

MoEF/MoTA Committee on Forest Rights Act

Implementation of Forest Rights Act in JHARKHAND: Report of field visit, 15-19 July 2010

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Note: This report is written for the purposes of the Committee's ongoing work; any views contained in this are not necessarily those of the entire Committee and are not to be taken as final views or recommendations by the Committee

Overview

Jharkhand is an important state for FRA implementation, with a large forest area and a very large tribal and non-tribal forest-dependent population. However, by 30 April 2010, the number of individual claims received in Jharkhand was only ~30,000 and of these, only ~6,800 had been granted, which makes it less than 1 claim per forest-dependent village. This is a surprisingly low figure, and a cause for concern about the manner of implementation. Moreover, very few claims for Community Forest Rights have been received; those listed as CFR claims are mostly for diversion to non-forest activities or minor claims for graveyards and threshing grounds. The main objective of giving community rights to forest resources has not been achieved. The reasons for this situation include:

1. A number of prima facie deserving claimants appear to be left out of the process entirely, due to lack of awareness and information, non-supply of forms, etc.
2. Rejections are often happening on faulty interpretation of the Act.
3. A number of cases of inordinate delays in processing claims, in providing support to Gram Sabhas to process claims, and prima facie tenable allegations of corruption by frontline staff and village leaders have emerged.
4. Several cases of Forest department illegally initiating plantation activities in land for which cultivation claims have been filed (or could be filed) are occurring
5. Several deviations have occurred from the process of implementation laid down in the law, including no real involvement of the Gram Sabha, wrong attribution of rejection made by officials to the Gram Sabha, no communication of rejection to the claimants, etc.
6. Where claims have been granted, the process of mutation of land records is incomplete and in the case of community claims, the titles issued are faulty.
7. Several communities believe that applying under the Act will weaken their claim for full forest rights as per earlier Acts, for which they have been agitating for a long time.

The main underlying reason for this state of affairs appears to be a lack of interest in the state government towards implementation of the Act, and the consequent inadequate realization of the potential of the Act to reduce land right conflicts and empower tribal and forest dependent communities. In spite of resources being available, on the ground implementation is poor, misdirected, with inadequate staffing, poor understanding of CFR provisions, and willingness to take the easy route by asking the Forest Department to play the major role.

Visit Programme and Sources of information

A four-member team of the FRA committee, consisting Sharachchandra Lele, Vasavi Kiro, Roma and Ramdhanlal Meena toured the state between 16th July and 19th July, 2010¹ to assess the situation regarding the implementation of the FRA and issues arising out of it. The field visits covered villages in Khunti, Bokaro and Dumka districts, representing three different parts of the state (Chhotanagpur area, XXX area, and the Santhal belt). The Welfare Department provided full logistic support for the visit and additional support was provided by the Forest and Revenue departments. The committee's programme went as follows:

16th July: Khunti खूंटी District

- a. Formal meeting with sub-divisional officials (including SDO, Circle Officer, Deputy Conservator of Forests, Assistant Conservator of Forests, and District Welfare officer) at Khunti
- b. Public meeting at Chalakad चलकद village, अड़की block (birthplace of Birsa Munda), attended by approx. 500 people from 5-10 neighbouring villages, including local activists, and government officials mentioned above
- c. Meeting with new District Collector at Khunti

17th July: Bokaro बोकारो district

- a. Public meeting in Hardiharidih village, Jaridih जरीडीह block, organized by DHARA, a local NGO, and attended by 300 people from at least 12 neighbouring villages, and also government officials including SDO, BDO, Block Welfare officer, DFO, Ranger, etc.
- b. Field visit to Hardiharidih हर्दीहरीडीह village, Jaridih block

18th July: Dumka दुमका district

- a. Brief visit to Amgachhi आमगाछी village, Kathikund काठीकुंड block
- b. Public meeting in Chhota Narganj छोटा नारगंज village, block Kathikund.

19th July: In Ranchi

- a. Formal meeting with Chief Secretary, along with Secretary (Welfare), and forest officer
- b. Formal audience with Shri. M.O.H. Farook , Governor of Jharkhand, along with Dr.Ram Dayal Munda (Executive President of Tribal Advisory Council).
- c. Consultations with civil society groups, including
 - i. Chetna Bharti
 - ii. Dhara
 - iii. Jan Mukti Andolan

¹ Ramdhanlal Meena was able to participated only on 18th and 19th July.

