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Issue 8

TRACKING THE FOREST RIGHTS ACT

STORIES ABOUT CRITICAL WILDLIFE HABITATS &
COMMUNITY FOREST RIGHTS FROM ACROSS INDIA

Editorial

Critical Wildlife Habitats & Community Forest Rights

The Forest Rights Act, 2006 has been in force since January 2008. This includes the provision to declare Critical Wildlife Habitats and recognize community forest rights. However, the response to these two provisions has been considerably slow.

In a previous issue of this newsletter (July 2008), we had reported how the thrust of implementation of the Act has been on individual land rights, rather than community rights to forest resource. Over one year later, this continues to be true with very few community claims that have been filed. However, civil society organisations and State nodal agencies helping communities to file claims and raise awareness on the Act have recently reoriented focus on community rights. As a result, many forest-dependent communities are more informed about claiming community forest rights than they might have been a couple of months ago. Two villages in Maharashtra have also recently received titles to their community forests.

Critical Wildlife Habitats have also been significantly delayed and as of today, no states have notified these areas. The reasons for this delay seem to be manifold, from a perception in State Governments that this provision is not particularly useful, to delays resulting from the requirement of consultations with gram sabhas and finally to operational issues, such as lack of constitution of State Expert Committees.

The Critical Wildlife Habitat and Community Forest Rights provisions were extensively discussed at a consultation organized by the Future of Conservation Network[1] <#_ftn1> on August 17-19, 2009 in New Delhi. Officers from the Ministry of Tribal Affairs and civil society groups from Andhra Pradesh, Bihar, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Tamil Nadu shared mechanisms through which they were able to best achieve implementation of community forest resources and also pointed out major obstacles to the process. Officers from State Forest Departments of Assam, Karnataka, Kerala and Uttar Pradesh presented reasons for the slow implementation of the provisions of Critical Wildlife Habitats.

During the consultation, participants also intensely debated the overlap between different legislations, such as provisions of conflict and commonality between the Wild Life (Protection) Act 1972 and Forest Rights Act, 2006. Some specific areas of discussions and recommendations were the recognition of rights under FRA within Critical Tiger Habitats of Tiger Reserves (which is in places being denied), identification and protection of important wildlife habitats outside existing National Parks and Wildlife Sanctuaries, mechanisms to prevent misuse of FRA, and institutional mechanisms to enhance cooperation between State Forest Departments and communities who are claiming rights to community forest resource.

A short press statement was issued at the end of the workshop, highlighting the importance of these provisions for both strengthening conservation and enhancing livelihood security. The recommendations from this workshop are being finalised. We hope to issue these to the Ministry of Tribal Affairs, Ministry of Environment & Forests and nodal agencies of State Governments, and use them for further advocacy and outreach.

Editorial

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DISCLAIMER: All opinions and facts featured below are those of the individual presenters at a meeting organized by the Future of Conservation Network in New Delhi on 17-19, August 2009. These are not necessarily the positions taken by Kalpavriksh.

NATIONAL NEWS

MoEF: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 – ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

The Ministry of Environment and Forests, Government of India has issued a circular to the Chief Secretaries of all States and Union Territory Governments (except J&K) on the compliance of the Forest Rights Act. The circular states that for all proposals for forest diversion under the Forest (Conservation) Act 1980, State Governments are required to enclose evidences of initiating and completing the process of settlement of rights under the FRA. In particular, some of the kinds of evidences required include:

- a letter from the State Government certifying that the identification and settlement of rights under FRA has been carried out for the entire forest area proposed for diversion.
- a letter from the State Government certifying that proposals for such diversion have been placed before each concerned gram sabha of forest-dwellers.
- a letter from each of the concerned gram sabhas that all formalities under the FRA have been carried out and that they have given their consent to the proposed diversion.
- a letter from the State Government certifying that diversion of forest land for development facilities managed by the Government as required under Section 3(2) have been completed and that the gram sabha has given consent to it.
- a letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum of 50% of gram sabha present.
- obtaining a written consent or rejection of the gram sabha to the proposal
- a letter from the State Government certifying that the rights of primitive tribal groups and pre-agricultural communities, where applicable, have been specifically safeguarded as per section 3(1)(e) of the FRA.
- any other aspect having bearing on the operationalisation of the FRA

Source: Ministry of Environment and Forests, Circular No. F.No.11-9/1998-FC(pt). Issued 30.7.2009

MoTA: Guidelines on diversion of forestland for development facilities, Section 3(2) of FRA

The Ministry of Tribal Affairs, in May 2009, issued a set of guidelines on Section 3(2) of the Forest Rights Act. These guidelines specify the procedure through which eligible forest-dependent communities can avail of basic development facilities. The guidelines also stipulate the verification process that is to be conducted before forestland is diverted for development rights under Section 3(2).

The guidelines are available at <http://tribal.gov.in/index1.asp?linkid=360&langid=1>

Source: Ministry of Tribal Affairs, <http://tribal.gov.in/index1.asp?linkid=360&langid=1>

MoTA: Status of implementation of Community Forest Rights

A.K. Srivastava, Director of the Ministry of Tribal Affairs (MoTA) presented the status of implementation of community forest rights at the Future of Conservation Network's meeting in New Delhi on August 17, 2009. Some of the key points of his presentation are highlighted below:

1. Most states hope to complete the process of implementation by 2009, including notification of Critical Wildlife Habitats.
2. MoTA assured that they are dialoguing with the Ministry of Environment & Forests on Critical Wildlife Habitats
3. MoTA has told all State Governments in writing that the rights process must take place in all Protected Areas
4. In order to hasten the process of implementation of the FRA, it was stated that provisions have been made for asking states to allocate 10% of their annual budget for FRA implementation and MoTA will ensure its application by providing the necessary funds.
5. A serious challenge being faced by MoTA is the lack of adequate human resources to monitor implementation of the Act.

