

MoEF/MoTA Committee on Forest Rights Act

Second set of consultations and field visits in Uttarakhand, 3-5 July 2010

Detailed report

(to be read in conjunction with the Summary report)

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

Three members of the Committee, Jarjum Ete, Roma, and Ashish Kothari, visited Haldwani and surrounding areas on 3-5th July 2010, for consultations and field visits relating to the implementation of the FRA in the hills of Uttarakhand.

The visit involved:

3 July: Public consultation at Haldwani

4 July: Field visit to Bindukhatta and Baurkhatta villages, Haldwani

5 July: Field visit to Ghuna and Jaakh Van Panchayats, Block Grampani, Bhawali

This report provides details of the public consultation, and some observations based on the field visits. Organised from 11 am to 5.30 pm at the Uttarakhand Forest Training Academy, Haldwani, the consultation had participation from several communities including Van Gujjars, communities managing Van Panchayats, and those living in/besides protected areas, reserve forests and protected forests, Khatta settlements, and Taungiya villages. It also had officials of the Forest and Social Welfare Departments, and members of some political parties. (Pl. see Annex for list of participants).

Community submissions

Lack of Implementation

Participants from several hill districts testified that there had been no or very little implementation of the FRA in their areas. For instance:

- Participants from Chamoli said that the Social Welfare Dept had spread hardly any awareness about the FRA, and whatever processes had taken place were only on paper.
- Participants from Almora said FRCs were mainly on paper, and in Sayalde, Shalt, Bhikiasaith, and Chaukhutia blocks no FRCs had been formed at all.
- Participants from Almora and Uttarkashi said there was very inadequate information about the FRA, and that there was confusion about who was eligible because of lack of clarity on the definition of Other Traditional Forest Dwellers and the requirement of 'residing in' and 'dependent on'.
- Participants from Tehri Garhwal (and a member of the Uttarakhand Parivartan Party) said that about 602 FRCs had been formed there, but very few through the due process, so the FRA process had hardly gone ahead; these needed to be reconstituted with full village participation.

Van Panchayats (VPs)

Since many participants were from hill villages, where forests are under the management of Van Panchayats, this issue took up substantial time. Presentations were made by several VP heads or members, and by scholars/NGOs working with VPs, including Bahadur Singh Rawat, Purshottam Sharma, Shekhar Pathak, and Lakshman Singh. The Committee also visited two VPs.

It was stressed that VPs were the outcome of people's struggle in the Kumaon region when British wanted to annex the forest belonging to the communities. The culture of forest management existed even before British rule, with institutions known as "Lath Panchayats". The British dismantled these, and wanted to bring new exploitative practices by taking forest land and resources under their control. But they faced strong resistance from local communities, as a result of which, in 1925 autonomous VPs were formed, and rules were framed accordingly in 1931, under the Scheduled Districts Act 1874. Communities continued to be in control of VPs till 1976, when new rules were framed putting VPs under the Indian Forest Act 1927. In 2001 and 2005 further changes in the rules strengthened the role of the FD, and attempted to bring VPs under the JFM programme.

Currently, due to the changes in rules, VPs have much greater FD involvement; for instance the Secretary is the local forester or dy. ranger. This also brings the finances of VPs under the FD's control. Moreover, in a well-meaning but short-sighted bid to extend VPs across the entire hill region, the state government ordered their en masse formation after 2001; from about 6000 they jumped to about 12000 in a very short period. Unfortunately due to the rush most of these were formed only on paper, and with very small areas under them (this included the two VPs that the Committee visited, at Ghuna and Jaakh).

The important points that emerged at the consultation and the field visits are:

- New VP's were formed on the paper, villagers are not aware of who are the post holders and what is the area demarcated under VP. During our field visit in the village Ghuna and Jaakh, we found that villagers (including women of the Mahila Mangal Dal) had not been informed when the VP was formed. At Ghuna they subsequently found out who the president of the VP was; it turned out to be a known goon of the area, who had encroached on common land. Also they found that their VP was quite far, and very small; they wanted that their area should be properly demarcated from the reserve forest area close by so they fulfill their daily needs. Women complained that officials have not listened to their demands. At Jaakh the VP Sarpanch Govind Singh told the Committee that he was one day met at the bus station by the gram sevak, who told him he'd been nominated the VP head; no further information or training was given to him on what this means.
- Information about the FRA seems not to have been spread widely in many VPs. At both Ghuna and Jaakh, there was hardly any awareness about the various provision of the FRA. Even the NGOs working in these villages, were not conversant with the provisions and processes of the Act.
- It was strongly pointed out by participants at the consultation that VP should be completely disassociated from Indian Forest Act 1927. Either it should be under the original 1931 rules or should be under FRA 2006.