Additional information was obtained from district and block-level summaries provided by district officials, state-level data provided by Welfare department, and submissions made to the committee by civil society groups.

Background:

Jharkhand state was carved out of Bihar in 2000. The name itself (झाड़-forest खंड-region) suggests the presence of dense forests, as does the geological record. Today, the estimated forest cover is 29% of the total geographical area of the state, with many districts having more than 35% area under forest cover. The existence of forests is strongly correlated with the presence of tribal communities (given that 28% of the population is ST, and includes 32 tribal groups). The region has a history of resistance to British colonial rule, dating back to the 1770s and continuing over the next 100 years, resulting finally in a liberal settlement of land rights in the early 1900s under both the Chhota Nagpur Tenancy Act (CNTA) and the Santhal Paragana Tenancy Act.

The post-independence period saw many complex shifts in land rights and control, but the net result is clearly a more unsettled situation with respect to forest and land rights. The zamindari forests were first notified as Private Protected Forests in 1948 and then without full enquiry and settlement converted into Protected Forests in the 1955-58 period (see Annexure 1 for official statement about non-settlement of rights in such notifications). Mundari Khunt-kattidar forests were inappropriately clubbed with zamindari forests. The Mundari Khunt-kattidars have since then been protesting against the consequent loss of control over their forests, in violation of the CNTA, and other regions have also seen many tussles between local communities and the forest department over how to manage forests (including the Jungal Kato Andolan in 1970s in Kolhan). A more recent movement Jharkhand Jungle Bachao Andolan has focused on saving forests, land and livelihoods from major development projects that have been proposed in the region, such as the Koel Karo dam project. The struggle to clarify rights and assert community control over forests is intertwined with the struggle against destructive development projects.

Somewhat oblivious of this context, the Forest Department has implemented the JFM programme, and claims that more than 90% (2.2 million ha) of the state's forest lands are now managed under JFM by 1.28 million households. On the ground, most of these committees appear to be dysfunctional.

Observations and Analysis

1. Poor progress overall:

- a. A summary of the claims filed in Jharkhand and a couple of sample districts is given in Tables 1 and 2. It is startling to note that even the number of individual claims filed is less than the total number of villages in Jharkhand, and may average to only about 2 claims per forest dependent village.
- b. Further, the number of claims approved is less than 7,000, which is a surprisingly small number and a high rejection rate.

- c. There has been no progress made on the conversion of Forest Villages to Revenue villages.²
- d. The number of applications for community forest rights is just 500, and the number approved only about 60, of which most are actually for 'development rights' (diversion for non-forest purposes) or for minor activities such as burial grounds or threshing grounds.
- e. Regarding Critical Wildlife Habitat, although an expert committee has been constituted as per the FRA, no decisions have yet been taken or public consultations held by this committee.

Given the extent of forests in the state, the high ST population and the history of conflict over forest rights, these statistics suggests that there are major bottlenecks in the FRA implementation process. This impression has been confirmed by the field visits carried out by this committee.

Table 1. Status of implementation of FRA till 29 June 2010

FRCs formed	Claims received by FRCs	Claims verified by FRCs	Claims recommended by GS to SDLC	Claims recommended by SDLC to DLC	Claims approved by DLC	Claims rejected at various levels
20,014	30,016 (incl. ~500 community claims)	16,175	12,918	8,707	6,839 ³ (incl. ~60 community claims)	12,262

Source: Tribal Welfare Commissioner, Jharkhand

Table 2. Summary of FRA claims status in 3 districts

District	Total villages	FRCs formed	Claims received by FRCs	Claims recommended by GS to SDLC	Claims recommended by SDLC to DLC	Claims approved by DLC	Claims rejected at various levels
Khunti	757	546	Not clear	160+3	Not clear	14+2	146+1
Bokaro			2,563	465	146 (2007 pending?)	138	??
Dumka			3984			400	3584

Source: District Welfare Officers of the respective districts

² The Jharkhand FD has officially responded to our query by saying that the MOEF had rejected the conversion of 21 forest villages to revenue villages in 1988 citing violation of the FCA. The FD appears not to be cognizant of the February 2004 order from MOEF itself about conversion of Forest Villages to Revenue Villages, before the FRA was passed. Even the MoTA programme for development assistance to forest villages has no mention of the FRA.

³ An updated figure of 7769 claims approved by June 30 was provided to our committee at the time of writing this report, but the corresponding figures for claims received by FRCs etc are not available.

