started. Challenges remain in the eligibility of OTFDs, in gathering of evidence to prove 75 years of continuous residence and in sensitizing Gram Sabhas that OTFDs are also included as claimants under the FRA.

For further information, please see Annexure one.

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<sup>2</sup> Presentation by Ashish Kothari on March 16, 2013, National Consultation on CFR, New Delhi

## *Analysis of State Implementation Plans*

Despite an effort by state governments to respond to nationwide FRA implementation issues and challenges through action plans, it becomes clear, upon closer analysis, that there is a far way to go. Disturbing patterns emerging out of the December 2012 state action plans include placing deadlines on completion of FRA implementation by way of receiving resolutions from Gram Sabhas, stating that there are no more pending claims. In some states, additional forms have been given to applicants (such as in Rajasthan an 11-page file, a similar situation exists in Chhatisgarh). No habitat rights have been recognized so far and this explains the non-existence of PVTG issues in the majority of presentations. Similarly, rights recognition in protected areas and illegal relocation has been left unaddressed by most states. Constitution of forest rights committees also remains pending in numerous areas.

Other worrisome themes point to forest department control, such as implementation only being carried out in VSS/JFM areas (Andhra Pradesh), where new forest rights committees have not been constituted, but rather decision-making power and involvement in the FRA claims process has been shifted to the VSS committees. Similarly in states such as Jharkhand the forest department claims it cannot recognize CFRs due to monopoly government control over the tendu leaf; and in Rajasthan the forest department is using MNREGA funds to build solid walls on forest and grazing land boundaries.

For more state specific information, please see Annexure Two.

## *Highlights of State related Issues and Challenges*

In **Bihar** FRA implementation has not started as yet, largely due to low political will and inaction from the administration. Despite the Ministry of Tribal Affairs (MOTA) having written to the Chief Minister, no actions have been taken as yet, except for the publishing of an informational booklet on the FRA. In **Chhattisgarh**, SDLCs are communicating to claimants that they can apply only during certain time periods. For example, this year the SDLCs will only start receiving claims submissions after March 15<sup>th</sup>. Additional challenges are reflected by a number of institutional gaps. The panchayat sarpanch is designated as the FRC secretary. Membership in the FRCs also often consists of individuals who do not have much to do with forest areas. In **Gujarat**, implementation has initially only taken place in schedule V areas and claims by OTFDs (such as pastoralists) have not been accepted as yet. Gujarat, like many other states also tried to impose a deadline for claims submission, prioritized individual claims over community claims and SDLCs often sent submissions to the Forest Department. However, since the 2012 rule amendments, the government announced in January 2013 that all formerly rejected claims will be re-verified. In areas with strong civil society presence, the pattern of SDLCs sending claims submissions to the Forest Department is also being

averted. Recently, the Gujarat government has issued an order to implement FRA in non-scheduled areas, which has opened up opportunities for rights recognition among pastoralist communities in Kutch.

.Currently, approximately 25,000 Maldharis live in 48 villages, and are facing the threat of losing their grazing rights due to a 2009 Forest department working plan for Banni grasslands management, which restricts open grazing rights in Banni and proposes fencing of grazing lands traditionally accessed by the Maldharis. Under the FRA, the Maldharis are demanding rights over the Banni grasslands and demanding to stop operation of the working plan in violation of their customary rights.

In **Uttarakhand**, there are some interesting historical disparities. In 1931, community rights were recognized by the British through the Van Panchayats (VP), allowing for a great amount of freedom. However, in 2001, the VP rules were made congruent with JFM rules, making forest department representatives, secretaries in the VPs. Considering this historical background and clash with JFM strongholds, there is low awareness about FRA at the village level and, like in many other state contexts, FRC members do not know they are members. Individual claims have been accepted by the administration, but CFR claims have not been. There are no OTFDs as per the Samaj Kalyan officials. The officials have negated the hamlet level process for the formation of FRC, despite hamlets having their own demarcated forests. There are 35% scheduled castes (SC) who fall under the category of OTFD and proving 75 years of continuous habitation, is a challenging proposition. The State government data on FRA implementation is misleading. In **Madhya Pradesh**, there is conflict over forest land being diverted for mining purposes in Singrauli district. The mining company has already received its first stage clearance, based on a staged Gram Sabha held and signatures collected by more individuals than actual attendees to the meeting. 400 individual and 2 CFR titles have been given. There are FRCs in these areas, but individuals do not know that they are members. The CFR claims process is underway in 62 villages, however, some villages, such as Dongri village, is on disputed orange land. In **Rajasthan**, there seems to be a lack of awareness and knowledge amongst all actors. The government is trying to make an impression that communities living in and around forest areas are financially well off and, therefore, not forest dependent. JFM also has a stronghold in some areas and continues to make the claims process challenging. CFR titles are being given with a list of conditions. For example, in the Sariska protected area, the government has ordered that no human will be allowed and a relocation exercise for 42 villages is being planned. In addition, the Japanese government has funded a project (JICA), which is being dovetailed with NREGA to construct walls around forest patches. People living in these areas are protesting the build-up of such walls.