- Most VPs are limited only to revenue lands. FD officials stated that the new rules allow for RF areas to be brought under VPs; however when villagers pointed out that their applications for doing this had not been heeded, officials admitted that implementation of this rule had been lax.
- Many VPs also have boundary demarcation problems that have remained unresolved for many years. The Committee opined that in the process of making claims under FRA, these could perhaps be resolved.
- Participants were of the opinion that the area covered by the VPs are quite less and limited, whereas there are vast areas comprising of reserve forest, protected forest, national parks and sanctuaries where the formation of VP should also take place. At both Ghuan and Jaankh, this issue was prominent. The Committee clarified that claims for CFR need not be restricted to current VP boundaries, but could extend to other areas where there is customary use or dependence. At Jaankh for instance there is substantial RF above the village, that could be claimed for use, management and protection.
- VPs are very much integral to the culture of the hill people and should be made stronger with full control of the local community, with FD's role being advisory. This issue became a hot discussion among the community representatives and FD officials. In this a couple of NGOs shared the view of FD; on the other hand revenue and district officials was more supportive of the community demands.
- As a conclusion everyone agreed to, participants felt that there should be state level discussions on VPs vis-à-vis FRA, with maximum participation of VP members; this was supported by the Committee, suggesting that this be held soon so that its results could go into the Committee's report. The Committee also requested a consolidated report on VPs in relation to the FRA.

Land Reform Issues

A presentation was made on the issue of land reforms in the State, focusing on the failure of settlement and *bandobast* of forest land. Puroshattam Sharma of the CPI(ML) raised the critical issue of FD controlling vast forest area, starting with the British declaring many areas as 'Rakshit Van' in 1893. Though present Uttarakhand was part of larger UP, the Zamindari Abolition and Land Reform Act was implemented elsewhere in UP but not here. Most common lands including *Benami* and *Banjar* lands and boundaries (that connect one agricultural plot with another), were transferred to FD. In many areas, to pass from one agriculture field to another one has to cross FD land. This has effectively meant that there is hardly any land to grant to the landless, or for development programmes. A strong recommendation was made that in order to meaningfully implement FRA in Uttarakhand, the 1893 Act should be repealed and a new land and agrarian act should be enacted.

Evictions and Displacement

The Van Gujjar pastoral community from the upper hills complained that they had been evicted from the upper Himalayas (e.g. at Dodhi Tal), where they have traditionally had temporary settlements in the form of *Kharak* (hutments during their stay in high pasture lands). These hutments have been demolished by the FD. Van Gujjars from Kotdwar have reportedly also been evicted recently by the FD.

Many hydro-electric and other projects are proposed in the region due to which large-scale displacement is also proposed. Participants asked how FRA is relevant in such situations. The Committee pointed to (a) the fact that the FRA prohibits any evictions till the processes of establishment of rights is completed, and (b) the MoEF circular of July 2009, requiring completion of the FRA in all forest lands proposed for diversion for such projects, as also consent of the relevant gram sabhas.

Protected Areas

Participants from in or around the Nandadevi Biosphere Reserve and National Park and Govind Pashuvihar Sanctuary, pointed to the following:

- The Chipko movement originated in the Nandadevi area, but instead of recognizing the contribution and rights of the local forest-dwelling people, they were denied access to the forest area declared under the National Park, and all their traditional rights are taken away.
- The VPs formed in this region are also on papers, with the GS being unaware of their demarcation.
- Many lands in the downstream area are being handed over to NTPC and other companies, and people are now caught in between their projects on the one side, and the national park on the other. Livelihoods have been drastically affected, such as the making of woollen items, since the upper pastures which were suitable for sheep grazing, have been closed off to people.
- 42 villages in Govind Pashuvihar are reportedly being harassed, with at least 4 of them being told they have to be relocated. The Committee asked if the FRA process had been completed there, and were told it had not. The Committee has asked for copies of the eviction notice to be sent to it.
- When asked if the relocation was voluntary, the villagers said that conditions had been created in which people had no option but to move out. Most pastures in the Sanctuary were closed off, government schemes like NREGS were not allowed to function, and roads etc. were being denied. As a result a crisis situation of livelihood has occurred in these 42 villages.