2. Lack of awareness and non-initiation of process:
 - a. In many areas, the FRA process has not been initiated at all (e.g., interior villages in Bokaro, Dumka, Garwah, Chatra).
 - b. Even where FRCs have supposedly been set up, many people do not seem to be aware of the nature and significance of the Act. Claim forms have not been proactively distributed in many places (e.g., many interior villages in Bokaro, Dumka).
 - c. There is also a misperception that this is another agricultural land distribution programme. (That there is no flood of applications in spite of this misconception suggests that the information has simply not reached many villages).
 - d. In several places, government officials blamed the Maoist threat for the tardy progress under the Act. However, there were no complaints from the villagers regarding Maoism or Maoist opposition to the Act or interferences in its implementation. Nor did any official make any formal complaint regarding the Maoist threat during our field visits, nor in the meeting with state officials in Ranchi.
 - e. Further enquiry into the process of implementation showed that there has been very little effort put into information and awareness building by the Welfare Department of Jharkhand (the nodal agency). Although a few pamphlets have been prepared in local languages, their distribution is very limited (none of these tribal language pamphlets were available with the respective FRCs), and even the main Hindi versions are mostly with government officials and maybe one village-level functionary. Small advertisements have been provided in the newspapers, but given that most forest dwellers are illiterate, these text-based approaches are clearly misdirected.
3. Deviations in or non-observance of process: Several deviations have occurred from the process of implementation laid down in the law.
 - a. The FRCs have not been constituted properly and neither FRCs nor Gram Sabhas are involved significantly at any stage. FRC constitution did not happen in open meetings in most places. E.g., in Dumka, FRC members and even the secretary did not know that they were part of the FRC, nor what it meant. In a few cases where FRCs have sought take an active role, there has been no support provided by the officials. The processing of claims is being done entirely by officials. Further, even where it is stated that FRCs/GSs have processed or rejected claims, all this has been done by government officials, not by the Gram Sabhas.
 - b. The rejection of claims has not been communicated to the claimants. Therefore they have been denied the opportunity to appeal against the rejection if they wish to.
 - c. The FD has arrogated to itself a much bigger role than permitted under the Act. The verification, screening, etc. is being done directly by

Forest Dept officials, rather than by the GS/FRC with input from these agencies.

- d. Similarly, many tasks for initiating the claims process and for scrutiny have been given to the Rural Development department, specifically to the BDOs, who really have no role in the implementation as per the Act and Rules. Handing over responsibility in this manner leads to lack of ownership and poor quality of implementation.
- e. It appears that (from submissions made by NGOs in our meeting with the Chief Secretary) that several hundreds of claims submitted in certain districts (such as Chatra) are not even reflected in the government record.

4. Faulty rejection and attribution:

- a. Village-level investigation in Bokaro district that one of the major grounds for rejecting claims is that the claimant already owns some private revenue land, and is therefore considered not 'primarily dependent' upon forest land or is living in a house which is not on forest land and hence does not meet the 'residing in' clause. In fact, several potential claimants were told not to apply if they already owned more than 3 acres of revenue land. This is a clear misinterpretation of the Act, as there is no requirement of 'primary dependence' in the Act. The Act requires 'forest dependence', which is a broad concept that includes dependence for firewood, grazing, MFP collection, etc. and cannot be measured simply in terms of land area. Moreover, the Ministry of Tribal Affairs has issued clear guidelines as to the interpretation of the 'residing in and dependent on forest land' clause (MoTA letter dt. June 9, 2008).
- b. The vast majority of OTFD applications has been rejected on the grounds that 75 years occupancy has to be shown on the encroached land, not just 75 years of residence in the locality or village.
- c. Similarly, in Dumka district, we found that claims for lands being cultivated with upland corn were being rejected on the grounds that 'this does not constitute cultivation'. The term cultivation is being narrowly interpreted to mean plough-based cultivation, which is clearly a mis-interpretation of the Act and is resulting in depriving many households of their legitimate claims.
- d. A further confusion here is that the Forest Department is categorizing plots that are outside notified forest (marked by a 'green line' in their copy of the village map) as being on 'non-forest land' when in fact they may often be on 'jungle jhadi' or such land that was forested but left out of the notified area. The Act clearly provides that claims are tenable on all such lands.
- e. It must be noted that these rejections are being treated as 'rejections are Gram Sabha level' when in fact these are decisions made by government officials, typically the block level officials (BDO) or Forester/Ranger, who neither have any statutory role in the decision-making, nor have the right to shift the responsibility in this manner. In

fact, the Gram Sabhas have never met to consider the claims, and the FRCs themselves are mostly dysfunctional.