6. State-wise claims status:

State	Claims received	Title Deeds Distributed	Title Deeds Ready for Distribution
Andhra Pradesh	3,29,233 5,961 community claims	67,963	69,650
Assam	66,546 3,098 community claims	-	-
Bihar	495	-	-
Chhattisgarh	4,00,000 (approx.) 5,309 community claims	1,02,800	6,911
Gujarat	1,68,306 7,425 community claims	2,431	-
Jharkhand	4,539	72 2 titles for community rights	-
Karnataka	1,414	-	-
Kerala	33,734 individual claims	17	-
Madhya Pradesh	3,66,874	32,876	36,540
Maharashtra	2,45,497	1 community forest claim 3(1)(i)	1,384
Orissa	2,92,812 1,656 community claims	-	36,892 100 community claims
Rajasthan	53,274 2 community claims	3,288	1,215
Tamil Nadu	7,741	-	-
Tripura	1,62,186	74,042	-
Uttar Pradesh	28,369	-	-
West Bengal	1,38,064 6,754 community claims	5,249	2296
Total	22,99,082 30,205 community claims	2,88,738	1,54,888

* Other States are at different stages of implementation

Source: A.K.Srivastava, Ministry of Tribal Affairs, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

NEWS FROM STATES

ANDHRA PRADESH

Sakti: Sharing experiences of Community Forest Rights

P. Sivaramakrishna from the organisation Sakti, presented their work on the implementation of Community Forest Rights in Andhra Pradesh and reflected on the experience. Some key points of his talk are as follows:

1. Number of community claims filed as of 31.3.2009 = 5960
2. Extent in acres claimed as community rights = 1,65,404
3. Number of individual claims filed = 3,22,313
4. Extent in acres claimed as individual rights = 9,60,557
5. Approximately 65% of all claims are being accepted for title distribution.
6. Claims of community rights have been filed in all districts but the highest numbers of community rights were reported from Rampachodavaram Revenue Division of East Godavari District due to intensive training in mapping of customary boundaries conducted by Sakti.
7. No data is available on the types of community rights claims (e.g. Minor Forest Produce, sites of religious or cultural significant, community right to protection etc.)
8. A.P. State Government has issued three orders on the Act and has published translated versions of the Act and Rules in all regional languages.
9. SAKTI published a pamphlet with guidelines on how to prepare maps of customary boundaries, including depiction of burial grounds, sacred sites, place of village council meetings, dancing grounds, short-stay places for aggrieved housewives, places for collection of material for plastering of houses etc.
10. According to the State Government, some funds have been provided under NREGA for the development of land allotted to individuals under the FRA. (*Indian Express*, 16.8.09)
11. Community rights for fishing in Rasool Tank, located within Rajeev Wildlife Sanctuary inside Nagarjunasagar Srisailem Tiger Reserve (NSTR) were granted under the FRA.

Concerns and confusions:

12. Claims for trees owned by individuals or communities was not submitted.
13. The community rights of 14 Chenchu villages (Primitive Tribal Group) in Mahaboobnagar District located in the core area of NSTR were not recorded.
14. In most areas, boundaries between forest and revenue lands are not clear. As a result, many claimants have filed claims for occupation of revenue land.
15. Many individual claims were rejected without verification of proof on the ground
16. Claims for in situ rehabilitation were discouraged
17. Consolidated record of rights (both past and present) was not prepared.
18. Terms like 'nistar rights', 'tenure of primitive tribal groups' are not clearly defined. Additionally, there is no separate column in the Rules for burial grounds, sacred places, historical sites etc. As a result in many habitats these were not claimed. Sakti has been encouraging that these be recorded in 'other rights'.
19. State committee was to "devise criteria and indicators for monitoring the process of recognition and vesting of forest rights." The committee did not issue instructions in this regard.

Progress Report on implementation of RoFR Act 2006

Sl. No.	Activity	Nos.	Extent (in Acres)
1.	No. of Grama Panahayats having forest interface	3,732	5,83,797.37 (furnished by Forest Dept.)
2.	No. of Gram Sabhas convened	3,719	-
3.	No. of FRCs constituted	3,703	-
4.	No. of individual claims received	3,22,313	9,60,577
5.	No. of community claims received	5,960	1,65,404
	Total for Sl. No. (4 & 5):	3,28,273	11,25,981
6.	No. of Claims Surveyed	3,08,417 (94%)	11,00,754 (98%)
7.	No. of claims recommended by Grama Sabha to SDLC	2,13,294 (65%)	7,82,860 (69%)
8.	No. of claims recommended by SDLC to DLC	1,38,597 (42%)	4,66,555 (41%)
9.	No. of claims approved by DLC	1,28,948 (39%)	4,48,375 (40%)
10.	No. of titles granted	330	891

Source: P. Sivaramakrishna, SAKTI, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

ASSAM

State Forest Department: Status of Critical Wildlife Habitat in Assam (as of August 2009)