Other Traditional Forest Dwellers

The issue of Other Traditional Forest Dwellers came up several times (apart from what was raised by Van Gujjars, reported below). The following key points emerged:

- The community representatives said that there is a lot of confusion regarding the definition of the OTFD. In Uttarakhand, with 80% of people's economy based on agroforestry, and villages having existed for centuries, why is proof of 75 years being asked for?
- Uttarakhand State itself came into existence in 2000, and the state government has issued domicile certificates to citizens who have been residing here since the last 15 years; then how can a 75 year limit will be justified?
- Hill people also criticized the 75 yr limit, Mr. Pankaj from Bhoomi Adhikar Manch said that the government intention is not clear regarding this. Can the PM of this country give proof of 75 years residence in India, given that he has come from what is now Pakistan?
- Several participants felt that the 75 years limit is unconstitutional and should be reduced, say to 25 years.

Khatta Forest Villages

- The issue of *khatta* villages came up at the consultation, with several residents of these settlements present. These included a former MLA of the Congress Party. Two *khatta* villages were also visited by the Committee. Over 90 *khattas* exist between Tanakpur and Ramgarh. *Khatta* refers to a settlement of hill people who rear milk cattle. These people used to live in the higher reaches of Himalayas and migrate to sub-Himalayan plains during winter. Their migratory pattern was the opposite of the Van Gujjars. Gradually, they settled in the plains. Many of these *Khattas* have established milk cooperative societies also, but the residents of those living inside forests are quite poor. Their demand is to convert them into revenue villages and extend all development rights to them. They see the FRA as one means to achieve this.
- The issue of Bindukhatta (the biggest *khatta*; the Committee visited it) is different. The expansion of this village is now in the form of a township and the state government should take initiative to convert into revenue village. The NOC for this has already been given by FD, but the matter is stuck somewhere in the government. The Committee was of the view that this was not a matter to be taken up under FRA.
- In other *khattas*, inhabitants' livelihood is rearing livestock for milk. They want that FRA should be implemented in their village and they should get land, forest and development rights accordingly. At Baurkhatta, the Committee noticed a board of a dairy dating back to 1948; villagers pointed to this and said there is other evidence (including in forest records) of having been here for over 75 years. (See below, opinion of forest officials.
- There is also a contentious issue of a proposed elephant corridor, passing through Bindukhatta (see below).

Van Gujjars

Van Gujjars reported that they had filed 400 individual claims in Rudrapur, which are currently with District Magistrate. But these have not been processed as yet.

They pointed out how historical injustice is done to them by not declaring them as ST in Uttarakhand, whereas in J&K and HP they are ST. This makes mandatory for them to produce 75 years' record. The representative of the Van Gujjar Muslim Society said that they have been residing inside the forest for at least three generation, and it should be the onus of the FD to prove otherwise. They gave an account of their meetings with Prime Minister Jawahar Lal Nehru, Morarji Desai, and the Governor, all of whom assured them of settlement wherever they are residing.

Van Gujjars also said that they are nomadic and every six months they are shifting with their families from lower to upper reaches of Himalayas. The hutments use to get damaged after they left, in such a situation how was it possible to keep all the records? However many of the families have grazing receipts. They said that 75 yr limit should be reduced.

A major problem faced by the Van Gujjars was the FD refusing permits to traditional grazing sites such as Rajaji National Park and Govind Pashuvihar Sanctuary. (Earlier, a strong complaint had been registered by many organizations in Dehradun against

the Park Director Rajaji NP, which the Committee has taken note of and asked the state government to respond to. The Director has denied any violation of the FRA in taking this action).

Van Gujjars complained that they face lot of harassment from FD, which files false cases on them for destruction of forest. On the contrary, they claimed, it was the FD that often connived with the timber mafia and poachers.

On a general question of how the FRA treated the issue of transhuman communities, it was clarified by the Committee that all such people are eligible, and it was the responsibility of the state government to facilitate their claims in the relevant gram sabhas.