- f. Reports from Chatra district indicate that officials are imposing an arbitrary upper limit of 0.05 hectares on the land that can be given, when the limit in the Act is 4 hectares.

5. Inordinate delays in processing:

- a. At the state level itself, almost a third of the applications are in the ‘in process’ category, which is a disappointing situation given that the implementation has been going on for more than 2 years.
 - b. Sufficient survey staff (locally called ‘Ameens’) have not been deputed for carrying out survey and demarcation of the claimed lands. The DC of Khunti admitted that there was severe shortage of staff, although there was no shortage of funds. In Dumka, the private surveyor contracted for this work complained of non-payment of his fees. Also in Dumka, instead of the block-level welfare officer doing the work, the work had been handed over to a veterinary doctor, suggesting a very cavalier attitude by the welfare department.
 - c. In a number of villages, claims submitted to the FRC are lying with the President of the FRC (who almost always is the Gram Pradhan), or with forest officials (e.g., Range officer in Petervar range of Bokaro) who have illegally inserted themselves into the process. Many villagers alleged that both village Pradhans and/or government officials were demanding bribes for processing of claims.
 - d. Where FRCs are relatively active and taking their role seriously, they are often waiting for input from the government officials to help them process the applications (e.g., Bokaro district, Beldih panchayat). One particular point of confusion is the location of the plot for which the claim is being made—determining whether it is on forest land or not—which requires access to village revenue maps and forest maps. These maps have not been provided by the relevant agencies to the FRCs.
6. Violation of sec 4(5): Illegal eviction: One of the major goals of the FRA is to ameliorate the problem of evictions from forest lands. In Jharkhand, the state government has recently announced that several thousand forest offence cases would be lifted. However, in fact the moratorium extends to only non-encroachment cases. Further, the Forest Department reports only 2500 cases of encroachment offences filed in the entire state, which does not seem realistic and there is no attempt yet to put the entire forest offence record in the public domain, and as yet there is no move to lift these cases.⁴ In the meanwhile, the Forest Department continues function as if this act did not exist. In particular:
- a. Several cases of Forest department illegally initiating plantation activities in land for which cultivation claims have been filed (or could be filed) are occurring. We have documented one such case from Hardiharidih village of Bokaro district. (See Annexure 2). The

⁴ At the time of finalization of this report, we understand that the Chief Secretary of Jharkhand has issued orders for the withdrawal of 4,000 forest offence cases, although it is not clear how many of these pertain to encroachment.

territorial officers blamed this on the Social Forestry division, but this does not really matter—it still amounts to eviction and therefore violation of the Act.

- b. In the same region, several cases of Forest Department taking up fellings in lands which are candidates for CFR, lands which have been protected by communities and where communities have objected to felling, were reported in the village hearing.
- c. Activists from village Garbhan, PS Bhavnathpur, Garhwa district reported continued evictions of tribal as well as non-tribal cultivators from what is disputed land, with no due process at the FRC, SDLC or DLC levels.

7. Incomplete recording and conversion:

- a. Where claims have been granted, the process of recording rights is incomplete in that the land records have not been mutated, the plots have not been given plot numbers, and so on. Revenue department officials (such as DC of Khunti district) admit that the mutation procedure needs to be completed, but are awaiting clear guidelines from the state government.
- b. The ‘titles’ for community claims are being issued in the name of the individuals who submitted the claim, which is incorrect, as they should only be in the name of the Gram Sabha that applied for that community right.

8. JFM versus CFR: As mentioned above, the Forest Department continues to believe that JFM is an adequately participatory mechanism for forest management, and has no interest in further strong decentralisation under the Community Forest Rights provision of the FRA. Even where several hundred villages had engaged in self-initiated community forest protection (such as in Bokaro district), the community groups have now been co-opted into JFM and were not able to visualise an alternative arrangement. Most villagers we met were unaware of the CFR provisions. But some groups, where grassroots activists have been working, could very well distinguish between JFM and FRA: they said that FRA is the act to save forests and establish the rights of the adivasi community where as JFM is a way of maintaining control of the forest by FD for promoting plantations. But they had not been provided with the necessary support for filing CFR claims.