B.S. Bonal (Chief Conservator of Forests – M&E) from the Assam State Forest Department presented the latest progress made on declaration of Critical Wildlife Habitats in the state. Some key highlights are as follows:

- State Expert Committee for Critical Wildlife Habitat was constituted in February 2008. However, it is yet to meet and carry out the stipulated functions.
- An in-house expert committee was constituted in December 2007 which compiled a list of important wildlife habitats inside and outside existing Protected Areas which could be potentially identified as Critical Wildlife Habitat. At present, this compilation is pending review by the State Expert Committee, after which it will be sent to the MoEF.
- In September 2008, Assam Forest Department organized a training workshop on the Act for all Protected Area Managers in Guwahati, in collaboration with WWF-India. An Action Plan was prepared in the workshop and significant features of this plan include (a) constituting PA level teams (including members from fringe villages, researchers and NGOs) to prepare a list of traditional forest dwellers in each Protected Area (b) Prepare a list of the right of traditional forest dwellers (c) Prepare a database of poaching records and other illegalities associated with traditional forest dwellers (d) Prepare a monitoring protocol for the Protected Area.

PROGRESS OF NOTIFICATION OF CRITICAL WILDLIFE HABITATS IN ASSAM:

	AREA	PROGRESS	REMARKS
	ASSAM	6 Proposals of CWH are under progress	
1	AMCHANG WLS	Proposal under progress; 4 meetings held with fringe villagers	Existing High Court cases are pending
2	GIBBON WLS	Proposal under progress	
3	DIHING PATKAI WLS	Proposal under progress	Discussion with villagers initiated
4	BARAIL WLS	Proposal under progress	Discussion with 19 villages initiated
5	PANI DIHING WLS	Proposal submitted	Needs modifications
6	DIBRU SAIKHOWA NP	Proposal under progress	2 Forest Villages (Dadhia & Laika) proposed for relocation

PROGRESS OF IMPLEMENTATION OF FRA IN PROTECTED AREAS & RESERVED FORESTS IN ASSAM:

	AREA	PROGRESS	REMARKS
1	Dissoi Valley RF (Jorhat)	10 applications made to SD level committee to settle FRA 5 applications sent to	

2	DIHING PATKAI WLS (Dibrugarh)	23 villages inside sanctuary areas 220 applications from 3 villages sent to District Level committee for verification by the SD level committee	Proposed as CWH
3	Dissoi Valley RF (Jorhat)	10 applications made to SD level committee to settle FRA 5 applications sent to District Level committee for verification	
4	DIHING PATKAI WLS (Dibrugarh)	23 villages inside sanctuary area 220 applications from 3 villages sent to District Level committee for verification by the SD level committee	Proposed as CWH
5	Sonitpur	1 Sub-Division level meeting held Approx. 10,000 claims application submitted in the GP level	

- Committees are not formed in the Karbi Anglong district council area. Council has sent application to the GOI to change the District Level Committee to be headed by Principal Secretary and the Sub-Division Level Committee to be headed by Deputy Secretary of council.
- Committees have been formed in the 4 BTAD districts.
- In other areas, not much progress has been reported.

Recommendations from Assam State Forest Department:

- The requisites of obtaining certificates of informed consent to the Critical Wildlife Habitat from the affected Gram Sabha, as per the guidelines of the MoEF should be waived as the process has already been followed under section 18-25 as per the WL(P) Act while declaring the area a National Park or Wildlife Sanctuary.

Source: B.S. Bonal, Assam State Forest Department, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

JHARKHAND

Jan Sewa Parishad: Community Forest Rights in Jharkhand

Jan Sewa Parishad has been working to implement the Forest Rights Act, particularly community rights provisions. Some of the important issues highlighted in their presentation are pasted below:

State initiatives on community forest rights:

- Jharkhand State Govt. published and distributed a book and pamphlets on the FRA, organized workshops with concerned officials

Stages difficult to execute:

- **Verification of claims by village committee members and different committees due to unavailability of proper land records:** last survey done in 1912 has not yet been updated and the record is not available; rent receipts have not been accepted as proof,

claims forms are unavailable and committees are not accepting xerox copies, land records are not available at district or division level

Thoughts about other technical/other support which would have beneficial:

- Forest dwellers should have been included in shaping of the FRA
- Proper capacity building of village level committees is needed
- Land records need to be updated
- Government should have collaborated with NGOs in awareness generation

Causes of rejection of claims:

- Claimants have been unable to prove residency history

Emerging issues, concerns and best practices:

- Shortage of manpower in the Forest Department resulted in their absence in village level committee meetings
- Unavailability of land records at Block Headquarters
- No panchayat elections in the state for the past 35 years
- Lack of transparency in development activities
- Less women participation and Self Help Groups are not being involved in process
- Single window system should be opened at block level for providing concerned information

Jan Sewa Parishad's Efforts:

- Organised awareness meetings with community members on FRA
- Used audio-video shows, plays and wall writing to spread widespread awareness
- Helped to file 126 individual and 2 community claims
- Helped community by providing the formats to claims (since xerox copies were not accepted)

Number of Claims Filed		Number of Claims Approved by District Committee		Number of Titles Distributed	
Individual	Community	Individual	Community	Individual	Community
4539	88	70	2	70	2

Source: Jan Sewa Parishad, Written in preparation for the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

KARNATAKA

ATREE: Biligiri Rangaswamy Temple (BRT) Wildlife Sanctuary

In the Biligiri Rangaswamy Temple (BRT) Wildlife Sanctuary, ATREE is supporting Soligas to conserve their natural resources through forest-based enterprises, capacity building, and institutional reform with a primary focus on regeneration of non-timber forest products.