In **Odisha**, the kendu leaf struggle is very challenging at the community level. Just like in Maharashtra, one district in Odisha, Kandhamal is great in terms of

CFR claims, but in the rest of the state, the situation is not encouraging. Mining activities are very high and therefore cooperation from government officials is difficult. In the case of PVTGs the State TRTI has informed that an expert group will be set up to provide technical input in the process of facilitation of claims over habitat rights. There is no established reference material for this particular process. Under the CFR claims not a single one is congruent with the traditional customary boundaries of the village. Largely the claims are under sec 3 (2). Under the FRA process, OTFD claims are the most difficult to claim. In **Kerala**, there is no institutional support at the state level. At the regional level, there is some cooperation from forest officials on activities related to NTFPs. At the village and hamlet level, there is also little activity as the concept of Gram Sabhas is new, creating low moral at the community level. In addition, JFM have a stronghold in certain areas, creating a conflict between future CFR management plans and JFM micro projects. PVTG habitat rights have not been claimed as yet.<sup>3</sup>

### *Commentary on status of NTFPs under FRA*

There are many communities who never had forests to manage as the British took these rights away but now post FRA these communities will have forests to manage. Wherever the CFR claims have been recognized discussion on NTFPs for livelihood and sustainability issues need to be undertaken. The success of CFR management and governance depends on

- Improved livelihood
- Ecological sustainability
- Social equity

Monitoring of resources is labour intensive and, therefore, the interest of people is low. There is a need for direct tangible benefits to enforce sustainability. In the context of tendu leaves, there are several stages involved before the leaves are sold off in the market arena. First is the plucking and pruning. The next step is Phadi management, followed by drying, sorting and binding. The final two stages consist of auctioning and if applicable beedi rolling. In states such as Odisha, there are huge royalties, leaving the plucker with only 17% of the profits and the government with 61%. In addition, the phad management and drying and sorting stage is also not controlled by the plucker, resulting in more financial losses.

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<sup>3</sup> For further information, please get in touch with participants / organisations from specific states, listed in annexure three.

## Risks involved in the tendu leaf trade and Strategies proposed to counter them

Possible risks involved in the tendu leaf trade include forest burning, advance to pluckers that needs to be recovered, possible ganging up by contractors (no bidding in auction or beating down the price), contractor default, market fluctuation between the first payment made and the tender and, lastly, internal management.

Some of the strategies proposed to counter these risks are:

- 1) Get royalties abolished (Odisha → Maharashtra)
- 2) Take control of phad management
- 3) Take control of phad + drying/sorting/grading
- 4) Take control of auction (unprocessed or processed?)
- 5) Ask for Working Capital support
- 6) Rates from non-CFR areas to be guaranteed for CFR areas

Additional recommendations, which emerged from the consultation included:

MFP/NTFP denationalisation with minimum support price and/or working capital support:

- 1) repeal contradictory state laws or guidelines (with interim arrangement for continued state support where gram sabha empowerment in process)
- 2) stop state monopoly control and royalties (as in amended rules)
- 3) learn lessons from experiences of existing co-ops on sustainability, equity, governance
- 4) warn officials/agencies openly defying Act
- 5) urgently budget for minimum support prices

## **Emerging Issues and Challenges**

### *Post-title governance and management*

There is a lack of clarity regarding post-title governance and management. The 2012 amended rules call for Gram Sabhas to integrate their conservation and biodiversity management plans with working plans of the Forest departments. It is unclear what the relationship between the two working plans will be, what the Forest department's continued role is meant to be (will it continue to enforce and regulate?) and what specific powers shall rest with the Gram Sabha when it comes to the protection and management rights of CFRs. Additional uncertainty remains in the area of ensuring that right holders benefit from the convergence of relevant schemes.