9. No attention to local issues: After the Munda rebellion against British led by Birsa Munda, the British were forced to enact the CNTA in 1908. Originally there were 450 villages under this system but over the period certain provisions were inserted in CNTA to dilute it further, and today about 150 villages follow this “Mundadari Khuntkattidar” system. The state revenue records room does not even have the updated land records (*khatiyans*) for these villages. The tribals in these villages not only cultivate extensively but they are also fully in control of their forests, through the Munda chieftain of that village. The rights granted to them under the CNTA are substantial, including right to timber for house construction, conversion of forest to agriculture, and so on. The FD has demarcated PF within these lands, but this has been done without following the settlement process laid down in the

Indian Forest Act 1927.⁵ The villagers do not accept the declaration of their forests as PF and the consequent diminishment of their forest rights, e.g., limitations on the transit of their forest produce and delays or denial of permission for development activity (such as construction of roads or bridges). They have refused to submit any claims under the FRA. Their argument is that under the CNTA they already enjoyed forest rights similar to or greater than those offered under FRA. They have filed a writ petition in the High Court against the notification of their forests as PFs. Therefore they believe filing claims under the FRA would be tantamount to accepting the state's position that it is the owner of forest lands. The validity of this argument is unclear, since the FRA allows for recognition of rights given under other state Acts (sec.3(1)(j)). The Chief Secretary of Jharkhand also stated that the rights under CNTA will have to prevail. But there has been no attempt by the state government to engage with this group of villages, and to address the concerns they are raising, or to understand and suggest approaches for dealing with similar situations in the context of the SPTA and other state-specific situations.

10. No attention to needs of PTGs: Kathikund block of Dumka district comes under the Damin-i-koh region, an area where Paharia (a recognized Primitive Tribal Group) live and are meant to have special rights. The Paharias of at least one village had applied for rights under the FRA a year ago, but their applications are still pending. This indicates an overall lack of attention to the special needs of PTGs. There is no information available at the state level of the claims received from PTGs and special efforts made for them, or special habitat rights given to them.

Overall, we observed a limited enthusiasm for the implementation of the Act within Jharkhand state agencies and a very poor understanding of the potential for tribal empowerment in the Act. There is no feedback mechanism in place⁶, there is no involvement of civil society groups at any level⁷, there is antagonism between state officials and grassroots activists in many cases, and no attention to redressing genuine and very longstanding issues of unsettled land rights.

In the case of the CFR, it is clear that the Forest Department believes that existing JFM committees are the recipe for community involvement, although they admit that most JFMCs are not functioning right now! They do not want the CFR provision to be presented as an alternate and more autonomous option, and the Welfare department has made no attempt to take an independent and bottom-up approach to the question. The Forest Department also shows enormous resistance by inserting itself into the process of screening applications, by continued evictions, by continued plantation activities oblivious of the Act, and by non-transparency of its records.

⁵ The records of the PFs shown to us by the Forest Department explicitly state that the notifications are being issued without completing the settlement process.

⁶ For instance, the need for mutation of land records had not been communicated by the lower officials to the secretaries or SLMC in Ranchi. SLMC minutes were not available to us to see whether such feedback had been discussed at all.

⁷ Some civil society members were added to the SLMC after our visit to the state.

Some Immediate Recommendations

While certain issues may require to be dealt with at the national policy and legislative level,⁸ there are many steps that the state government can take immediately to address the above lacunae. These are summarized below, and their essence has already been communicated to the Governor, the Chief Secretary, and the Secretary (Welfare).