Over the past year, a major focus of the Soligas has been to establish their forests rights under the Forest Rights Act, 2006. In particular, Soligas feel strongly about securing rights to collect and use Non-Timber Forest Produce (NTFP), especially amla and honey. ATREE has been working closely with the Soligas to facilitate the entire process, from training of panchayat secretaries to mapping of community forest use.

The experience of establishing rights for NTFP has important lessons for the overall scope of joint decision-making and participatory conservation in BRT. While the District Commissioner of Chamarajnagara is open to the idea, the Divisional Conservator of Forests (DCF) on the District Level Committee has on numerous occasions vetoed the decision on approving NTFP rights to the Soligas. The DCF has cited Section 13 of the Act, "the provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the

time being in force.” According to the DCF, this provision is conclusive that NTFP rights should not be allowed in Wildlife Sanctuaries where it is currently prohibited under the Wild Life (Protection) Act 1972¹. Additionally, the DCF has raised concerns on the demarcation of forest ranges as NTFP collection zones. He feels that such demarcation is too large an area within which to monitor any conservation rules or norms. Instead, he has suggested that Soligas demarcate immediate forest areas around podus from which NTFP collection could be allowed and conservation plans can be developed more effectively. Given the lack of agreement within the District Level Committee and the Soligas, this discussion is likely to prolong indefinitely.

After intense dialogue with the DCF on this issue (especially given that the previous DCF had allowed NTFP collection inside the sanctuary) and petitions to the Principle Chief Conservator of Forests (Wildlife), the current DCF permitted Soligas to harvest honey in the revenue areas of BRT in April 2009. However, the clause pertaining to revenue areas did not hold in reality and the informal understanding was that Soligas could harvest honey irrespective of where it was found. Subsequently, honey was harvested and sold both through LAMPS as well as in the open market.

Since there has been no official announcement of the permission to access NTFP, we feel that this provision is a largesse doled out to the Soligas. It could be ad hoc and is likely to depend on individual officers in the Forest Department. While the permission to collect honey has been welcomed by the Soligas, the struggle to gain legal recognition of NTFP rights under the Forest Rights Act still remains.

These developments pose several questions on how effectively the Forest Rights Act might translate on to the ground. Firstly, Soligas are now acknowledging the importance of community rights as a whole rather than simply rights to NTFP. Examples and experiences from elsewhere now hold hope for them to engage with community rights more proactively. Finally, the Soligas see livelihoods security as the most important step towards joint decision-making and co-management of BRT. Consequently, we feel that it is imperative that community forest rights are established so that proactive steps to engage the Soligas in conservation of BRT Wildlife Sanctuary can be initiated.

Source: Sushmita Mandal, ATREE, Written in preparation for the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

ORISSA

Vasundhara: Community Forest Rights in Badrama Wildlife Sanctuary

Badrama Abhayaranya Vikas Parishad is a people's organization working in the villages in and around the Badrama Wildlife Sanctuary situated in the Sambalpur district of Orissa. Parishad has taken initiative to highlight issues of conservation and livelihood and has been trying to develop a framework of conservation that integrates rights and livelihood of the forest community and emphasizes the need of collaborative management of the protected area with active participation of the local community. Parishad has formed and supported forest protecting groups in the villages. The community conservation initiatives and effort for co-management has gained from implementation of the Forest Rights Act. Under the Act, local communities have claimed individual and community rights. Community claims include right to protect, regenerate, conserve and manage community forest resource (CFR) (Section 3 (1)(i)), which is seen by the local community as an important tool to further the community-based initiatives for conservation.

¹ Kalpavriksh feels that such a view is contrary to the provisions of the WLPA, which explicitly allows for the continuation of rights within wildlife sanctuaries (Section 23(2)c). Additionally, only a part of Section 13 of the FRA is being cited, since this section also states “Save as otherwise provided in this Act” to qualify the part about non-derogation”. This means that if rights are to be provided for under the FRA inside protected areas, previous laws cannot be cited to stop such a process.

In addition to claim on community rights and CFR, Parishad has initiated work on section 5 of the Act, which empowers Gram Sabhas to protect, conserve and manage forest and biodiversity. The work on community rights and Section 5 has led the community to develop an innovative experiment on conservation and co-management. After claiming rights over community forest resources and forming committees under Section 5 of the Act, Parishad has initiated the process of developing Community Biodiversity Management plans in the villages for protection and sustainable use of forest and biodiversity. These conservation plans will be based on the traditional practices, knowledge, rules and regulations developed and evolved by the community.

These community conservation plans shall include the following components:

- Assessment of status of biodiversity in the area that will document the different flora and fauna species found in the area.
- Identification of critical wildlife areas
- Mapping of resource interaction pattern of the community
- Identification of threats to the forest and wildlife
- Documentation of conservation initiatives including local knowledge
- Developing management strategies to deal with the threats on forest and biodiversity such as forest fire, pollution of water bodies, illicit timber felling, poaching of wild animals, management of corridors etc.
- Developing sustainable resource use plan at the community level with focus on sustainable harvesting of minor forest produces.
- Integrating conservation initiatives in the ongoing development programs such as NREGA, watershed development, soil conservation etc. to bring out gainful employment and productive use of resources.