Elephant Corridor

Wildlife groups and the FD have proposed a secure elephant corridor through the settlement of Bindukhata near Haldwani. They say that this has traditionally been part of the elephant movement towards Kalagarh, but has been cut off by both industrial/army establishments and recent settlements. This was a big issue of conflict between wildlifers and the local residents. The proposed corridor will cut across a highway, through a ITBP camp, and the settlement of Bindukhata, and local people feel that it is simply not viable at this stage, even if it may have been a corridor in the past. Conservationists feel that the re-establishment of a corridor is crucial for the long-term viability of the elephant population. A local NGO said that only about 20 families may have to be resettled; villagers said they were told the figure was almost 500. Reportedly the Union Minister of State for Forests and Environment, Jairam Ramesh, has visited the area, and assured the villagers that the proposal would be cleared only if very minimal resettlement was involved. The Committee was not able to go into this in greater detail to form an opinion, except to state that the proposal needs a full and participatory assessment that could evolve a viable corridor for the elephants while also generating local community involvement and support rather than antipathy, and that the FRA process should be completed before any proposal for resettlement is considered.

Role of Gram Sabha and Forest Department

In both the consultation and the field visits, the issue of management and protection rights (Section 3(1)i) came up strongly. Communities said that they definitely would like to save forest as it the source of livelihood for them. They opposed the unilateral control of the FD, as also practices such as large-scale monocultural plantations. The Committee observed large tracts of young eucalyptus plantations in the Bindukhata area. Residents of Garukhatta village said that plantations should be mixed, and locally useful. Many community representatives submitted that forest should be handed over to people through institutions like Van Panchayats, and the FD should play an advisory role.

Submissions by officials

Social Welfare Officials

- The Nainital District Social Welfare Officer (DSWO) said that they had received 52 claims. But at least 30 of these were from people who are not resident in the area, and are definitely not dependent on the forest. There is confusion on how to assess who is dependent on forest and who is not, and how to prove 75 years residence, especially in the hill areas, where most people are not STs. The DSWO Udham Singh Nagar said hill people migrate to lower areas for pastures, how can they give proof of 75 years?
- Officials felt that while rights have been provided for, there is no mention about the responsibilities that rights-holders should have.
- Plantation done by the FD is all of commercial variety, the *baanji* (oak) trees are felled; these should not be felled.
- The department has a severe shortage of staff, and no additional staff has been provided for FRA. Vacant posts have not been filled for a long time. This is affecting the implementation of the FRA.
- DSWO Bageshwar suggested that there should be right for the homeless and landless people in the FRA. If citizens have no right to homestead land, how will individual and community rights be recognized?

Forest Officials

- Officials emphasized the need for clear responsibilities to complement the rights that will be enjoyed by the forest dwelling communities.
- They were of the opinion that FRA need not be implemented in VP, since the latter already provides for all the rights and management powers that local communities need. They admitted that some aspects of the recent VP rules may need changes.
- Officials said there was only one ST community in the state ('Van Raji'), with very few members.
- Officials maintained that Khatta, Goth, Chak, Taungiya and Gujjar settlements were on encroached lands and government should adopt a strong stand to discourage such encroachment. Some officials seemed reluctant to regularize these into revenue village and granting them rights under FRA. In the case of *khattas*, one senior official said that while some of the original households were indeed quite old, most of the households in these settlements are much more recent, and are not eligible under FRA.
- Another issue they raised was, whether claims should be accepted from those who are very well off from other sources, but may still be eligible under FRA?
- Some officials admitted that most of the officials have not read the FRA properly, there is no proper training, nor have they been provided with copies by the State Government. They suggested that the FRA should be translated into vernacular languages, and given much wider publicity.
- They submitted that they need old records and satellite imageries to assess claims, and to measure the land.
- Officials were very thoughtful about their future role. They understand that FRA implementation will bring a lot of changes in their administration and control over the forestland. They questioned, if the FD is not there in some important role, what will be the implementing agency of the government in forest areas?

This report is written by Roma and Ashish Kothari, with inputs from Tarun Joshi

Annex

Participants at the Consultation, 3 July 2010, Haldwani

(note: some names/addresses were not written clearly in the participants' register)

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