1. Clarification of roles and Deputation of special staff for FRA implementation: The Welfare department appears to be taking FRA implementation as one of its many activities, and since it covers issues that the departmental staff are not familiar with (land rights, forest rights) there is a palpable tendency to cede the initiative to the Forest Department, the Revenue Department and the Rural Development department. Indeed, the BDOs have been given a role which is not provided for in the Act. The Welfare Department needs to understand that its role is that of a champion of forest dwellers who have been historically denied land and forest rights. It needs to take this role seriously, and build capacity to discharge this role, including appointing special dedicated staff with training in social work and understanding of forest rights issues in tribal and non-tribal areas, and then take up the process seriously, especially in hitherto neglected regions.
2. Increasing outreach: A completely different approach to reaching out to potential claimants, through audio-visual material (e.g., radio) and other channels and through civil society groups needs to be taken up.
3. Details of each claim (whether accepted, rejected or in process) should be put up on a public website so that each claimant can find out where his/her claim has reached, and so that those whose claims have been lost or missing from the system (or not reached the government at all) can bring this problem to the attention of authorities. Even circulating gram sabha-wise total claims filed would be a first step, but individual claim lists need to be circulated too.
4. All rejected claims must reach the claimant, along with clear reasons of rejection in local language, and along with clear indication of the procedure that is still available to the claimant to make an appeal against the rejection.
5. Review of claims and FRC reconstitution: All rejected claims should in any case be reviewed. This review should begin with reconstitution of the FRCs by properly convening Gram Sabhas, meeting the quorum requirement, and not taking the easy option of asking Gram Pradhans to chair the FRCs. The reconstituted FRCs should then re-examine the rejected claims, invite fresh claims, and screen them thoroughly. SDLCs and DLCs must be told to follow the spirit and letter of the FRA in the re-examination of the claims. The state machinery could easily use the latest technology (satellite imagery and GPS systems) to identify whether land was under cultivation prior to the cutoff date of December 2005, but the process would have to be very open and transparent (as in Maharashtra—an effort that Jharkand officials are aware of) if it is to have any credibility at all.
6. The lists available with the forest department of cases filed for forest encroachment and the list of encroachers identified by them at various times

⁸ Such as: the question of OTFDs being asked to prove 75 years of not just residence in the village but occupation of the specific forest plot.

(1980, 1993) should be made public so as to act as possible sources of evidence for claimants.

7. A public, independent and easily accessible feedback and grievance redressal process must be put in place immediately to invite and address the kinds of complaints that came before this team. Special efforts should be made to independently investigate complaints of ongoing eviction of potential claimants, and of corruption at various levels.
8. The conversion of forest villages and other settlements similar to forest villages to revenue villages should be pursued with renewed vigour. The explanation that MOEF rejected the notification of some forest villages as revenue villages in the past (pre-FRA period) because it violates Forest Conservation Act 1980 is no longer valid, as FRA explicitly allows for de-reservation in such situations. The method used by Orissa state, wherein Census data are used to identify potential settlements inside forest areas, can be utilized in Jharkhand too.
9. Regarding the areas covered by the CNTA and SPTA, a special process involving people's representatives and activists from these areas should be initiated to resolve their concerns. The state government must withdraw its opposition to their writ petition, and recognize their special rights under sec.3(1)(j) of the FRA, so as to maintain and strengthen their tradition of autonomous forest governance at the community-level.
10. The state government should re-examine its policy of promoting JFM in place of more decentralized structures. Given that PESA is applicable in many districts but the rules for PESA have not yet been formulated, the state should actively promulgate the provisions of PESA and formulate a policy for bringing forest governance under the ambit of PESA Gram Sabhas or committees constituted under the FRA.

Annexure 1. Bihar Government Gazette Notification declaring Protected Forests without completing a full enquiry into and settlement of pre-existing rights

THE BIHAR GAZETTE, AUGUST 24, 1955.

REVENUE DEPARTMENT.

NOTIFICATIONS.
The 1st July 1955.

No. C/F-17033/55-2180-R.—In exercise of the powers conferred by section 29 of the Indian Forest Act, 1927 (Act XVI of 1927), the Governor of Bihar is pleased to declare the provisions of Chapter IV of the said Act applicable, from the date of this notification, to the forest-lands and waste-lands specified in the Schedule hereto annexed and situated in the district of Ranchi.

The forest-lands and waste-lands comprised in this notification shall be called "Protected Forests". The nature and extent of the rights of Government and of private persons in or over the forest-lands and waste-lands comprised in this notification have not yet been enquired into and recorded as laid down in sub section (3) of Section 29 of the said Act but as the State Government thinks that such enquiry and records will occupy such length of time as in the meantime to endanger the rights of Government and as the enquiry and record-of-rights will hereafter be made this notification is issued subject to all existing rights of individuals or communities.

SCHEDULE.

Serial no.	Name of owner (proprietor).	Name of village (forest).	Thana.	Thana no.	District.	Area.	Plot nos.
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Annexure 2. Case of illegal effective eviction: Social Forestry plantation activities taken up in land that was clearly being cultivated in May 2005: Haradiharidih village, District Bokaro, Jharkhand



Figure 1. Field situation, July 2010: cultivated land dug up for forestry plantation (Hardiharidih):upland



Figure 2. Field situation, July 2010: cultivated land dug up for forestry plantation (Hardiharidih): lowland



Figure 3. Land clearly cultivated pre- December 2005 (points 192 & 193 are in PF) [Hardiharidih village]

Annexure 3: Official response received from Government of Jharkhand to queries posed or information sought by this committee.