After developing the Community Biodiversity Management plans, the Parishad aims to advocate for mainstreaming of these plans in the management of the sanctuary and the adjoining areas.

On one hand while the FRA has supported community efforts on conservation and co-management, the CWH process has done just the opposite. Although the provision on CWH in the Act and the guidelines on CWH issued by the MOEF set the pre-conditions like recognition of rights, consultations with the Gram Sabha, the declaration process seems to be deviating from the required procedure. The CWH process took off at Badrama in the month of May 2008 when letters were sent by the Range Forest Officer to the Forest Rights Committees of villages coming under the Badrama Wildlife Sanctuary which required the villages to convene Gram Sabhas for discussing CWH and approving the proposal. But ironically, no information on the proposal was given to the Gram Sabhas. The move was also not in keeping with the prescribed procedure as the process of recognition of rights had just started in that time. This was responded to by the FRCs with letter to the Forest Dept. pointing out the deviations in the process of declaration of CWH and asking the Forest Dept. and the government to follow the procedure as laid down in the Act and guideline.

Source: Tushar Dash, Vasundhara, Written in preparation for the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

RAJASTHAN

Seva Mandir: Status of Community Forest Resource under the Forest Rights Act

Vivek Vyas from Udaipur presented Seva Mandir's experience of implementation of community forest resource in Rajasthan. Some key points from his talk are highlighted below:

Perceptions at the grassroots: Experiences from Udaipur:

- Claims for community rights filed by Seva Mandir in collaboration with Van Utthan Sangh: 140
- Type of community forest resource claimed: forest villages, minor forest produce in sanctuary areas etc.
- First, the Sub Divisional Committee returned all the claim forms stating they were incomplete. Finally, a new committee was constituted (comprising of a forester, gram sachiv, patwari and president of the Forest Rights Committee) for claims verification for both individual and community forest rights claims.

Reflection on claims process:

- Awareness is lacking: (a). claims form was not properly distributed (b) proof of applicants being STs or residents of the same village is lacking (c) proof of use of the forest is lacking.
- The very need for a claim to community forest resource is being dismissed by the Forest Department.
- It is important to bring about a change in the perception of the community, Revenue Department, Forest Department and Tribal Welfare Department towards the value of community forests.
- Sub-Divisional Officers (Jhadol), Forest Range Officers and lower level staff play a very important role but are simply not aware of the importance of community forest resource.
- Forestland is being re-encroached in hope of regularisation under this Act. Seva Mandir feels that there is urgent need for the protection of forested areas, especially JFM plantation areas have already been freed from encroachments by the community.
- There are widespread misinterpretations of the Act and some populist conflicting agencies working in the area of implementation. However, the government is trying to regulate malpractices and misuse.
- People are also getting more interested in registering for community rights rather than individual rights.
- A lot is being expected from the Forest Rights Committee, e.g. demarcation, surveys
- Opportunity costs of time and labour inputs are not being compensated or supplemented
- There is a lack of guidelines as well as application formats on part of the State Govt or NGOs on Community Forest Rights
- There is confusion between the forest department and tribal department on taking the initiative.
- Claim settlements of cases which are spatially distributed is beyond capabilities of local people
- Protection and management of residual forest lands itself could become an issue later on.

Proposed threats as seen in the Forest Rights Act:

- Most claimants inordinately turn out to be resource-rich farmers who would only become more powerful after the land disbursement. Equity should therefore be maintained in election of FRC members.
- There is a distinct chance of this law as being perceived as a distribution scheme thereby encouraging further encroachments and malpractices.
- There is a strong possibility of inter-community and village conflicts.
- The act is silent about how it shall deal with rights in the future. For example, how will community forest resources be managed in the future? How will damage to fragile drylands and honeycombing of the forests be prevented in the future?

Clarifications and Suggestions for Community Forest Rights Process in Rajasthan:

- Community forest resource in Rajasthan pertains more to the recognition of user rights.
- There is need to revisit the rights and concessions accorded to the villagers and also their user rights vis-à-vis neighbouring communities. Importance of rights to community forest resource needs to be explained to the communities.
- There is need for equitable distribution of resources within a resource-scarce region.
- People should be given authority to enable fringe settlements.
- Forest Department should become the active flag bearer of this provision and should assist the communities to protect their developed/protected areas.

Source: Vivek Vyas, Seva Mandir, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

KERALA

Kerala Forest Department: Status of Critical Wildlife Habitat

- Government of Kerala has constituted State Level Committee vide G.O. (MS) 08/2008/F&WLD dated 31-01-2008.
- PA Level Committees for 4 PAs have been constituted:
 - Neyyar
 - Peppara
 - Shendurey
 - Aralam
- The Committees have not completed their proposal.
- No area has so far been demarcated as CWH in Kerala as per the provisions of Recognition of Forest Rights Act.
- The Process of identification of tribal rights by Gram Sabhas is in progress in the State.
- There are incidents where tribals from non-forest areas area attempting to claim benefits under the act.

Status of tribal rights in Kerala:

- Almost all the tribes have been given record of rights in Kerala.
- Full rights of Minor Forest Produce had already been given to tribals in Kerala for many decades. Therefore, Government anticipates no problems in the recognition of community rights, except for claims and counter claims by different tribal communities.