### *Conflicting Laws, Policies and Programmes*

One of the reasons FRA implementation is complicated is due to related laws, policies and programmes giving conflicting messages. In the area of conflicting laws, both the Land Acquisition Act and the Forest Conservation land allow for take-over of land without FRA implementation and Gram Sabha consent. Similarly, under the Mines and Minerals Act, there is no central role of Gram Sabhas and under the Wildlife Protection Act, there is no Gram Sabha consent taken when protected areas are notified and recognized CFRs continue to be avoided in protected areas. In some states, such as Rajasthan, PESA state rules contradict the FRA. Conflicting policies include the imposition of JFM programmes in states such as Odisha and Maharashtra. In climate change programmes, such as REDD and Green India Mission, there is no clear direction on the importance of CFRs.

### *Rights without Benefits?*

Despite rights being recognized in many state contexts, full implementation remains a challenge. For example, the 2012 amended rules confer transit permit rules to the Gram Sabha, however, the Forest department continues to control this matter. Similarly, NTFP nationalization (such as the tendu leaf) continues to occur in most states, diluting the transfer of full ownership rights outlined in both PESA and the FRA. In some situations (such as in the BRT Wildlife Sanctuary) communities are not ready for full ownership rights, due to vested interests and power structures, preferring to operate as wage labourers and depending on old arrangements with LAMPS.

## **Recommendations**

### *Overall Implementation*

- 1) It is urgently recommended that MOTA should hold both regional and national consultations in which civil society, other important ministries (MOEF, MORD and MOPR) and state government agencies are present.
- 2) One of the most important recommendations that emerged out of the National Consultation on CFR under FRA is the formation of a National FRA Council (along the lines of the NREGS council), which would have an independent role of monitoring the FRA implementation process, conduct social audits, hear grievances and provide guidance when needed. Similar independent monitoring bodies should also exist at the state and district level, however, it must be ensured that these bodies consist of individuals from the Gram Sabha committees and civil society with experience on forest rights issues.
- 3) State action plans must be reviewed and monitored on a regular basis with civil society involvement. If it is found that action plans violate the FRA, immediate amendments and corrections must take place.
- 4) There needs to be greater transparency and accountability in the overall claims process. Reports and meeting minutes by the SLMC, DLC, and SDLC should be public records and easily attainable. Additional committees set up under the FRA process must be communicated to Gram Sabha committees.
- 5) Urgent clarification and guidance is needed in the following areas: Rather than following artificial process completion deadlines set by the state, it should be clarified under what circumstances the process is “complete” and who can certify it. Clarification is also sought on the status of municipal areas.

### *Claims process and post-title management*

- 1) In order to increase CFR training and awareness, simple material should be produced for mass distribution. Training should especially take place at the sub-divisional level with an orientation on the new rules. There should also be a higher budget for training and a consolidated database with all state and district level circulars relevant to FRA implementation.
- 2) There should be both mass circulation of claims forms with a follow-up of proactive facilitation of claims run by teams of officials and civil society to assist villages.

- 3) There should be a special mechanism for nomadic communities and clear guidelines on PVTG habitat rights (what they mean and how it should be reflected in the claims process)
- 4) Titles should be made out to Gram Sabhas, not the VSS committees. The area and location of the land should be clearly mentioned and conditions, unrelated to the FRA should not be placed.
- 5) MOTA should institute an independent investigation into forest diversion, checking the compliance process and taking action in the case of violations.

### *Protected areas*

- 1) Concerning Critical Wildlife/Tiger Habitats: The guidelines should be urgently finalised based on civil society inputs given last year and reflect democratic processes, respecting rights, stressing co-existence and minimizing relocation.
- 2) On Tiger reserve buffer notifications: There have been widespread FRA violation regarding this issue and MOTA should independently review these violations and bring them to the attention of the Supreme Court.
- 3) Relocation should be stopped till the FRA rights recognition process is completed. When relocation packages are offered, the option of staying on with full rights must be clearly communication, and compensation must take into account community rights that are being given up.
- 4) FRA implementation and conservation outcomes in PAs need to be urgently monitored.