Format for State or district level information

Name/ Designation of Informant(s): Tribal Welfare Commissioner, Jharkhand, Ranchi
Place information was obtained : Ranchi

Part I : Basic information on the state or district

Name of state or district :	Jharkhand
Total population:	2,69,45,829
Total Tribal population (and % of ST amongst these):	70,87,067 (26.03%)
Total SC Population:	29,85,597 (11.08%)
Estimated number of FRA- eligible gram sabhas:	21,673

Part 2: Overview of implementation

1. When was the FRA process started?

Ans. The FRA process started from 1st Jan., 2008.

2. Have the provisions of the FRA been adequately publicized, i.e. through the entire state/district, and covering all the provisions? What methods have been used for this?

Ans. The provisions of FRA have been adequately publicized through the entire state/ district and covered all the provisions therein. The publicity was done through printed IEC materials, by Hoardings, Wall Paintings and by broadcasting radio messages.

3. When was the SLMC set up, and how many times has it met to date? What methods does it use to monitor the implementation of the FRA?

Ans. SLMC set up on 24-05-2008 and till date it met twice. Implementation of FRA in this state has been monitored through progress reforms, presentations and discussions in these meetings.

4. Have any circulars been issued to clarify provisions of the FRA, or otherwise aid in its implementation (Please include a full set of such circulars)

Ans. Directions have been issued from time to time to all Dy. Commissioners and District Welfare Officers clarifying the provisions of the FRA. (Copies of the said directions are enclosed herewith)

5. Have any special training programmes been organized for government staff involved in implementation? How many and for whom? Has the FRA been incorporated into training manuals for state govt. employees?

Ans. A one-day workshop has been organized by the Welfare Department at Tribal Welfare Research Institute at Morabadi, Ranchi. The above workshop was attended by All Dy. Commissioners, all District Welfare Officers, All Panchayati Raj Officials and all Divisional Forest Officers of the state. In addition training programmes have been organized in all the 24 districts for district level officers/ staff.

6. Has a staggered process been used to implement the FRA, i.e. some provisions before others, or some regions before others, or some kinds of claimants before other? If so, details of such a process and reasons for the same?

Ans No, all the potential beneficiaries are being covered simultaneously in implementation of FRA.

7. Has there been a predominant focus on individual land rights, and relatively less (or none at all) on community rights? If so, why?

Ans. Both individual as well as community rights has been predominately focused.

8. Has the predominant trend been to accept claims or to reject them? What are the factors for this?

Ans. The predominant trend is to accept all the claims at Gram Sabha level and after verification of claims at various stages / levels it is decided by the committee to reject or approved for next stage / level, taking final decision at District Level Committees.

9. Have any special measures been taken to facilitate the claims of disprivileged, marginal, or otherwise special groups such as nomadic communities, shifting cultivators, hunting tribes, and Primitive Tribal Groups? What has been experience of these groups in relation to FRA's implementation?

Ans. Instruction to all DCs for giving special attention on generating claims from PTGs, under disprivileged, marginal, or otherwise special groups have been issued from state level.

10. Have any special measures been taken to facilitate the claims of women?

Ans. No, equal attention in letting given claims from men and women.

11. Has any deadline been announced, for completion of FRA procedures?

Ans Yes, the deadline had been announced by the Chief Secretary, Jharkhand for completion of FRA procedures till December 31, 2009. Nevertheless since all the beneficiaries could not be covered within that deadline, it has been decided to continue the process of, implement till every beneficiary is covered.

12. How many cases have been filed in the state after the enactment of this act under IFA 1927 on forest people?

Ans. Detailed report is enclosed.

13. What measures are taken to coordinate the Tribal Welfare, Revenue, and Forest Departments (or other relevant departments of the state)?

Ans. Proposal for coordination and convergence with other deptt. is being asked for from consultancy agency, on the basis of which interventions to coordinate synergy in with other deptt. will be made.

14. What has been the general attitude of the FD and other agencies towards the FRA and its implementation? Is there any evidence of deliberate obstruction or delaying?