Source: T.M. Manoharan, Kerala State Forest Department, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

TAMILNADU, KERALA & KARNATAKA

The Shola Trust: Status of Community Forest Resource under the Forest Rights Act

Official status:

	Formation of SLMC/DLC /SDLC	Calling of gram sabha and formation of FRCs	No. of Claims submitted to gram sabha	No. of Claims forwarded to SDLC by gram sabha	No. of Claims distributed by DLC
Karnataka	Yes	1605 FRCs constituted	1412	471	NIL
Kerala	Yes	509 FRCs constituted	33734	NIL	17
Tamilnadu	Yes	GS called on 15/08/08 and FRC formation under way	7741	NIL (Under scrutiny by GS)	NIL (Court Order pending)

More realistic status

(information collected from districts of Kodagu, Chamarajanagar, Mysore, The Nilgiris, Coimbatore, Erode, Pallakad, Thrissur, Mallapuram, Wyanad & Iduki)

	Driving force behind implementation	Formation of GS/FRCs	Awareness levels	Verification process
Karnataka	NGOs/ People's movements	Done at a hamlet level due to pressure from civil society	Quite high.	FRC/GS verification is somewhat meaningless, as same people fill the forms. Forest department staff are also visiting the site and conducting their own verification.
Kerala	ITDP/ Government	At a hamlet level by ITDP	Quite high, but not of the procedure.	Complete push is from ITDP, and so measuring of land is being done by revenue department with the objective of issuing pattas.
Tamilnadu	NGOs/ People's movements	Hamlet/ collection of hamlets on pressure	Very low.	Not yet got there! But FRC/GS issue is similar to Karnataka.

Why is it taking so long?

- The driving force for implementation in most parts are NGOs/People's movements/ Most of them are good at dealing with political problems by way of protests, petitions etc. The implementation of the FRA is more a procedural problem, and this is something they are not well equipped to handle.
- Government is not equipped – both in terms of manpower and coordination between departments. None of the members of either the DLC or SDLC have been relieved of any of their duties or given FRA related tasks/orders and deadlines so as to allow them to work on effective implementation. Even trainings have not been conducted for them
- There is a perception that rights need not be recognised in various parts. In many RF areas NTFP rights have already been granted by the forest department. Especially in Kerala – even forest department staff have a strong political understanding, and so rights have already been recognised in many places. On the other hand there is also a common understanding that the process need not be undertaken in some PAs - especially Tiger reserves.

Why is the 'conservation responsibilities' part being ignored?

- Act is still seen as a "tribal land rights" law by various players, ranging from government, Forest Department, politicians and even many activists.
- Kerala's "rurban" phenomena vs. traditional values. In many ways Trivandrum is a big village and Kalpetta is a small city. This urbanisation, in some parts has undermined traditional indigenous values as communities aspire to join 'mainstream'.
- Highly politicized

Possibility of abuse:

- High in Kodagu, parts of The Nilgiris and Wyanad. All these areas have a sizeable population of estate owners/resorts/recent settlers in and around forest areas, and many of them are under the impression they are also liable to claim rights.

Emerging issues:

- Definition of gram sabha – gram panchayat is too large/ineffective. One panchayat in the Nilgiris, Cherangode for example has 40,000 people in its gram sabha. This makes it impossible, and so the gram sabha has to be constituted at a smaller, hamlet level.
- Process of verification - gram panchayat/gram sabha is controlled by vested interests. Almost all the panchayats in the south have representatives from political parties, and they do not represent the interests of indigenous people.

- Interpretation of 'bona fide livelihood needs' is skewed, as mentioned earlier, numerous others like jeep drivers, resort owners etc are under the impression they are liable to claim rights.
- Government machinery is not able create awareness and proceed with implementation.
- Confusion about applicability in Tiger Reserves
- Scientific and technical input is lacking on the ground. Villages are not able to create maps etc for the claims. In some places where it has been done, it has very little correlation with the actual maps of the forests.

Source: Tarsh Thekaekara, The Shola Trust, Presentation made at the Future of Conservation Network's Consultation on Critical Wildlife Habitats & Community Forest Rights, August 17-19, 2009: New Delhi.

UPCOMING EVENTS

No upcoming events

READER'S WRITE IN

Foundation for Ecological Security: Reflection on the status of the implementation of Forest Rights Act

Forest rights Act 2006 has been in operation since last two years. Most of the States Governments have also promulgated 'rules' for their respective states for the implementation of the Act. However, not much progress is observed in most of the states with regard to the implementation of the Act in the right spirit. The recognition of community rights, declaration of Critical Wildlife Habitat and Critical Tiger Habitat have been the most neglected aspects during the implementation of act in different states. There was also considerable confusion in the provision for the diversion of forestlands for community purposes till recently when the government of India brought out the rules detailing the provisions for the same.

(There is provision in forest conservation act for conversion of forest lands for public purposes. But in this case there are lot of conditionalities that requires scientific and financial inputs like NPV calculation, Compensatory afforestation and it does not involve any process of community consent. However, under section 3 (D) of Forest rights act, there is provision of government of India diverting the Forest land for community development needs upto 1 hectare per case without following the approach mentioned under the Forest Conservation Act. The only restriction was in no circumstance more than 75 trees could be cut form the assigned area. Though the provision was in place, there was lot of confusions with regard to procedural specification for settling lands for such purpose. Recently, Government of India has issued a detail procedure in this regard. However in the new procedure also there have been some grey areas that need to be addressed. Under the new procedure it is mentioned that the diversion proposal would be made by a government agency and gram sabha would only recommend the claim. This implies that community will not decide the development purpose for which land would be acquired. The second issue is that the forest department would take up entire verification process and the DFO and Zilla parishad would judge the merit of the proposal. Both the agencies are far from communities and they may not be able to assess the merit of the proposal appropriately. Instead of Zilla parishad Panchayat would have been better agency to assess the real development need as it is closer to the community.)