### *Governance Reforms*

- 1) At the village level: Village level Gram Sabha committees need to be empowered with penal powers and skill building in the areas of CFR management, protection and sustainable use of resources. Women's involvement in these processes needs to be ensured and linkage to capacity building schemes (for financial, technical and monitoring activities) needs to be clarified.
- 2) At the landscape and state level: Creation of a state level council, with membership from the Gram Sabha, federations, the forest department, NGOs and other experts, should be created in order to: facilitate planning at landscape levels; monitor forest and wildlife conservation and use; monitor

violations; and ensure convergence of schemes/programmes/departments towards conservation and livelihood security. In addition, there should be Joint Management Committees (with genuine power sharing) discussing and managing issues on protected areas, biosphere reserves and other conservation landscapes.

- 3) At the national level: Harmonisation of various acts with the FRA, including the Biodiversity Act, WLPA, FCA, IFA; with state laws, rules and circulars on minor forest produce, PESA, JFM and revenue lands. Within this exercise, the definition of gram sabha should be streamlined in all laws and immediate action should be taken on state rules formulated in violation of the FRA (such as the PESA or Village Forest rules).
- 4) At the national level: Conduct a review of National Forest Policy, taking FRA and PESA into account, emphasizing the importance of rights, community based governance and conservation.

### *MOTA response and Participant Follow-up*

The National Consultation's final session was attended by Secretary, Ministry of Tribal Affairs, Smt. Vibha Puri Das. The above mentioned recommendations were shared with her and she responded on the following issues:

- 1) Concerning PVTGs: It is a good idea that mapping of PVTG areas take place and that there be further clarification on habitat rights. MOTA, with civil society assistance shall look into this matter. Separate consultation with PVTGs also need to be held.
- 2) Concerning state action plans which violate the FRA: MOTA has issued letters to nine states, which are in need of amending their action plans.
- 3) Concerning illegal relocations and diversion of forest land: MOTA is willing to send circulars to state government, reiterating that such actions violate the FRA.
- 4) MOTA is planning a formal review of all state action plans, based on field based exercises.
- 5) MOTA is in the process of writing to national training institutes on how to incorporate FRA material into trainings for all officers, particularly IAS officers.
- 6) Both suggestions for a consolidated database on state and district level circulars and holding an inter-ministerial meeting, were welcomed.
- 7) It was clarified that MOTA cannot amend PESA, but that changes in rules and guidelines can be looked into.

8) MOTA needs assistance in creating a simple monitoring format for FRA implementation.

In addition, participants agreed upon the following next steps amongst themselves:

- In forest diversion scenarios for linear projects, there should be public hearings, a possible set-up of a people's tribunal, which collects FRA violations, puts pressure on MPs/MLAs, documents case studies and follows-up on RTI applications.
- Future state consultations, as part of a civil society self-assessment process include, a Maharashtra level meeting on nomadic communities (led by ANTHRA); a Maharashtra level meeting on the tendu leaf trade (led by VNCS/VLF and; North Chhattisgarh level meeting on community forest rights (led by Oxfam India).
- Future national level consultations include a meeting on Particularly Vulnerable Tribal Groups and their habitat rights (led by Vasundhara and others); a meeting on Post-title governance and management, including NTFPs (led by ATREE and others) and; a meeting on FRA and protected areas (led by Kalpavkrish and others).

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## **Annexes<sup>4</sup>**

*Annex One: Presentation by Ashish Kothari*

<http://www.fra.org.in/new/document/CFR%20presentation,%20updated%20during%20national%20CFR%20workshop,%20Mar%202013.pdf>

*Annex Two: Presentation by Madhu*

<http://www.fra.org.in/new/document/Madhu-Issues%20in%20State%20Action%20Plans%20-%202016.3.pdf>

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<sup>4</sup> For Annex One and Two, please go to the respective web links on [www.fra.org.in](http://www.fra.org.in)

*Annexure three: Participant list*

**National Consultation on Community Forest Rights under Forest Rights Act**

**Date: 16<sup>th</sup> & 17<sup>th</sup> March, 2013**  
**Venue: Indian Social Institute, New Delhi**

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