Ans. Generally the attitude of the FD is supportive in implementation of FR Act. Nevertheless, there have been stray cases of reluctance / obstruction from Forest Deptt in implementation of the Act.

15. What measures has the state taken to enter details of the rights granted, into the relevant Record of Rights?

Ans. Instruction has been issued to all DCs to ensure entry of title details in Record of Rights.

16. Is there a forest rights movement, or very active civil society activism and work, relating to the FRA?

Ans. Jangal Bacho Andolan, an N G O is actively associated in it.

17. Any special measure to ensure transparency in the implementation process?

Ans. None, which merits mention

18. Has the state allocated any special budget, and/ or obtained one from the central government, to implement the FRA?

Ans. No, the state has not allocated any special budget, but the allocation from the central government has been provided in the Article 275(1) for the implementation of the FRA in the state.

Part 3: Status of implementation of rights

1. How many gram sabhas have initiated the process?

Ans. 21,673 gram sabhas have initiated the process

2. How many gram sabhas have completed the claims process?

Ans. Report are being collected from the districts

3. Have SDLCs been set up in each sub-division? If not, how many are left?

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Annexur-I

MoEF/MoTA Forest Right Act Committee

Part-2 Overview of implementation

How many cases have been filed in the state after the enactment of this act under IFA 1927 on forest people?	7321 Cases have been filed under IFA 1927. Regionwise breakup is given below :				
	Name of the Region	No. of cases filed			
		2007	2008	2009	2010 up to June
	Singbhum	143	136	137	63
	Hazaribagh	941	771	859	251
	Palamau	430	524	460	221
Dumka	422	405	313	193	
Ranchi	168	205	210	41	
Wildlife Wing	149	105	142	32	
Total	2253	2146	2121	801	

Part-3 Status of implementation of rights

Table 1

FRA Provision	No. of Claims by FRC	No. sent by gram sabha to SDLC	No. passed by SDLC	No. pending at SDLC	No. rejected by SDLC	No. approved by DLC	No pending at DLC	No. rejected by DLC	No. of deeds issued
1	2	3	4	5	6	7	8	9	10
-	-	16691	10921	98	5672	7769	1593	1599	-

Provision wise claims received are not available with forest department

Part-4 Status of implementation of Critical Wildlife Habitats

Has the process to notify Critical Wildlife Habitats (CWHs) been initiated?	Yes
Have expert committees been set up to determine the location and boundaries of CWHs? If so, is there one at the state level and/or on each at protected area level?	Yes, the expert committee has been constituted at the state level and for all the Protected Areas of the state.
In the case of proposed CWHs, pl. provide status of implementation as per Table 2	So far, the expert committee constituted, has met twice and deliberations have been done for constitution/declaration of critical wildlife habitat for Protected Areas of this state.
If any resettlement has been initiated in any CWH, provide details of number of villages and people being to be resettled, and status of resettlement, for each such CWH.	Not yet initiated. It is at the discussion stage.
Have any particular problems or hurdles been faced in setting up CWHs, and what has been done to attempt resolving them?	Not applicable

Part- 5 Status of conversion of forest villages

How many taungiya and forest villages are there in the State.	There are 24 forest villages in the state. Out of 24 forest villages, 10 are located in Latchar district and 14 are situated in West Singhbhum district.
Whether separate FRC's have been formed in these villages/ If not, why?	All the forest villages were dereserved in 1982. In 1987 the Revenue and Land Reforms Department Government of Bihar notified 7 forest villages in Latchar district and 14 forest villages in West Singhbhum district as revenue villages. The 3 forest villages located inside core area of Palamau Tiger Reserve were not notified as revenue villages since these villages were to be relocated.
What process is being followed to convert these villages into revenue villages?	The Ministry of Environment & Forests, Government of India observed in 1988 that the dereservation of 24 forest villages violates the provisions of Forest Conservation Act, 1980. Again the Ministry of Environment & Forests, Government of India requested the state government to cancel the dereservation notification and submit the proposal for diversion of forest land.
If process of conversion has started, what components have been measured to form this village as revenue village?	
Whose land was it before the land was transferred to FD for plantations?	
What problems are faced by the authorities in conversion of such villages?	
What data is being provided by the FD in this regard?	
Who will provide 75 year proof, for the rights of Other Traditional Forest Dwellers: FD/other govt. department, or forest dwellers themselves?	


 Principal Chief Conservator of Forest
 Jharkhand, Ranchi