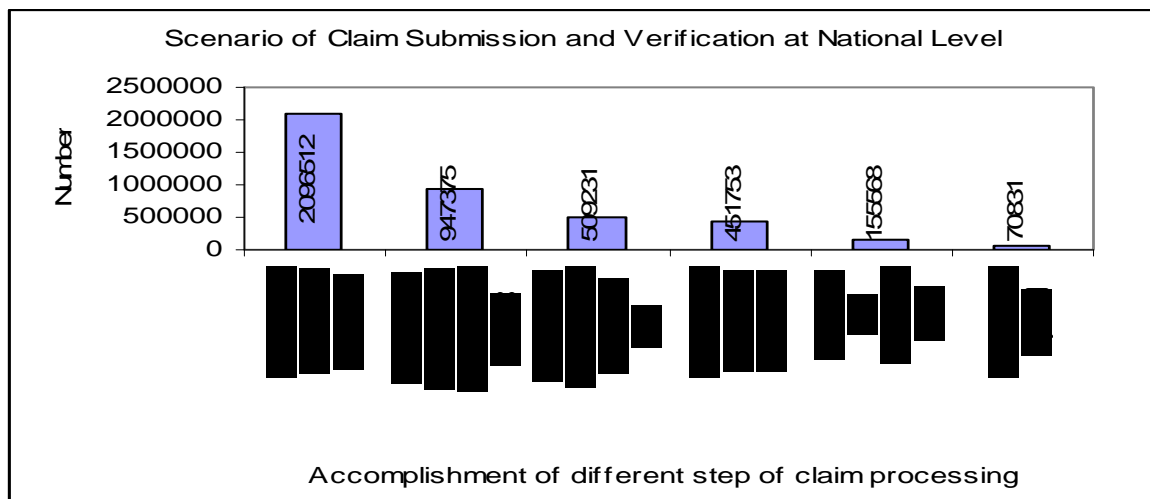
Status of formation of various Committees

According to the Act the state governments need to form village level committees at habitation level for processing of claims, Sub Divisional Level Committees (SDLC) for review and recommendation of claims, District Level Committees (DLC) for the approval of claims and State level monitoring committees to oversee and guide the implementation of the Act in true spirit. The updated status provided by Ministry of Tribal Affairs paints a disappointing

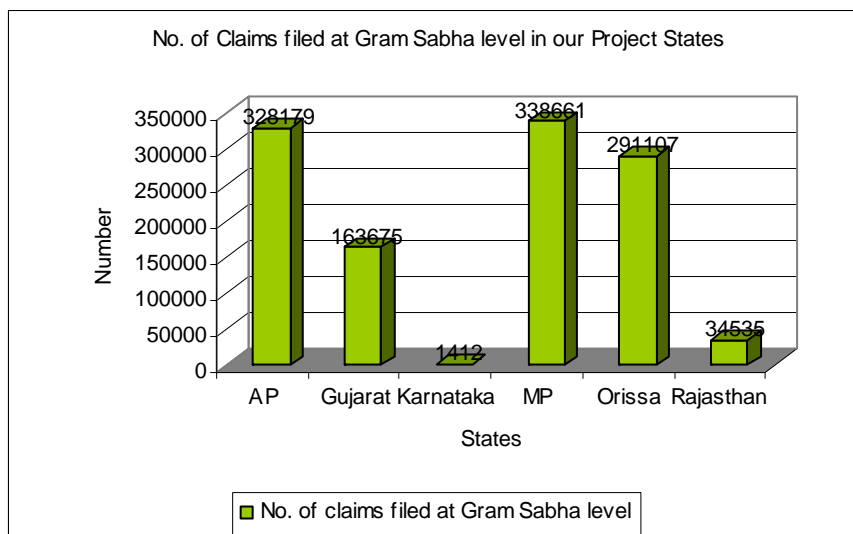
picture as many states (almost eleven states of India) has not made any significance progress with regard to the constitution of these statutory committees for filing and processing of claims. Except Tripura, the process has not yet been initiated in the other Northeastern states. On the other hand states like Orissa, Madhya Pradesh, West Bengal, Andhra Pradesh, Rajasthan and Madhya Pradesh have almost completed all the statutory requirements with regard to formation of such committees. From our project states the progress in Karnataka is quite slow with the formation of only 1605 Forest Rights committees by the gram sabhas.

Scenario of Claim Submission and verification

About 21 lakh claims have been filed in the country and about 45% of such claims have been recommended by the gram sabha to the Sub Divisional Level Committees (SDLC). SDLC has only recommended about 53 % of claims received and DLC has approved more than 80% of claims that have been received by them from SDLCs. However the gap between claims submission and claims approved is quite high. The assignment of ‘title’ is also poor with only 30% of the claims approved by DLC being settled so far. From this it is evident that only 7% of claims filed at gram sabha level have reached the final stage of assigning titles. Out of the total number of titles assigned in the country about 66% of them have been carried out in Chhattisgarh. In Chhattisgarh, more than 1.2 lakh titles have already been assigned. There are many reasons for the delay in claim settlement process that include on-going court cases, filing of false claims, lack of awareness in filing claims etc.

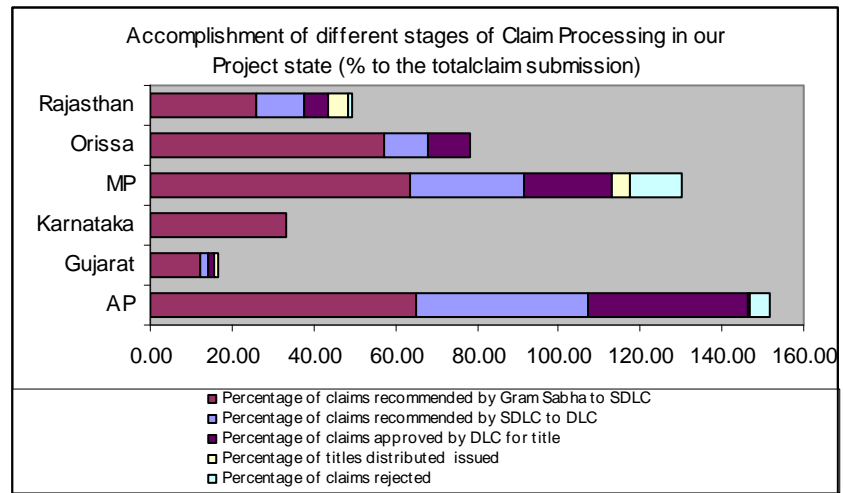


In case of FES project states, while in Orissa, Madhya Pradesh and Andhra Pradesh, many people have filed their claims; the process is quite slow in Karnataka and Rajasthan. As informed above in



Karnataka the state government has not completed the statutory requirements of formation of different committees as prescribed under the Act. It is natural to have high number of cases in Orissa and AP mainly due to higher percentage of tribal population and no systematic land settlement process in the past.

However, the accomplishment of different stages of claims processing is quite similar to the national picture. The percentage of approval of claims by DLC in different states like, AP, MP, Orissa, Rajasthan, Gujarat and Karnataka are 39%, 21%, 10.2%, 5.12% and 0% respectively. In very few cases titles have been assigned in these states except for Madhya Pradesh where about 12% of the claims have reached stage of title assignment. In Gujarat most of the claims were not even forwarded from village committees to the sub divisional level committees.



In case of claim submission the entire focus across the country is on the individual claims even though the Act provides for the community claims settlement as well. In states like Orissa, Gujarat and Rajasthan communities have submitted few claims as a whole over their community forests. However, the number of such claims is quite low with about 15000 claims in Orissa, 5000 claims in Gujarat and 2 claims in Rajasthan.

Issues

- Writ petitions against the Act have been filed in AP, Orissa, MP and Tamil Nadu high courts by few agencies. High courts have given stay order based on such petitions. State governments are facing legal challenges to settle final claims. For example, even though 26000 titles are ready for assignment in AP, it is not carried out because of pending court cases.
- None of the State Governments have taken any proactive steps across the country for the declaration of Critical Wildlife Habitats and critical tiger habitat as the claim settlement process is quite detailed and intensive under this act in comparison to the provisions under Wildlife Protection Act, 1972.
- Most of the State Governments have declared Tiger Habitats hurriedly just before the promulgation of forest rights policies to avoid the complications under the Forest Rights Act.
- In many parts of the country there is considerable confusion with regard to the acceptance of the community claims. In Orissa even though Chief Secretary has come up with a comprehensive order in this regard, in non-tribal areas like Angul the SDLCs are not forwarding such claims to District Level Committees for approval. The other important issue is the constitution of JFM committees. Even though there is long history of community protection, the date of JFM formation is being considered as the cut off date. Such cases cannot be eligible to get claims as it won't comply with the spirit of law i.e. "historical injustice".

(The act says, only such claims would be settled which are based on historical evidences of possession and evidential proof traditional or ethnic identity. But in case of JFM areas, forest department signs an MoA with VSSs to solemnize partnership. In the preamble of such MoAs, a specific date is mentioned for the beginning of association for protection and management of a definite forest area. In Orissa and other states, this date is considered as the date of beginning of community involvement in such land. In the areas where investments are made from Forest department for the development of resources, the community involvement is interpreted as project partnership and not as the traditional users. Since they are not traditional users they may not be eligible for such claims. However this is quite subjective to interpretation. Some officers are considering ethnic rights (group rights) if there is any and has evidential proof as eligible claims irrespective of present arrangement. But such cases are very few.)

- Lack of awareness on different processes of claim submission at different levels - from the community to government officials.

- Instances of fresh encroachments of forestland have been observed in many parts of the country.
- It is difficult to establish titles over the shifting cultivation areas, as the use/practice is not permanent and continuous in nature.
- Though Department of Tribal Affairs and Department of Revenue are quite proactive in pursuing the Act, the Forest department is quite reluctant about the Act.
- Operational issues like obtaining caste certificate, availability of maps, delays in joint verification of claimed land etc are acting as obstacles for implementation of the Act.

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'Track the Social and Ecological Impacts of the Forest Rights Act 2006'*

Note: *We will be going on a short break till January 2009, when we launch a new and improved version of this newsletter!*